

BRIEFING REPORT
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U.S. COMMISSION ON CIVIL RIGHTS

The Benefits of Racial and Ethnic Diversity in Elementary and Secondary Education



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The Benefits of Racial and Ethnic Diversity in Elementary and Secondary Education

A Briefing Before
The United States Commission on Civil Rights
Held in Washington, D.C., July 28, 2006

Briefing Report

U.S. Commission on Civil Rights

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- Appraise federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.
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Executive Summary

On July 28, 2006, a panel of experts briefed members of the U.S. Commission on Civil Rights on the putative benefits of racial and ethnic diversity in elementary and secondary education. Four experts presented written statements to the Commissioners that assessed the social science literature on this issue. They also addressed whether or not racial and ethnic diversity in public schools should be mandated by the state and whether the net benefits of state-mandated diversity are different from the benefits that this diversity may yield when achieved through purely voluntary behavior. The experts also presented a number of studies to the Commission assessing the putative educational and social benefits of racial and ethnic diversity in elementary and secondary education. A transcript of this briefing is available on the Commission's website, www.usccr.gov, and by request from the Publications Office, U.S. Commission on Civil Rights, 624 Ninth Street, NW, Room 600, Washington, DC 20425, (202) 376-8128, publications@usccr.gov.

The Supreme Court's 1954 ruling in *Brown v. Board of Education of Topeka Kansas*¹ dismantled state-enforced segregation in public schools. Since then, numerous cases, including the Court's recently decided decisions concerning the University of Michigan² have addressed what role, if any, race should play in obtaining access to schools and colleges. This fall the Supreme Court will once again decide to what extent race can be used in determining access to public schools. Two cases pending before the United States Supreme Court, *Parents Involved in Community Schools v. Seattle School District* and *Meredith v. Jefferson County (Ky.) Board of Education*, continue the debate regarding the constitutionality of race-conscious decision-making at public educational institutions. More specifically, these cases will consider whether local governments have a compelling interest in reducing minority racial isolation (or increasing diversity) at elementary and secondary schools and whether certain, specific race-conscious student assignment policies are narrowly tailored to achieve that interest. In order to determine whether the government's interest is compelling, it is necessary to determine the nature and extent of any net educational or social benefits arising from elementary and school student racial diversity.

The panel convened to discuss the nature and extent of these benefits, and whether they justified race-conscious student assignment. Members of the panel were:

- David Armor, Professor in the School of Public Policy, George Mason University
- Arthur Coleman, Partner at Holland & Knight, and former Deputy Assistant Secretary of Education for Civil Rights
- Michal Kurlaender, Assistant Professor of Education, University of California at Davis
- Stephan Thernstrom, Winthrop Professor of History, Harvard University, and Senior Fellow, the Manhattan Institute

Dr. Armor argued that data from the National Assessment on Educational Progress indicates a very weak relationship between school racial composition and African-American student

1 347 U.S.483 (1954).

2 See *Gratz v. Bollinger*, 539 U.S. 244 (2003) and *Grutter v. Bollinger*, 539 U.S. 306 (2003).

performance. Furthermore, research has indicated no clear and consistent relationship between school racial composition and college attendance, working in desegregated settings, and social outcomes such as self-esteem, race relations, and racial attitudes. Armor also argued that while school integration is valuable, race-conscious student assignment is an inappropriate means to that end. Rather, he argued, magnet schools and open enrollment plans should be used to reduce racial isolation in schools.

Mr. Coleman cited research he had collected for the National School Boards Association. He argued that this research, which helped to guide schools in meeting their diversity goals, revealed three benefits associated with the mission of elementary and secondary schools. According to Mr. Coleman, racial and ethnic diversity in elementary and secondary education promotes cross-racial understanding, breaks down stereotypes, and enables students to better understand persons of a different race. Based on these benefits, Coleman argued that state and local school districts should have discretion to pursue how best to create diversity as long as they are consistent with federal legal standards.

Professor Kurlaender noted the methodological weaknesses and design limitations inherent in the earlier research on the impact of school racial composition on the short-term academic achievement of African-American students. However, she argued that more recent studies point to four broad categories of benefits associated with school racial and ethnic diversity: positive but modest effects on African-American students' average reading achievement; higher occupational aspirations and a modest increase in degree attainment for African-American students, due in part to the greater educational and financial resources of integrated schools; increased interaction with members of other racial groups later in life and greater stability of interracial friendships; and a greater desire to live and work in multiracial settings. Kurlaender also noted that school plans that permit urban students to voluntarily transfer to suburban schools have a greater impact on African-American achievement than do mandatory school assignments.

Professor Thernstrom considered the extent to which law and public authority should be used to create and enforce racially-balanced schools. According to Professor Thernstrom, state-compelled diversity causes two serious harms: unconstitutional and immoral race-based student assignment and the withdrawal of white children from public schools. He pointed to several flaws in Seattle's student assignment plan. First, the plan enforces wholly arbitrary racial composition in its school—the school's racial composition cannot vary from the system-wide student population by more than 15 percent—based on an outdated binary racial classification. Second, the plan measures diversity in terms of an index of racial isolation, which carries a heavy bias against places with large minority populations. Third, the plan functions as a quota once a school hits its ceiling for a given ethnic group, whereby all those admitted would have to be students from the undersubscribed group. Last, the plan is premised in part as a means to cure residential segregation, despite the fact that Seattle is near the bottom of the list of racially isolated cities. Thernstrom admonished the Supreme Court not to grant judicial sanction to such race-conscious student assignment.

Finally, the panelists fielded questions from the Commissioners, dealing with several issues:

- The lack of empirical evidence on the impact of school racial composition on student performance in reading, writing, arithmetic, spelling, biology, calculus, trigonometry, geometry, algebra, penmanship, writing, physics, anatomy, geology, economics, geography, archaeology, anthropology, religion, and other disciplines;
- The limited evidence on the impact of school racial composition on students' future educational and occupational attainment;
- The lack of studies on the impact of school racial composition on student discipline, attendance, and tardiness;
- The tension between individual freedom and the greater good of racial equality and integration;
- The relationship of voluntary residential patterns to school desegregation;
- Whether the benefits of diversity justify restrictions on parents' freedom to send their children to local schools; and
- Whether state-enforced racial balancing has had any impact on closing the achievement gap in comparison to improved school quality, school choice, or magnet schools.

Based on the record, the Commission issued a number of findings, including:

- There is little evidence that racial and ethnic diversity in elementary and secondary schools results in significant improvements in academic performance;
- Studies on the effect of school racial composition on academic achievement often suggest modest and inconsistent benefits;
- Studies of whether racial and ethnic diversity result in significant social and non-educational benefits report varied results;
- Much of the early research indicating educational benefits resulting from racial and ethnic diversity in elementary and secondary schools suffered from serious methodological weaknesses;
- A preliminary review of data on the overall relationship between school racial composition and student achievement as measured by the 2003 National Assessment of Educational Progress scores does not indicate a consistent strong relationship between the two after controlling for socioeconomic status;
- Based on the testimony of the expert panel, the Commission is aware of few if any discrete empirical studies that, once controlling for socioeconomic status, demonstrate scholastic improvement in disciplines such as calculus or, anthropology resulting from racial and ethnic diversity in the classroom;
- While there are many research studies indicating that desegregated schooling is associated with higher educational and occupational aspirations, and to a modest degree, attainment for African-American students, methodological weaknesses in these studies make it difficult to isolate school racial composition as the cause of these aspirations and attainments;
- While recent studies examining the relationship between desegregation and future wages found a small positive relationship after controlling for self-selection bias, research evidence on the relationship of school racial composition and actual wages is less definitive;

- More recent surveys have indicated generally positive reactions to school desegregation, such as cross-racial friendships and greater understanding of racial and cultural differences, but some of these surveys do not definitively identify a causal relationship between the two;
- There is little evidence on the effect of school racial composition on other social outcomes such as the likelihood of students attending a military academy.

Summary of the Proceedings

Professor David Armor

Professor Armor addressed the putative benefits of racial diversity in elementary and secondary education. He noted those who support racial balancing in schools cite three types of benefits-- academic achievement, long-term outcomes such as college attendance or working in desegregated settings, and social outcomes such as self-esteem, racial attitudes, and race relations. In each case, Armor argued that the data does not support the benefits claimed by diversity advocates.

- *Academic achievement:* Armor explained that the best evidence available on the relationship between school racial composition and student achievement comes from the 2003 National Assessment of Education Progress (NAEP) survey. This survey showed that African-American students in integrated schools scored eight points higher in student reading achievement than African-American students in predominately African-American schools. Armor noted, however, that the survey did not adjust for student socioeconomic status. Once the data was adjusted for socioeconomic status, the survey showed only a modest two-point difference.
- *Long-term outcomes:* According to Armor, some studies show that early student participation in desegregated environments correlates to subsequent increased participation in desegregated environments as adults, such as desegregated college and work environments. Such a correlation may, however, result from self-selection. Armor added that there is no definitive research that shows that minority students from desegregated elementary and secondary schools are more likely to attend college than those from racially isolated elementary and secondary schools.
- *Social outcomes:* Armor stated that there is no academic consensus on whether desegregation has had any impact on student self-esteem. Studies by St. John, Stephan, and Scofield as recently as 1995 concluded that the results of research on the impact of desegregation on racial attitudes and race relations are highly variable from one study to the next and as such yield no definitive conclusion. Armor pointed to a study by fellow panelist Michal Kurlaender that compared attitudes toward desegregation between students from integrated and racially isolated schools that yielded mixed results and very small differences between such schools for African-Americans and Hispanics. Other studies reporting positive student experiences of school integration did not have a comparison group of students from racially isolated schools.

While research in each of these categories has failed to produce definitive conclusions on the benefits of diversity, Armor stated that he personally believed that there is some value in attending integrated schools. However, he does not believe that race should be considered in student assignments to achieve that purpose. Instead, he suggested that student racial diversity can be achieved through race-neutral alternatives such as magnet schools. Additionally, school

districts can opt for open enrollment plans that let predominately African-American schools or minority schools in central cities transfer to suburban schools that are more desegregated.

Arthur Coleman

Mr. Coleman offered a lens through which to examine the question of diversity in elementary and secondary education. This lens consisted of three foundational questions that inform the goals and aspirations school districts have set for themselves in dealing with diversity. First, what is the mission of schools? Second, what research informs policy judgments being made with respect to racial diversity in schools? Finally, what does the experience and judgment of the educator mean to the decisions made?

According to Coleman, the mission of elementary and secondary education is two-fold. First, it prepares students and gives them opportunities to achieve high standards. Second, it prepares students to be productive citizens in a diverse democratic society. Coleman highlighted research that revealed three benefits associated with the second aspect of this mission. According to Coleman, this research demonstrates that racial and ethnic diversity in elementary and secondary education promotes cross-racial understanding, breaks down stereotypes, and enables students to better understand persons of a different race. Business and private enterprise, military leaders, and the public sector have all cited diversity as being a necessary component to achieving their respective missions. With respect to empirical evidence on the benefits of diversity, Coleman cited research he collected in connection with work he did for the National School Board Association.

He then turned to the findings of policy makers on the benefits of diversity. He cited Congressional findings that it is in the best interest of the United States to promote voluntary interaction among students of different racial and ethnic backgrounds. He also cited the U.S. Department of Education's Office for Civil Rights, which found in essence, that reducing minority group isolation can be a compelling interest.

While there is much debate on the degree of the benefits of diversity and whether or not desegregation in schools is still important, there is little debate that race still matters. Accordingly, state and local school districts should have discretion to pursue how best to create diversity as long as they are consistent with federal legal standards.

Coleman explained that federal courts have been reluctant to interfere with decisions made by state and local educational officials who have education-policy experience not possessed by the federal courts. Coleman amplified that this deference is not *carte blanche* in matters involving race because there are judicially enforceable standards that educators must follow.

Professor Michal Kurlaender

Professor Kurlaender noted that most of the research conducted on the impact of desegregation has focused on the experiences of African-American students, concentrating mostly on measuring their short-term achievement. More recent studies have also focused on the role of racial composition in reducing academic achievement gaps between blacks and whites. There has also been an increase in focus on the non-cognitive benefits to white students, a group typically believed not to benefit as much from desegregated schools.

Kurlaender stated that much of the social science research on the impact of desegregation on elementary and secondary education has suffered from methodological problems and design limitations. First, profound selection issues arise, as parents' choices of where to live and send their children to school impacts any study of school effects. Second, most of the earlier research was cross-sectional rather than longitudinal, and therefore is constrained by the limitations on cross-sectional analyses. Third, these studies often did not include a control group. Fourth, these studies frequently used unclear terminology, as researchers used different definitions of key terms, such as diversity, racial balance, and desegregation.

According to Kurlaender, taking the available social science research, there seem to be four broad categories in which social scientists categorize the outcomes associated with school racial and ethnic diversity. Those categories are:

- *Enhanced learning:* Cook's 1984 heavily-cited synthesis of the relevant social science research found that desegregation had positive but modest effects on African-American students' average reading achievement. Even though the magnitude and persistence of the effects of desegregation have been widely debated before and after this study, there seems to be some consensus on certain general findings that have emerged. First, school plans that permit urban students to voluntarily transfer to suburban schools have a greater impact on African-American achievement than do mandatory school assignments. Second, the age at which a student enters desegregated schools is important, because achievement is greater for the student at the lower grades. Lastly, despite disagreement about the size or lasting effect of the achievement, researchers have agreed that there are no negative academic outcomes associated with desegregation.

For example, Hanushek has conducted more recent research that analyzed test score data from Texas. He and his colleagues found that higher-achieving African-American students benefit academically from racially diverse school composition. This effect did not extend to lower-achieving African-American students.

- *Long-term educational and occupational gains:* These studies focus on college attendance and completion and occupational attainment or wages. Overall, these studies suggest that desegregated schooling leads to higher occupational aspirations and a modest increase in degree attainment for African-American students. It is thought that schools with substantial white enrollment offer minority students a greater set of educational and career options due to the more developed social networks representing white, middle-class norms. Racially-isolated minority schools, on the other hand, suffer from a severe

lack of resources such as quality teachers, counselors, and other educational advantages that create an opportunity structure.

More recent studies have found that African-American students who attended racially isolated schools obtain lower-paying and more racially-isolated jobs than whites. The evidence on actual wages indicates a very clear negative relationship between African-American enrollment and African-Americans' wages, suggesting that higher African-American wages are associated with higher white enrollment. Another study found no statistically significant relationship between white enrollment and African-American wages once it controlled for school quality. Kurlaender believed that it was difficult to control for school quality without regard to school racial composition.

- *Increased social interaction:* The Perpetuation Theory suggests that when students are exposed to sustained desegregated experiences, they will lead more integrated lives as adults. Studies using this theory as their basis have concluded that desegregation experiences for African-American students lead to increased interaction with members of other racial groups later in life. Classroom racial composition has been found to impact the stability of white-black interracial friendship, with the effects stronger for white students.
- *Improved attitudes and citizenship:* Recent studies have found that students of all racial or ethnic groups who attend more diverse schools have a higher comfort level with members of racial and ethnic groups different from their own, an increased sense of civic engagement, and a greater desire to live and work in multiracial settings relative to their segregated peers.

Professor Stephan Thernstrom

Professor Thernstrom argued that it would be more appropriate to frame the debate as a discussion of the costs and benefits of compelling or engineering diversity. That is, the central question is to what extent law and public authority should be used to create and enforce racially-balanced schools.

Thernstrom identified two serious harms from compelling or engineering diversity. First, according to Thernstrom, is the morally repugnant and unconstitutional notion of assigning to students to schools based on their race. He argued that such an assignment should only take place where there is a clear constitutional violation or pursuant to a court-ordered remedy. Second is the possibility that once students are compelled to attend certain schools because of their race, parents may feel compelled to take their children out of the system altogether as a result. He recalled that Judge Gerrity's mandatory busing plan in Boston drove white enrollment down to 12 percent of the total student population there.

Thernstrom stated that the *Seattle* case brings four issues to the forefront:

- *Measuring diversity*: Seattle’s student assignment plan permits a school’s racial composition to vary from the racial composition of students in the system by only 15 percent. Thernstrom believes this number to be completely arbitrary, as there is no social science evidence supporting this number and as the number itself changed during the litigation. Furthermore, the plan relies on binary racial classifications of black and white, with no finer distinctions that take into account a multiracial society.
- *Measuring racial isolation*: The Seattle student assignment plan is designed to reduce racial isolation as measured by an index of isolation, a measure of how isolated a particular group is from whites. As such, this index carries a heavy bias against places with larger minority populations, as evidenced by the fact that Orange County, California and Ogden, Utah were considered two of the least racially isolated places for African Americans. Applied to schools, this theory would produce the same biased results. Furthermore, Thernstrom pointed out that the “critical mass” of minority students cited in *Grutter* may increase racial isolation.
- *The use of racial quotas*: Thernstrom disagrees with the trial court in the Seattle cases, which had found there to be no racial quota despite the mathematically precise requirement that a school’s racial composition not vary from the system-wide student racial composition by more than 15 percent. Under this reasoning, Yale University had no Jewish quotas even though the student body’s Jewish population was held to no more than five percent during the 1950s. Moreover, in an oversubscribed school, there is a precise quota for whites and nonwhites—once it reaches its white ceiling, all white applicants are turned away and only non-white applicants are admitted. In other words, the use of a “band” of acceptable racial composition functions in practice as a quota.
- *Curing residential segregation*: According to Thernstrom, the trial court in the Seattle case decried the notion that the plan was racial balancing for its own sake. Rather, this plan was intended to cure the effects of residential segregation in Seattle. He cited evidence from the 2000 Census, which found Seattle near the bottom of the list of racially isolated cities. For Hispanics and Asians, the city is the second least segregated city in America. In any case, no city in America manifests a random distribution of incomes, education levels, race, religion, and ethnicities. Thus, so-called residential segregation could be used to justify permanent race-conscious student assignment.

Thernstrom concluded his remarks with the belief that the Court should not grant permanent sanction to race-conscious student assignment.

Discussion

Commissioner Kirsanow opened the discussion by asking the panelists if there were any studies that, while controlling for socioeconomic status, demonstrated that racial and ethnic diversity, improved arithmetic scores at the fourth grade level as measured by grade point average or standardized test scores. Armor responded that the relationship borne out by the 2003 National Assessment of Educational Progress (NAEP) data was very weak.

Commissioner Kirsanow asked whether any such studies had been performed on the relationship between racial and ethnic diversity and improvements in spelling. Kurlaender cited a 2002 article by Hanushek which indicated a strong relationship between the two. Commissioner Kirsanow inquired whether studies had been conducted on the effect of racial and ethnic diversity and student performance in biology. Armor responded that there are studies done with respect to science in general that indicate a weak or modest relationship.

Commissioner Kirsanow continued, asking if discrete studies had been done with respect to the effects of student racial and ethnic diversity on student performance in calculus, trigonometry, geometry, algebra, penmanship, writing, physics, anatomy, geology, economics, geography, speech or rhetoric, archaeology, anthropology, religion, health and sex education, physical education, home economics, or shop. Armor responded that NAEP does conduct tests in writing, social science (which covers some economics), and geography, but that he has not yet analyzed these data sets for any relationship to racial and ethnic diversity. Aside from those NAEP-tested disciplines, Armor stated that there were no discrete studies involving the disciplines mentioned by Commissioner Kirsanow.

Commissioner Kirsanow followed up by inquiring about any studies on the effects of racial and ethnic diversity on student attendance or tardiness. Armor responded that case studies exist at the individual school district level on discipline, suspension, and chronic absenteeism, but he was not aware of any nationwide studies. Kurlaender mentioned that the Scofield review of 1995 examined discipline and suspensions.

Vice Chair Thernstrom questioned Armor on his use of the terms “segregation” and “desegregation,” given their historical baggage and the fact that Seattle had never experienced *de jure* segregation. Armor responded that he used the term “segregation” as shorthand for racial isolation.

Vice Chair Thernstrom asked Mr. Coleman if he saw any differences in the types of questions that were going to arise in the Seattle and Louisville cases and those that arise with respect to selective admissions in institutions of higher education as in the Michigan cases. Coleman conceded that key distinctions existed between the two contexts. One such important distinction is that the former involved a university controlling access to its own student body, and the latter involved broader decisions on how a school system should function. Nonetheless, he stated that he believes that the citizenship and democratic benefits to diversity cited by the Court in *Grutter* had particular resonance in the elementary and secondary educational context.

Vice-Chair Thernstrom turned to Armor to express her concerns with the arbitrariness of Justice O’Connor’s “sunset provision” of 25 years for continued race-conscious admissions. Armor agreed that the number was arbitrary but was important as an aspirational goal. He also stated that society should be moving toward race-neutral practices to achieve this goal. Coleman interjected that, according to some broad-based data, the achievement gap is closing due in part to the No Child Left Behind Act. He added that, based on his work with educators, he believes that there is movement towards race-neutral practices.

Professor Thernstrom then noted that he and the Vice Chair examined data from NAEP, the Law School Admissions Test (LSAT), the Graduate Record Exam (GRE), the Medical College Admissions Test (MCAT), the Times Series, and the Scholastic Aptitude Test (SAT), and determined that there had not been a narrowing of the racial education gap in the last 15 years. According to Professor Thernstrom, the gap had widened in some ways. Professor Armor added that, while there is great debate in education on how the gap will be closed, he believes closing this racial education gap has little to do with getting the “right” racial composition in schools. Armor agreed that there is general consensus that racial balance is not a significant factor in closing the gap, with the exception of the research of Eric Hanushek. However, according to Hanushek’s econometric model, the gap should have closed 10 years ago.

Commissioner Taylor stated he thought the conversation should be framed in terms of racial and ethnic diversity versus school quality. He asked Professor Kurlaender if there was a connection between the two. Professor Kurlaender responded that there is such a connection. Specifically, on average, racially isolated schools tend to have high concentrations of poverty and lack qualified teachers and other resources.

Commissioner Taylor followed-up by challenging the current biracial focus of the discussion, given that we are in fact a multi-racial society. He also took issue with the focus on race as a causal factor in these disparities. Rather, he suggested that socioeconomic status and a capital culture are more determinant variables. Kurlaender stated that a focus on socioeconomic status would be appropriate if it were a reliable proxy for race, but it is not.

Commissioner Yaki stated his belief that the data available seems to indicate that economic and ability balance is the operational factor and that further studies would drop race as a causal factor.

Professor Thernstrom warned about the possible policy implications of the Hanushek research and the Hennessey-Starr experiments which seemed to indicate that students’ academic performance improved when they were assigned a teacher of the same race.

Commissioner Yaki asked Professor Thernstrom and Armor at what point does the state have no interest in attempting to engage in racial balancing or school desegregation. Professor Thernstrom answered that, in a case like Seattle, it is not a cause of great concern since there has not been stark residential segregation. He advocated school choice, race-neutral reconstruction of school boundaries, and magnet schools if a school district wished to remedy perceived racial isolation. Professor Armor stated that he would support school assignment programs that were voluntary, in other words, programs which give parents access to integrated schools for their children if that is what they want. However, he would not support race-based student assignment by the state.

Commissioner Yaki asked Professor Thernstrom and Armor if they thought the idea of *Brown v. Board of Education*, namely school integration, still held water. Armor responded that *Brown* made no decision with respect to school racial composition; it only made a decision with respect to state-created and compelled segregation and did not create remedies for *de facto* segregation.

Commissioner Yaki sought clarification on whether Professors Armor and Thernstrom thought that residential segregation was good as a normative matter. Armor responded that it was morally neutral and therefore not actionable by the state.

Commissioner Yaki solicited the responses of Coleman and Kurlaender to Armor and Thernstrom's comments on *de facto* segregation, noting the tension between the role of individual achievement and the perceived greater good to American society. Kurlaender cited correlational studies that showed that students educated in desegregated settings reported a stronger desire to live and work in multiracial environments. Thus, according to Kurlaender, desegregated education might reduce patterns of residential segregation.

Chairman Reynolds agreed that Commissioner Yaki raised an important point with respect to the tension between the greater good and the freedom of the individual. For example, the U.S. Constitution recognizes freedom of association as an important right to be protected. He opined that race-based student assignment for diversity purposes was an attempt to restrict freedom. The justification for such a restriction, according to Chairman Reynolds, required persuasive evidence not yet on the table.

In the tension between what he saw as the modest benefits of racial and ethnic diversity in this context and the freedom of parents, Chairman Reynolds stated that we would choose freedom in every instance, just as he would choose the right to freely associate. Chairman Reynolds then suggested that the intellectual firepower so far devoted to defending racial preferences go towards finding ways to appreciably improve academic performance, future income, and economic freedom for African-Americans.

Professor Thernstrom strongly endorsed Chairman Reynolds' remarks. He then questioned whether the power of the state should be deployed to ensure that there are no ethnically or religiously identifiable neighborhoods regardless of people's preferences. He cited a 2003 Gallup poll that showed that only four percent of African-Americans on average wanted to live in a neighborhood made up of people of other races.

Commissioner Kirsanow asked Armor if he knew of any studies that showed whether students who attended racially diverse schools graduate college at a higher level. Armor responded that the same studies indicated the differences were not very great. Commissioner Kirsanow then asked Armor if he knew of any studies showing a greater likelihood of ROTC participation on the part of students who attended racially diverse schools. Armor responded that he has not examined that particular issue.

Commissioner Kirsanow asked Armor if he knew of any studies indicating that students from racially diverse schools are more likely to attend military academies and become officers. Armor responded in the negative. Commissioner Kirsanow asked if Armor knew of any studies showing that students from racially diverse elementary and secondary schools were more likely to engage in spirited classroom discussion. Armor responded that Kurlaender had examined such a study and found a small difference. Professor Kurlaender responded that two studies in her written statement found such a difference.

Commissioner Kirsanow asked if there were any studies demonstrating that students from racially diverse classrooms are better able to function in the global economy. Kurlaender responded that a review by Crain and Mahard suggested higher occupational aspiration on the part of those students, but not necessarily attainment. According to Kurlaender, more recent research by Boozer and colleagues shows higher occupational status, wages, and likelihood of college attendance for those who attend racially diverse elementary and secondary schools.

Commissioner Kirsanow asked the panelists for their numerical definition of the critical mass mentioned in *Grutter*, specifically the percentage of minority students in the general student population of a given school at which minority students were more likely to participate in classroom discussions without being isolated or feeling as if they were spokespersons for their race. Coleman stated that, in *Gratz*, the law school believed this mass to be somewhere between 11 and 17 percent. He admonished that this figure is institution-specific, depending on the diversity challenges faced by the institution.

Commissioner Kirsanow stated that this number goes to the mission of the school since the Court's deference to the schools' diversity judgments in *Grutter* and *Gratz* was a function of the academic freedom given to higher education institutions. Commissioner Kirsanow argued that the same freedom does not exist at the elementary and secondary level because admissions were defined by local school boards and No Child Left Behind, among others. Commissioner Kirsanow asked Coleman if there was a way to translate this autonomy to the elementary and secondary context. Coleman agreed that the deference owed to the educational policy decisions of elementary and secondary schools does not stem from academic freedom. However, he argued that courts traditionally defer to elementary and secondary schools' judgments and do not purport to be educational experts.

Coleman returned to the tension posited by Chairman Reynolds and Commissioner Yaki. He expressed concerns that wiping out race-conscious student admissions or assignment would displace the authority of elected school boards to make these decisions as representatives of their community.

Chairman Reynolds asked the panelists if there were empirical studies demonstrating any harms to students from attending racially isolated schools. Kurlaender cited studies which indicated achievement harms from attending urban schools with high concentrations of poverty which often overlapped with race. Professor Thernstrom asked Kurlaender if balancing schools by poverty composition might solve the problem. Kurlaender believed it might, provided that socioeconomic status was a sufficient proxy for race. Armor responded that the evidence that there was no achievement harm resulting from attending racially isolated schools was overwhelming, controlling for socioeconomic status. Kurlaender added that social benefits still accrued from attending racially diverse schools, citing an experiment by Duncan showing improved racial tolerance on the part of white college students assigned a roommate of a different race or ethnicity.

Commissioner Kirsanow asked the panelists if there were any studies showing that race was a proxy for viewpoint. Coleman responded no, but added that being exposed to different viewpoints across a given ethnic group helps to breakdown stereotypes.

Vice Chair Thernstrom remarked she thought the answer to closing the achievement gap was better teaching, not attaining a particular racial balance or increasing financial resources. According to the Vice Chair, per pupil spending is very high in most large, urban school districts that often report low student achievement. She also disagreed that a school's diverse racial composition meant integration, given that students often socially and academically sort themselves out by race. She welcomed any evidence that integration lead to real interaction among students across racial lines.

Commissioner Taylor asked whether the values of racially diverse schools were worthy of government-mandated racial balancing plans or worthy of government voluntary encouragement. Coleman answered that it depended on the school's circumstances and that any answer should be sensitive to the discretion given educators to do their job. He believed that, barring evidence of discrimination, there might be some circumstances where mandating racially balanced schools might be appropriate.

Chairman Reynolds disagreed with the notion of government-mandated racial balancing espoused by Coleman, since such balancing you would contract someone's freedom and force one to live according to someone else's particularized worldview. Coleman responded that it was not imposition, since we are allowing for local context and local decision-making. Coleman qualified that answer by clarifying that there are some school-board enacted policies that he would not countenance. The Chairman responded that freedom should always reign in the absence of discrimination.

Commissioner Yaki countered that the broad individual freedom espoused by Chairman Reynolds can be constrained under compelling circumstances. For example, the freedom to discriminate can be circumscribed by a citizen's right not to suffer discrimination. For Commissioner Yaki, diversity and the protection of classes of people from discrimination are both compelling circumstances. Vice-Chair Thernstrom asked Commissioner Yaki to define diversity. Commissioner Yaki defined diversity as a value and the real world experience of looking around a room to see people who are not all one majority or like each other.

Chairman Reynolds asked panelists whether the debate rests on the false notion that there is a random distribution of interest and abilities among ethnic groups. He went on to say that nature does not particularly care for random distribution of interests and abilities. As such, there will always be clusters of people formed by voluntary choice, whether the choice is based on religion, socioeconomic status or race. Chairman Reynolds argued that the state has no right to come in and undo that choice.

Commissioner Kirsanow concluded by asking panelists if they knew whether the University of Michigan or any other school with an affirmative action policy had conducted studies to determine that it took a student body of 10 or 17 percent African-American or Hispanic students to start those students speaking in class. Coleman recalled a Michigan-specific study included in his written statement.

Findings

1. There is little evidence that racial and ethnic diversity in elementary and secondary schools results in significant improvement in academic performance. For example, a widely cited 1984 review of research found that desegregation increased mean reading levels by two to six weeks but did not increase achievement in mathematics. Other studies also found a modest positive effect of school racial composition on reading achievement and no effect on mathematics. Recent analysis of data emerging from the 2003 National Assessment of Educational Progress suggests only a weak relationship between school racial composition and reading and math achievement. While there have been studies suggesting a modest correlation between school racial composition and scholastic improvement in reading, science, and arithmetic, the Commission is not aware of research that has been conducted on the impact of school racial composition on academic performance in other discrete subject areas such as anthropology or economics, once controlling for socioeconomic status. The panelists at the briefing themselves disagreed as to the existence of a consensus regarding the educational benefits of diversity. While Coleman and Kurlaender argued that there was academic consensus, Armor cited the above studies as evidence of a lack of consensus. Furthermore, Thernstrom advised the Commission that a balanced appraisal of the social science literature on the effects of diversity on student learning reveals no scholarly consensus that schools with diverse student bodies promote greater student achievement than their racially homogeneous counterparts.
2. Studies on the effect of school racial composition on academic achievement often suggest modest and inconsistent benefits. Some studies have found that diversity has a modest positive impact on academic performance, at least one has found a negative impact, while another has found that the impact differs between higher and lower-achieving African-American students. Studies examining the relationship between school racial composition and college attendance found no relationship, a statistically insignificant relationship, or a relationship that differed between students in the North and South.
3. Studies of whether racial and ethnic diversity result in significant social and non-educational benefits report varied results. One limitation on research conducted on the social and non-educational benefits of racial and ethnic diversity in elementary and secondary schools is that there are no standardized ways to measure these outcomes. While many early studies listed positive social benefits like increased social interaction and interracial friendships, other studies report mixed results.
4. Much of the early research indicating educational benefits resulting from racial and ethnic diversity in elementary and secondary schools suffered from serious methodological weaknesses such as profound selection bias, limitations on purely cross-sectional research, the frequent lack of a control group for any useful comparative analysis, and shifting and unclear terminology, including varying definitions of key terms such as “diversity,” “racial balance,” and “desegregation.” Cross-sectional studies examine data collected at the same point of time without controlling for differences over time. Also, some studies neglected to control for parental values manifested in parental residential and schooling choices. Much of this early

research paid little attention to differences in the implementation of racial balance plans or in the types of desegregation experiences taking place in different school settings.

5. A preliminary review of data on the overall relationship between school racial composition and student achievement as measured by the 2003 National Assessment of Educational Progress (NAEP) scores does not indicate a consistent or strong relationship between school racial composition and student achievement, after controlling for socioeconomic status. While this review is a cross-sectional analysis, it does test the relationship between school racial composition and student achievement using the same test instrument. The large data sample consists of 150,000 students for each of four tests (fourth and eighth grade reading and mathematics tests) in all 50 states, including 25,000 African-American students, approximately 30,000 Hispanic students, and covering 17 states with significant African-American student populations. This preliminary analysis of this sample indicates that African-American students in predominantly white schools score only 2 points higher on the eighth grade reading test compared to African-American students in predominantly African-American schools. Similarly, African-American students in predominantly white schools score 5 points higher on the eighth grade mathematics test compared to African-American students in predominantly African-American schools. Similar relationships are also found for fourth grade reading and math tests, although the SES adjustments are not as accurate or complete at lower grade levels due to incomplete data for parent's education.

6. Based on the testimony of the expert panel, the Commission is aware of few if any discrete empirical studies that, once controlling for socioeconomic status, demonstrate scholastic improvement in disciplines such as calculus, trigonometry, geometry, algebra, penmanship, physics, anatomy, geology, economics, geography, speech or rhetoric, archaeology, anthropology, religion, health and sex education, physical education, home economics, or shop, resulting from racial and ethnic diversity in the classroom.

7. While there is some evidence indicating that students in racially diverse elementary and secondary schools were somewhat more likely to engage in spirited classroom discussion than their racially isolated peers, these studies found only a small difference.

8. While there are many research studies indicating that desegregated schooling is associated with higher educational and occupational aspirations, and to a modest degree, attainment for African-American students, methodological weaknesses in these studies make it difficult to isolate school racial composition as the cause of these aspirations and attainments. Empirical research on the relationship between desegregation and college attendance come from general surveys. While these general surveys indicate that students who attend desegregated high schools are more likely to attend desegregated colleges, self-selection may be a factor in this relationship. Many people who prefer desegregated environments choose desegregated elementary and secondary schools for their children. Also, several contributors to this particular research (Hallinan, Carter, and Natriello) agree that minority segregated schools suffer from a severe lack of resources such as quality teachers, counselors, and other educational advantages, which may contribute to the inferior opportunity structure for African-American students in minority segregated schools.

9. While recent studies examining the relationship between desegregation and future wages found a small positive relationship after controlling for self-selection bias, research evidence on the relationship of school racial composition and actual wages is less definitive.³

10. More recent surveys have indicated generally positive reactions to school desegregation, such as cross-racial friendships and greater understanding of racial and cultural differences. However, some of these surveys do not definitively identify a causal relationship between the two, since they lacked a comparison group of students from racially isolated schools.⁴

11. Similarly, there is little evidence on the effect of school racial composition on other social outcomes. For example, based on the testimony of the expert panel, the Commission is aware of no studies conducted on whether students from racially diverse schools were more likely to attend military academies and become officers. A study by Crain and Mahard from 1978 suggested higher occupational aspiration on the part of students who attended racially diverse schools, but not higher occupational attainment. A study by Boozer, Krueger, and Wolkon from 1992 showed higher occupational status, wages, and likelihood of college attendance for those who attend racially diverse elementary and secondary schools.

3 For example, a study by Grogger from 1996 indicates a very clear negative relationship between black school enrollment and blacks' wages, while a 1992 study by Boozer, Krueger, and Wolkon did not find a statistically significant relationship between white school enrollment and black earnings, controlling for various school quality measures and selection bias. It is difficult to isolate the effects of school racial composition from those of school quality (teacher qualifications, career and college counseling resources, etc.) in these studies, because so often school racial composition is confounded with many school quality measures.

4 A 2005 study by Kurlaender and Yun which did have a comparison group found a modest positive effect of on the African-American students' desire to live in racially or ethnically diverse neighborhoods (68 percent from multiracial schools were interested compared to 57 percent from racially isolated schools), a weaker effect on Hispanic students' desire to do so (62 percent versus 55 percent), and no effect on white students' desire to do so (54 percent compared to 55 percent). The latter study did not control for family background, nor did it control for self-selection.

The Outcomes of School Desegregation in Public Schools

David J. Armor

Since student diversity is a very broad topic, I have narrowed my focus to the racial balance and diversity issues in school desegregation plans. Although I will discuss both educational and social benefits of desegregation, I will put more emphasis on educational outcomes. Social outcomes are important, but in public schools they are secondary to the acquisition of academic skills. The No Child Left Behind Act underscores this point, with its requirement that all children meet high academic standards.

A comprehensive and balanced review of social science research will show that the academic and social benefits of school desegregation are quite limited. One feature of this research is the wide variation in results from one study to another, making it very difficult to generalize about the benefits or costs for a particular context. When the outcomes of studies can be combined, as for academic achievement, the average benefits are either weak or nonexistent.

The research on school desegregation usually distinguish between three categories of potential benefits: (1) academic achievement as measured by standardized tests, (2) long-term outcomes such as educational attainment and occupational success, and (3) social outcomes such as improved racial attitudes, race relations, and so forth.

Following my discussion of the research on benefits, I will comment on some alternatives to the racial balance plans utilized by Jefferson County, Seattle, and many other school districts throughout the country. I support school desegregation policies, and I have designed many desegregation plans for school districts under court supervision. But I have also been a critic of mandatory racial balance plans because their limited benefits are not justified by their adverse consequences.

Finally, I will offer a concluding note about how issues like racial diversity distract us from more urgent problems in education, like achievement gaps, and the need for more compelling remedies than simply moving children from one school to another.

Achievement Outcomes

The best and most current information about the overall relationship between academic achievement and racial composition comes from the 2003 National Assessment of Educational Progress (NAEP). The NAEP tests are now administered in all 50 states in grades four and eight, and the sample sizes are the largest of any national achievement study. Over 160,000 students were assessed, including approximately 25,000 African American and 30,000 Hispanic students.

Figure 1 shows the relationship between the percentage of black students in a school and eighth grade reading achievement for black and white students.⁵ The figure shows both actual test

⁵ This figure is from a paper attached as an Appendix to this report: DAVID J. ARMOR AND SHANEA J. WATKINS, SCHOOL SEGREGATION AND BLACK ACHIEVEMENT: NEW EVIDENCE FROM THE 2003 NAEP (forthcoming).

scores and test scores after adjusting for socioeconomic (SES) differences between black and white students. The adjustment is necessary because racially isolated minority schools have more students from economically disadvantaged families, and this can create a spurious relationship between school segregation and achievement.

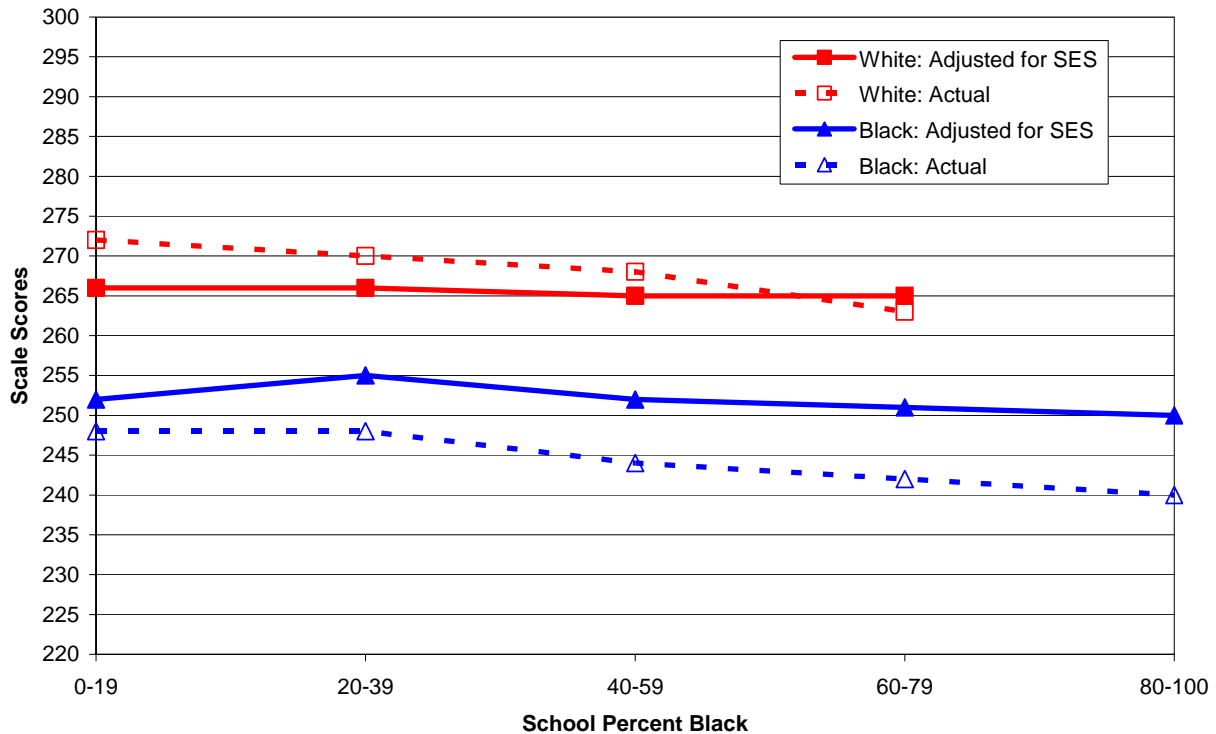


Figure 1 SCHOOL PERCENT BLACK AND EIGHTH GRADE READING ACHIEVEMENT, 2003 NAEP

Looking first at the actual scores (the dashed lines), there is a modest correlation between black concentration and black achievement; black students in predominantly white schools (0-19 percent black) score 8 points higher on the eighth grade reading test compared to black students in predominantly black schools (80-100 percent black).⁶ Even before adjusting for SES, this “segregation” gap is relatively small compared to the black-white reading gap of 24 points in predominantly white schools.

Now looking at SES-adjusted scores (the solid lines), blacks in predominantly white schools score only 2 points higher than those in predominantly black schools.⁷ In other words, the relationship between school segregation and reading achievement is very weak when we equalize families on economic differences.

6 In this national sample, there are more black students in predominantly white schools (4745) than in any other category except predominantly black (6235); the other categories range from 2600 to 4100 black students.

7 The socioeconomic factors used for the adjustment are free lunch status (an indicator of poverty), mother’s and father’s education, various reading items in the home, a computer in the home, and limited English proficiency.

Even without SES adjustments, the “segregation” gap in the 2003 NAEP is much smaller than that noted in the famous Coleman report on Equality of Educational Opportunity.⁸ In that study, the effect of segregation on black reading achievement was more than twice the size of that shown in Figure 1.⁹ The most plausible explanation is that, over the past 40 years, the quality of educational programs is now more equalized between segregated and desegregated schools.

Somewhat stronger relationships are found between black concentration and eighth grade math achievement (see Fig. 3 on page 9). The SES-adjusted difference between predominantly black and white schools is about 5 points. Similar relationships are also found for fourth grade reading and math tests, although the SES adjustments are not as good at the lower grades due a high rate of missing data for parent’s education.

The situation is quite different when we examine the relationship between Hispanic concentration and reading as shown in Figure 2. When scores are adjusted for family socioeconomic status, Hispanic students in predominantly Hispanic schools actually score slightly higher than those in predominantly white schools. A similar result is observed for math scores (see Fig. 4 on page 9). In other words, according to the 2003 NAEP, Hispanic concentration does not appear to have any adverse effect on Hispanic achievement.

8 The Coleman data discussed here is from David J. Armor, *School and Family Effects on Black and White Achievement*, in ON THE EQUALITY OF EDUCATIONAL OPPORTUNITY (Frederick Mosteller and Daniel P. Moynihan, eds., 1972)

9 In terms of standard deviation units, which allow comparisons between different achievement tests, the Coleman data showed a .6 standard deviation difference between blacks in predominantly white vs. predominantly black schools, as compared to the unadjusted effect in 2003 NAEP of just .25 standard deviations.

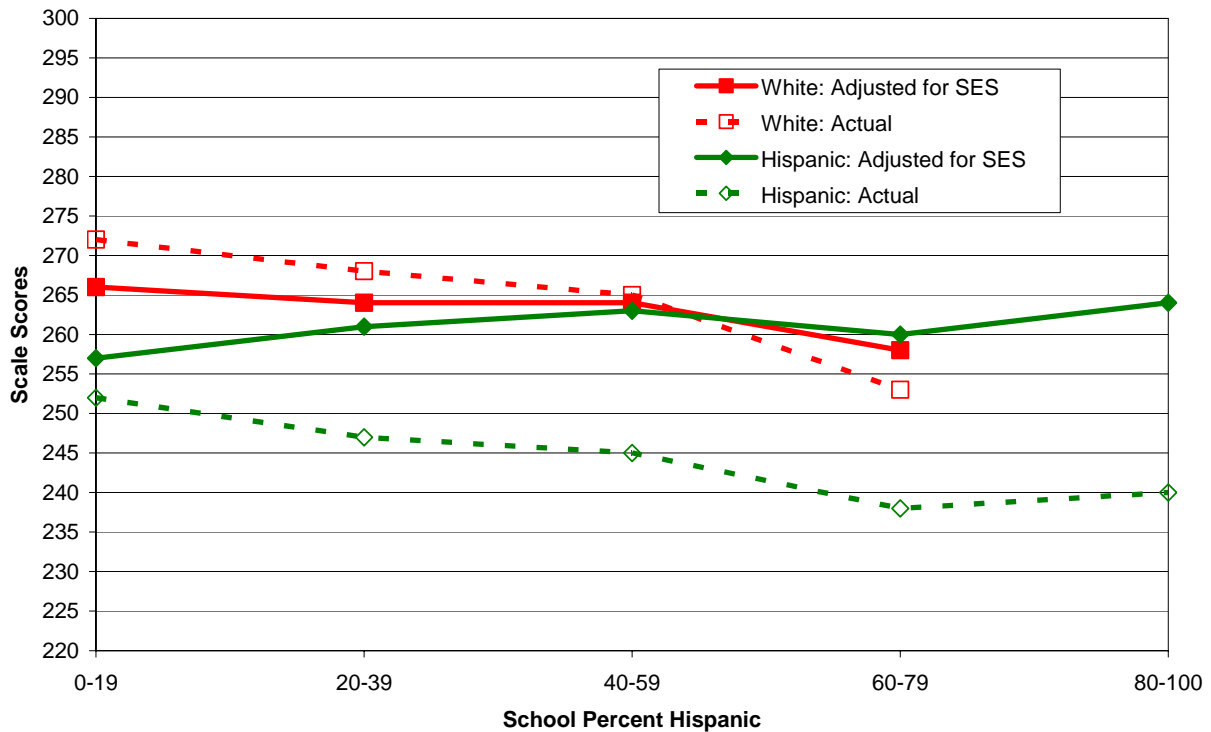


Figure 2 SCHOOL PERCENT HISPANIC AND EIGHTH GRADE READING ACHIEVEMENT, 2003 NAEP

There are several possible explanations for this result. First, in the NAEP sample only ten states have predominantly Hispanic schools, and California and Texas have about three-fourths of the 4700 Hispanic students in this category. In contrast, the 13,700 Hispanic students in predominantly white schools are spread across all 50 states. So these results may simply be saying that California and Texas are doing a better job educating all of their students, including Hispanic students, regardless of school composition. Second, it is possible that states with higher concentrations of Hispanic students have better programs to help students with limited English proficiency, and this shows up in higher scores on reading and math tests.

To make sure that the relationship between Hispanic concentration and achievement was not caused by the different distributions of Hispanic schools within states, I also looked at the relationship for California and Texas schools separately. The inverse relationship weakened somewhat, but the SES-adjusted reading and math scores for Hispanics in predominantly Hispanic schools were slightly higher in both California and Texas compared to Hispanics in predominantly white schools. This tends to support the second interpretation, that states with a lot of predominantly Hispanic schools may do a better job helping students with language problems.

Aside from the NAEP data, there is a substantial research literature on the effects of school desegregation on black achievement. It is disappointing that the lower courts in the Seattle and Jefferson County cases cited such a limited number of studies. In fact most of the studies cited in these cases are from Harvard University's Civil Rights Project. The Civil Rights Project is an advocacy organization for school desegregation, including racial balance plans, and it rarely cites any study that finds limited or no educational benefits from desegregation.

A more comprehensive review of earlier research can be found in Chapter 2 of my book, *Forced Justice*, published in 1995.¹⁰ That review highlights one of the best studies on the effects of desegregation on black achievement, which was a meta-analysis sponsored by the National Institute of Education in 1984.¹¹ In this meta-analysis, only studies with experimental or quasi-experimental designs were reviewed, so that causal inference was more certain. The NIE study found no effect of desegregation on math scores and inconsistent results for reading scores. Thomas Cook summarizes the findings as follows:

On the average, desegregation did not cause an increase in achievement in mathematics. Desegregation increased mean reading levels. The gain reliably differed from zero and was estimated to be between two to six weeks [of a school year] across the studies examined. . . . The *median* gains were almost always greater than zero but were lower than the means and did not reliably differ from zero. . . . I find the variability in effect sizes more striking and less well understood than any measure of central tendency.

Thomas Cook is not the only social scientist to conclude that desegregation had weak and inconsistent impact on black achievement. Similar conclusions were reached after literature reviews by St. John in 1975, Stephan in 1978, and Schofield in 1995.¹² Consider the summary by Schofield, which is often cited in legal briefs in support of the benefit thesis:

First, research suggests that desegregation has had some positive impact on the reading skills of African American youngsters. The effect is not large, nor does it occur in all situations, but a modest measurable effect does seem apparent. Such is not the case with mathematics skills, which seem generally unaffected by desegregation.¹³

Finally, for those who find the statistics confusing and the debate among researchers unhelpful, there is another body of evidence that appeals to our common sense. Even after the very extensive school desegregation during the 1970s and 80s, especially in the South, the black-white achievement gap is still very large and not that much smaller than it was in 1970. Case studies in large school districts like Charlotte-Mecklenburg, North Carolina, and Wilmington-New Castle, Delaware, show that the achievement gap changed very little after extensive

10 See DAVID J. ARMOR, *FORCED JUSTICE: SCHOOL DESEGREGATION AND THE LAW* (1995).

11 See THOMAS COOK, ET AL, *SCHOOL DESEGREGATION AND BLACK ACHIEVEMENT* (National Institute of Education, 1984).

12 See, e.g., NANCY ST. JOHN, *SCHOOL DESEGREGATION* (1975); Walter G. Stephan, *School Desegregation: An Evaluation of Predictions made in Brown v. Board of Education*, *PSYCHOLOGICAL BULLETIN*, 85:217-238 (1978); Janet Ward Schofield, *Review of Research on School Desegregation's Impact on Elementary and Secondary Students*, in *HANDBOOK OF RESEARCH ON MULTICULTURAL EDUCATION* (J.A. Banks and C.A.M. Banks, eds.) (1995).

13 See Schofield, *supra* note 12, at 610

desegregation. These and other case studies are discussed in a study I published in 2002; that chapter has been made available to the Commission.¹⁴

Long Term Outcomes

Some reviews have concluded that the long-term benefits of desegregation are greater than short-term effects (i.e., test scores).¹⁵ Since most of these studies come from general surveys and are not evaluating the effects school desegregation plans per se, the results must be interpreted carefully. For example, one of the common findings in these long-term studies are that students who attended desegregated high schools are more likely to attend predominantly white colleges as opposed to majority black colleges (e.g., historically black colleges) or more likely to end up in desegregated employment settings. These studies do not find that desegregation increases college attendance or improves wages.

While I accept the finding that black students in desegregated schools are more likely to be found in desegregated colleges or work environments, these studies do not prove that the desegregated schools were the cause. It is equally likely that self-selection bias is operating here, so that families who prefer desegregated schools pass these preferences on to their children who also prefer desegregated life-styles when they become adults.

This is demonstrated most clearly by the findings for college attendance. While black students from desegregated high schools are more likely to attend desegregated colleges, it is not the case that they are more likely to attend college. In fact, the relationship between desegregation and college attendance is similar to that for achievement test scores—weak and inconsistent. Given that achievement scores are strong predictors of attending college, and given the weak relationship between desegregation and achievement, this is not a surprising finding.

One of earliest national studies found that the relationship between desegregation and attending college differed between black students in the North and the South.¹⁶ Controlling for family SES, Crain and Mahard found that attending desegregated high schools raised college attendance in the North but lowered it in the South. However, both relationships were small and not statistically significant. Using the same data but a different analytic model, Eckard found that the relationship between high school desegregation and college attendance was virtually zero.¹⁷ In a later study using the same data, Braddock and McPartland came to similar conclusions:

14 See David J. Armor and Christine H. Rossell, *Desegregation and Resegregation in the Public Schools*, in BEYOND THE COLOR LINE (Stephan Thernstrom and Abigail Thernstrom, eds.) (2002).

15 See, e.g., Amy Stuart Wells and Robert L. Crain, *Perpetuation Theory and the Long-Term Effects of School Desegregation*, REVIEW OF EDUCATIONAL RESEARCH 64:531-556 (1994); Jomills H. Braddock II and Tamela M. Eitle, *The Effects of School Desegregation*, in HANDBOOK OF RESEARCH ON MULTICULTURAL EDUCATION (2ND ED.) (J.A. Banks and C.A.M. Banks, eds.) (2004).

16 Robert L Crain and Rita Mahard, *School Racial Compositions and Black College Attendance and Achievement Test Performance*, SOCIOLOGY OF EDUCATION 51:81-101 (1978)

17 Bruce K. Eckland, *School Racial Composition and College Attendance Revisited*, SOCIOLOGY OF EDUCATION 52:122-125 (1979).

virtually no relationship in the South and a small positive relationship in the North that was not statistically significant.¹⁸

One of the best studies on this topic was carried out by Crain and others using data from Project Concern, a long-running desegregation program involving transfers of black students from predominantly black schools in Hartford, Connecticut, to desegregated suburban schools.¹⁹ The advantage of this study is that it used a quasi-experimental design, so that Project Concern students could be compared to a control group of similar students who remained in Hartford schools.

After controlling for gender, family background, and test scores, there was no difference in going to college between all Project Concern students and the Hartford control group. Moreover, some Project Concern students spent a substantial number of years in desegregated suburban schools, but then returned to the Hartford schools, and they were no more likely to attend college than those who had remained in the city all along.²⁰ Thus spending a substantial number of years in desegregated suburban schools did not significantly increase the rate of college attendance by Hartford black students.

Finally, a study by Boozer and others used data from the National Survey of Black Americans to estimate the relationship between the percent of black students in a high school and total years of education. After controlling for self-selection effects, the relationship was small and not statistically significant.²¹

The Boozer study is also the most recent and most sophisticated analysis of the relationship between high school desegregation and wages. Their findings were similar to their findings for educational attainment: they found a small positive impact of high school desegregation on wages but it was not statistically significant after controlling for self-selection bias.²²

This rather limited research literature on the effects of desegregation on educational attainment and wages suggests that desegregation does not have a strong or consistent influence on either of these long-term outcomes.

18 Jomills H. Braddock II and James M. McPartland, *Assessing School Desegregation Effects: New Directions in Research*, RESEARCH IN SOCIOLOGY OF EDUCATION AND SOCIALIZATION 3:259-282 (1982).

19 ROBERT L. CRAIN ET AL, FINDING NICHES: DESEGREGATED STUDENTS SIXTEEN YEARS LATER (Columbia University: Teachers College, January 1989).

20 See Armor, *supra* note 10, at 108-111, for more detailed discussion of the Project Concern study.

21 The effect associated with attending a 90 percent versus a 30 percent black high school would be a reduction of about ¼ year in total years of education. See MICHAEL A. BOOZER, ALAN B. KRUEGER, AND SHARI WOLKON, "RACE AND SCHOOL QUALITY SINCE BROWN V. BOARD OF EDUCATION, BROOKINGS INSTITUTION PAPERS ON ECONOMIC ACTIVITY. MICROECONOMICS 269-338 (1992)

22 See Boozer, et al, *supra* note 21, at 304 (Table 8).

Racial Attitudes and Race Relations

Studies of desegregation have also looked at non-educational or social outcomes. These include self-esteem, racial attitudes including prejudice and stereotyping, and race relations including interracial friendships. There are also survey studies that ask students their opinions about desegregation experiences. Many reviewers have commented that this research literature is more difficult to interpret because there are no standardized measures of outcomes in this area.

Self-esteem figured prominently in the *Brown* decision because of the general agreement that state-enforced segregation created a stigma of inferiority on black students. Whatever the impact of de jure segregation on black self-esteem at the time of *Brown*, there is broad consensus that, from 1970 on, no significant relationship between desegregation and self-esteem or self-concept has been shown. I found no relationship in my 1995 review, nor did Schofield who concludes that “the major reviews of school desegregation and African American self-concept or self-esteem generally conclude that desegregation has no clear-cut consistent impact.”²³

The situation is not that different for racial attitudes and race relations. Earlier reviews by St. John and Stephan concluded that results were highly variable from one study to another, and in some cases negative outcomes were more numerous than positive outcomes, particularly for white students.²⁴ This last finding is a cause for concern, since historically white racial prejudice towards blacks has been a much greater social problem than black prejudice toward whites.

A more recent review by Schofield in 1991 also rendered a pessimistic conclusion: “In general, the reviews of desegregation and intergroup relations were unable to come to any conclusion about what the probable effects of desegregation were...virtually all of the reviewers determined that few, if any, firm conclusions about the impact of desegregation on intergroup relations could be drawn.”²⁵ Again, in Schofield’s 1995 review, she concluded that, “Thus, the evidence taken as a whole suggests that desegregation has no clearly predictable impact on student intergroup attitudes,” and “There is no guarantee that desegregation will promote positive intergroup behavior.”²⁶

Finally, there are surveys of students from desegregated high schools, and some of these studies report generally positive reactions to the desegregation experience. Students often cite personal benefits from desegregation: cross-racial friendships, learning how to work with students of different races and ethnicities, and expanding their general knowledge about racial and cultural differences. Some of these studies, such as a 2004 study by Wells and others, do not have comparison groups of students from racially isolated schools, so it is difficult to make causal

23 See, e.g., Armor, *supra* note 10, at 99-101; Schofield, *supra* note 12, at 607.

24 See St. John, *supra* note 12; Walter G. Stephan, *The Effects of School Desegregation: An Evaluation 30 Years after Brown*, in *ADVANCES IN APPLIED SOCIAL PSYCHOLOGY* (Michael J. Saks and Leonard Saxe, eds.) (1986). See Armor, *supra* note 10, at 102-103 for a more detailed discussion of the St. John and Stephan studies.

25 See Janet Ward Schofield, *School Desegregation and Intergroup Relations: A Review of the Literature*, in *REVIEW OF RESEARCH IN EDUCATION* 17:335-412 (1991).

26 See Schofield, *supra* note 12, at 609-610.

inferences about the extent to which desegregation caused their positive attitudes as compared to other influences in their background.²⁷

One of these recent surveys by Kurlaender and Yun in Miami-Dade County did make comparisons between multiracial and racially isolated high schools.²⁸ However, like so much research on the impact of desegregation, the results were mixed. For example, there was a modest positive effect on desiring to live in a racially or ethnically diverse neighborhood as an adult; for blacks, 68 percent from multiracial schools were interested compared to 57 percent from racially isolated schools. The difference was weaker for Hispanics, at 62 vs. 55 percent, and nonexistent for whites (55 vs. 54 percent). Even for blacks, this is not a very large effect, considering there were no controls for family background differences. In addition, there is no way to know if the blacks in multiracial schools had these attitudes to start with, in which case it might be a self-selection effect rather than an effect of desegregation.

Regarding other outcomes for black and Hispanic students, there were very small and non-significant differences between multiracial and racially isolated schools on debating current social/political issues in class, whether their teachers encouraged them to attend college, and whether their teachers encouraged them to take honors or AP classes. The findings of this Miami-Dade County survey by Kurlaender and Yun thus resemble much of the research on social outcomes: there is no clear advantage for black and Hispanic students that can be attributed to racially mixed high schools when compared to racially isolated high schools.

When we examine the full body of research on the benefits of desegregation, the results are usually the same regardless of whether the outcome is academic achievement, long-term outcomes, or race relations. Some studies show positive results (usually small effects), some show no effect, and some even show negative effects. Overall, I can say with confidence that the research literature, taken as whole, fails to reveal any strong and consistent educational or social benefits of desegregated schools when compared racially isolated schools.

Alternatives to Racial Balance Plans

The fact that school desegregation fails to produce significant and consistent educational benefits does not mean that it has no value. It is a necessary component of the law, because courts can demand school desegregation plans whenever they find discriminatory school practices. Moreover, many parents value the opportunity to send their children to desegregated schools, and many students report that desegregation is a positive experience, although some parents and students obviously disagree.

While most parents support the concept of school desegregation, some desegregation techniques are still controversial, as demonstrated by the Seattle and Jefferson County litigation. There is

27 See AMY STUART WELLS, ET AL, HOW DESEGREGATION CHANGED US: THE EFFECTS OF RACIALLY MIXED SCHOOLS ON STUDENTS AND SOCIETY (Columbia University Teachers College April 2004).

28 See Michal Kurlaender and John T. Yun. *Fifty Years after Brown: New Evidence of the Impact of School Racial Composition on Student Outcomes*, INTERNATIONAL JOURNAL OF EDUCATIONAL POLICY, RESEARCH AND PRACTICE, 6(1): 51-78 (2005).

still strong opposition to mandatory busing, and most parents oppose using race for school assignments. There is an ample literature on white flight that underscores this opposition. In contrast, geographic assignment is generally accepted, and most parents support school choice policies, including integrated magnet schools, as long as they are voluntary.

Given the weak evidence for educational benefits, it is possible that the Supreme Court will decide that school desegregation in the form of racial balance does not meet constitutional requirements. Even if the Court finds some benefits from racial diversity, they may not rise to a “compelling governmental purpose.” Further, if the Court permits some consideration of race in student assignment, it is possible that the “narrow tailoring” requirement will rule out racial balance plans because they are tantamount to a use of racial quotas (unless, of course, it is a remedy for a prior constitutional violation).

Does this mean that school desegregation would come to an end? I do not think so, even if the Court prohibits any consideration of race in student assignments. There are numerous ways to create and sustain integrated schools without explicit racial assignments. For example, school boards can create geographic attendance zones that improve racial diversity for some schools, provided there is no racial gerrymandering. Voluntary magnet programs that are attractive to white parents can be placed in schools with predominantly minority enrollments; this was done successfully in Savannah, Georgia. Predominantly minority city school districts can push for an open enrollment policy like that in Minnesota, which allows students in racially isolated city schools to transfer to suburban schools which are generally more integrated.

While voluntary options like those in Savannah or Minnesota will not create racial balance in all schools, they offer a better balance between the limited evidence on benefits and the practical issue of community support. At the very least, such policies offer the possibility of integrated schools for students and parents who want that experience, and they do not compel parents to attend schools that they would not freely choose.

A Closing Note about the Achievement Gap

There are many problems facing American schools, and none is more important than the achievement gap between white, black, and Hispanic students so clearly illustrated in Figures 1 to 4. There are many things we need to do to address this gap, but worrying about the racial composition of schools is not one of them. As Figures 1 to 4 also show, the actual achievement gap exists regardless of the racial or ethnic composition of schools, so having all schools balanced at any particular composition is clearly not a solution. The preoccupation over racial diversity is a diversion in which valuable resources and energies are expended to simply shuffle the schools that children attend, and it contributes nothing to the quality of those schools. The time has come to put away this distraction and begin tackling the real problems in American education.

Appendix

School Segregation and Black Achievement: New Evidence from the 2003 NAEP *David J. Armor and Shanea J. Watkins (George Mason University)*

The relationship between school racial composition and academic achievement has been the subject of a long-standing debate in the social sciences. Early consensus about the adverse effects of school segregation was supported by the simple association between segregation and low black achievement as reported in the famous Coleman report (Coleman, et al, 1966). After school desegregation began in earnest, however, more rigorous studies questioned the strength of the relationship (Armor, 1972; St. John, 1975; Cook, 1985). Even later, when comprehensive school desegregation plans had been implemented in many large school systems, the stubborn persistence of the black-white achievement gap implied that desegregation was not the solution (Armor, 2002).

Several recent studies have rekindled the debate. These studies use large longitudinal databases from state testing programs in Texas, North Carolina, and Florida. The availability of individual test scores over many grade levels for several years allows estimation of very sophisticated statistical models. Since the models rely on unique data from a single state, however, generalization may be limited. Differences in education policies or variations in test metric could yield non-comparable outcomes. Indeed, these new longitudinal studies already disagree about the nature and strength of the so-called “black peer effect” in Texas, North Carolina, and Florida²⁹

This study uses the 2003 NAEP data to explore the question of state variations in the association between racial composition and achievement. Since the NAEP data is cross-sectional, it cannot settle ultimate cause-and-effect questions about segregation and achievement. However, NAEP has the advantage of being a common test administered to large samples in each state, therefore allowing a reliable test of whether the association between school segregation and achievement varies from one state to another. In fact, we do find state variations in the association between racial composition and achievement, and therefore the results of any single state analysis must be interpreted with considerable caution.

Background

One of the recent studies of black peer effects was conducted by Hanushek, Kain, and Rivkin.³⁰ The study estimated a complex gain score model (removing both student and school fixed effects) using individual achievement scores for all Texas students in grades 3 to 7 from 1993 to 1997. The study’s key finding is that a 1 percent increase in black classmates reduced black achievement gains by .0025 standard deviations per year after controlling for other factors. Black concentration did not affect white or Hispanic achievement according to the Texas data.

29 This paper uses the phrases black peer, black concentration, or school segregation interchangeably.

30 See ERIC A. HANUSHEK, JOHN F. KAIN, AND STEVEN G. RIVKIN, NEW EVIDENCE ABOUT BROWN V. BOARD OF EDUCATION: THE COMPLEX EFFECTS OF SCHOOL RACIAL COMPOSITION ON ACHIEVEMENT (NBER Working Paper No. w8741) (revised manuscript 2004).

This effect is quite large. If we apply it to a desegregation scenario, it implies that black students who change from 80 to 40 percent black schools for ten years should gain a full standard deviation – eliminating the black-white achievement gap.³¹ There are numerous cases where such desegregation scenarios occurred, especially in the South, but gap reductions of this magnitude (or even half this magnitude) have never been documented in well-desegregated school systems.³²

Bifulco and Ladd³³ conducted a study that investigated the effects of racial composition and charter school attendance in North Carolina. The data used are End of Grade (EOG) reading and math scores for grades 3 to 8 from 1996 to 2002. Like HKR, they formulated a gain score model and removed student fixed-effects. Rather than removing school fixed-effects, they included an indicator variable for attending charter schools versus regular public schools. They found that blacks who transferred to charter schools experienced a significant decline in math achievement, and the effects were strongest for charter schools that were majority black and that had greater black segregation than their former regular public school. They did not find a significant charter school effect for black reading scores.

There have been two additional statewide analyses of peer effects using the North Carolina statewide data.³⁴ Both of these studies attempt to separate the impact of peer ability from racial composition; moreover, Cooley models classroom rather than school composition, while Vigdor and Nechyba estimate the simultaneous impact of peers at both the classroom and the school level. While these studies are not strictly comparable to the HKR study, they generally find smaller effects of racial composition than HKR, and the academic achievement of peers was more important than the race of peers.

A fourth longitudinal study by Burke and Sass³⁵ used Florida state testing data for middle school students from 2001 to 2003. Like the latter two North Carolina studies, they estimated peer effects at the classroom rather than the school grade level. Burke and Sass did not find a significant black concentration effect at the classroom level.

The variations in findings from these studies could be explained by at least three conditions. First, peer effect models may be sensitive to educational differences among the states. Second, the variations could be artifacts of different achievement test instruments or academic standards. Finally, they might arise from the very different analytic approaches used in each of the studies.

31 During the 1970s the black-white achievement gap on most achievement tests was about 1 standard deviation, and in fact HKR report a black-white math gap in Texas of .7 standard deviations.

32 See David J. Armor, *Desegregation and Academic Achievement*, in *SCHOOL DESEGREGATION IN THE 21ST CENTURY* Figures 6.6-6.13 (Christine Rossell, David Armor, and Herbert Walberg, eds.) (2002).

33 See Robert Bifulco and Helen F. Ladd, *School Choice, Racial Segregation, and Test-Score Gaps: Evidence from North Carolina's Charter School Program*, paper presented at the annual research conference of the Association for Public Policy and Management (Nov. 3, 2005).

34 See, e.g., Jane Cooley, *Desegregation and the Achievement Gap: Do Diverse Peers Help?* (2006) (unpublished manuscript on file with the Commission); Jacob Vigdor and Thomas Nechyba, *Peer Effects in Elementary School: Learning from "Apparent" Random Assignment* (2004) (unpublished manuscript on file with the Commission).

35 See Mary A. Burke and Tim R. Sass, *Classroom Peer Effects and Student Achievement* (Dec. 23, 2004) (unpublished manuscript, Department of Economics, Florida State University).

The 2003 NAEP data offers an excellent opportunity to test whether the relationship between racial composition and achievement differs by state when the same test instrument is used. This study addresses four specific questions: (1) What is the national association between school segregation and achievement after controlling for student socioeconomic status (SES)? (2) Do segregation effects vary by state? (3) If variations are found, to what extent can they be explained by measured school or programmatic factors, such as teacher quality, curriculum differences, or state accountability systems?

Methods and Data

The 2003 NAEP data can provide more reliable answers to these questions than any prior NAEP assessment. The 2003 national sample consists of more than 150,000 students for each of four tests (reading and math for grades 4 and 8) in all 50 states.³⁶ Nearly 25,000 black and 30,000 Hispanic students were tested, and the black sample sizes in 17 states with significant black student populations are large enough to make reasonably reliable estimates of black peer concentration effects and the degree to which these effects vary across states.

Many critics of segregated schools argue that black achievement is lower because of inadequate programs and resources, including lower quality teachers. The 2003 NAEP data assesses several important teacher and school characteristics, and thus we can test whether state variations in peer effects are associated with these characteristics.

Critics of segregation also argue that black achievement can be lowered by weaker academic standards in predominantly black schools. Variations in peer effects might therefore be explained in part by the rigor and adequacy of state accountability systems, which could—if implemented properly—replace local standards with higher statewide standards. There are now several studies that offer measures of state accountability systems, one of which uses NCLB criteria.

Because the NAEP data is cross-sectional, it also has inherent limitations. The most important problem is that predominantly black schools tend to have students with lower SES characteristics, which are generally the strongest predictors of academic achievement. At a minimum, then, assessing the relationship between racial composition and black achievement requires adjusting test scores for individual SES characteristics using regression methods.

The 2003 NAEP has several SES measures for individual students, including free lunch status (an indicator of poverty), mother's and father's education level, reading materials in the home, and having a computer at home; all but free lunch are based on self-reports. While the parent education measures have been criticized as unreliable, especially for fourth graders, we find that these measures taken together explain approximately 30 percent of the variation in eighth grade math and reading scores, which is comparable to studies that rely on parental interviews for SES measures.³⁷

³⁶ In prior NAEP assessments, many states did not participate.

³⁷ The regression results for the SES adjustment are shown in Appendix 1. The regressions for SES adjustments are carried out for all students without regard to race; the rationale is that NAEP measures only a limited number of

National Results

Before controlling for student SES, there is a strong linear relationship between school percent black and eighth grade math scores shown by the dotted lines in Figure 1. An increase in a school's black population by 10 percent is associated with a decrease in math scores of about 1.5 points.³⁸ Thus black students in a 20 percent black "desegregated" school score about 9 points higher than black students in a 80 percent black "segregated" school, which is about one-fourth of a standard deviation.³⁹ The relationship is only slightly weaker for white students; a 10 point increase in school percent black is associated with a drop of about 1.2 points in white eighth grade math scores.

If schools with higher concentrations of black students have more low-SES children, the unadjusted relationship could mean simply that segregated schools enroll more low-SES black students than desegregated schools. The solid lines in Figure 1 show that, as expected, the relationship between segregation and achievement weakens considerably after adjusting for student SES. For black students, an increase of 10 percent black in a school is now associated with a reduction of only three-fourths of a point in eighth grade math scores. Based on a linear regression analysis, the estimated difference in black math scores between a segregated and desegregated school for black students (e.g., 60 point difference in percent black) is less than 5 points.⁴⁰

For white students, the effect of a 10 percent increase in black peers is very small and not statistically significant.⁴¹ Since there are fewer than 200 white students in predominantly black schools, most of who come from just six states, the achievement estimate for this group is omitted from the figure. It is worth noting that, while the SES adjustment reduces the black-white achievement gap, there is very little change in the gap at different levels of racial composition, and this is true whether one looks at the actual or adjusted scores.

family background measures, so that race reflects unmeasured family characteristics. The peer effect analyses are then carried out for black and white students separately to test for race-specific peer effects.

38 The actual relationship is established by simple regression of math scores on percent black; the coefficient is $-.152$ with robust $se = .0145$; $N = 21,551$ black students and 3017 schools.

39 The standard deviation of eighth grade math scores is about 35 points.

40 The coefficient obtained from regressing SES-adjusted black achievement on school percent black is $-.074$ with a robust $se = .0123$.

41 The actual coefficient from regression SES-adjusted white achievement on percent black is $-.015$ with robust $se = .0151$; $N = 80,897$ students and 4918 schools.

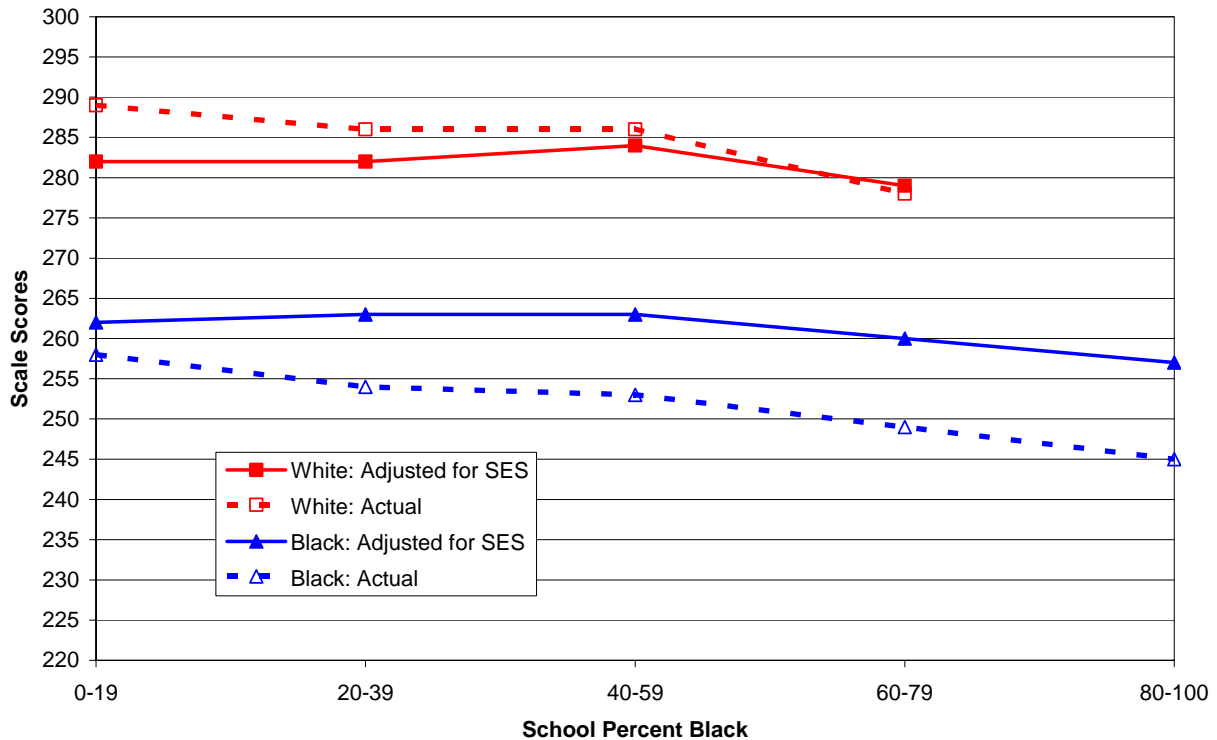


Figure 1 RACIAL COMPOSITION AND eighth GRADE MATH ACHIEVEMENT, 2003 NAEP

The relationships between segregation and eighth grade reading achievement are summarized in Figure 2. When eighth grade reading scores are adjusted for student SES, the relationship between segregation and achievement weakens substantially for both black and white students. A 10 point rise in school percent black is associated with a reduction of less than one-half point for black students and about one-fourth point for white students.⁴² The white relationship is not statistically significant and, while the black relationship is significant, it is quite small. According to this data, estimated reading scores of black students in 80 percent black segregated schools are just two points lower than those in 20 percent black desegregated schools once SES effects are removed.

⁴² The black coefficient is $-.037$ with robust $se=.0125$; the white coefficient is $-.025$ with robust $se=.0129$

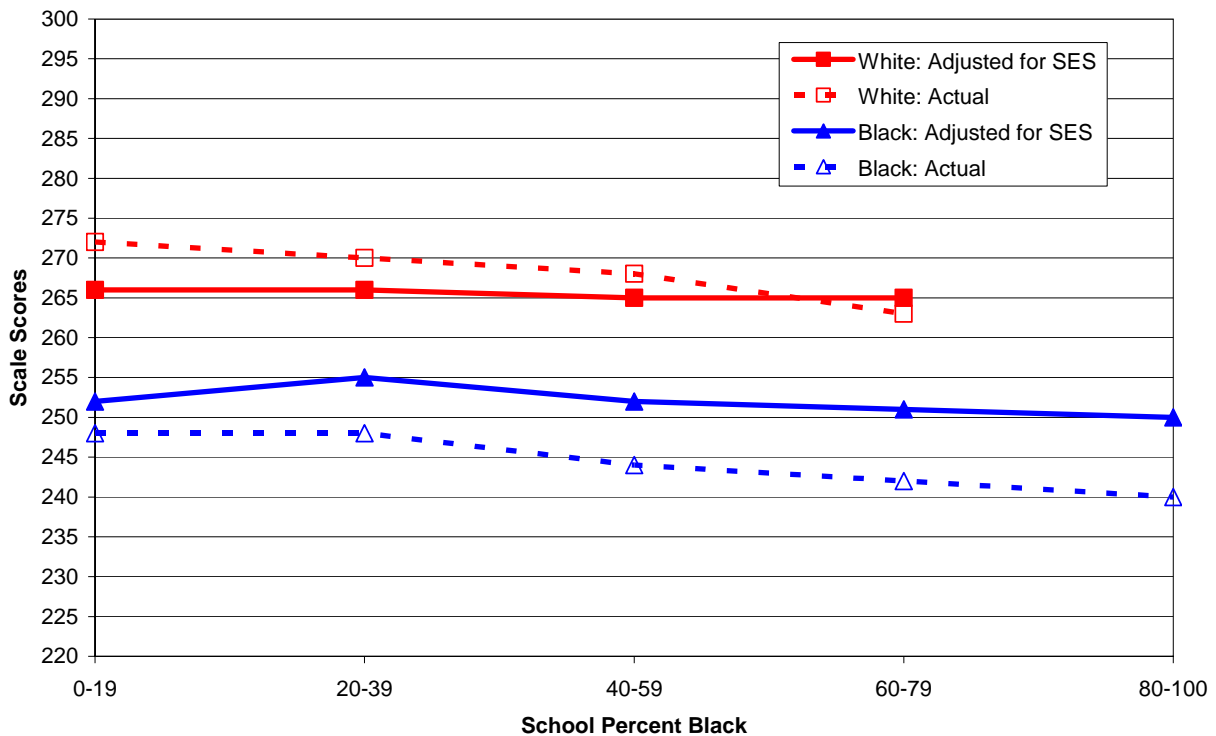


Figure 2 RACIAL COMPOSITION AND eighth GRADE READING ACHIEVEMENT, 2003 NAEP

We also examined the association between black segregation and black fourth grade reading and math scores. Generally, the fourth grade relationships are weaker than the eighth grade math relationship, but the NAEP SES controls may not be adequate for fourth graders.⁴³ There is virtually no association between black segregation and white achievement for either of the fourth grade tests.

The segregation effect for eighth grade math is weaker in the 2003 NAEP than it was in the 1996 NAEP. In the 1996 data, an increase of 10 percent black peers was associated with a decrease of 1.7 points in black eighth grade math after adjusting for student SES, which is twice the size of the relationship estimated in 2003. The reasons for the reduction of the segregation relationship between 1996 and 2003 are not clear; it could be due to a larger sample in 2003 or possibly the improved math performance of black students relative to whites during this interval. The NAEP national report card shows that black students gained twelve points on eighth grade math between 1996 and 2003 compared to seven points for whites. The reduction is not due to

43 About 36 percent of fourth graders do not know their mother's education level and 41 percent do not know their father's education level. The SES-adjusted coefficient for black fourth grade math is $-.54$ (increase of 10 percent black) and $-.69$ for black fourth grade reading.

any major change in school racial composition, because that remained quite stable between the two years.⁴⁴

Results by State

However one might interpret the strength of national relationship between racial composition and achievement, the national figure may be irrelevant in the face of quite substantial variations in the relationship across the states. Some states have no or very weak associations, while others have quite strong associations, even after SES is removed.

In conducting the state analyses, many states have small numbers of black students and no schools that are predominantly black, and for these reasons it is not possible to obtain meaningful or reliable estimates of the relationship between racial composition and achievement. Accordingly, the analyses in this section are carried out for 17 states with weighted samples of 500 or more black students in the eighth grade, and all but two of these states had actual samples of 450 or more black students.⁴⁵ The analyses are carried out for public school students only, and these states have approximately three-fourths of the black students in the NAEP sample.

The 2003 NAEP data suggest strongly that the relationship between racial composition and achievement varies by state. Figure 3 shows the relationship for eighth grade math adjusted for SES. The effect sizes are the estimated rise in math achievement for a 10 percent increase in black peers, as calculated by regressing SES-adjusted math scores on the percentage of black students in a school interacted with dummy variables for each state and also main effects for each state.⁴⁶ This approach allows significance tests for each state as compared to any other state. The states are ranked according to the size of the coefficients for black students, and the starred states (*) at the weaker end of the continuum have significantly different relationships than the starred states at the stronger end.⁴⁷

44 The percentage of black students in predominantly black schools was 30 percent in 1996 and 28 percent in 2003; similarly, the percentage of black students in schools less than 40 percent black in 1996 was 40 percent compared to 43 percent in 2003.

45 New Jersey and Pennsylvania had actual black samples of 384 and 337, respectively.

46 See Appendix 2 for the regression results by state.

47 $P < .05$ except Georgia and Illinois where $p < .06$

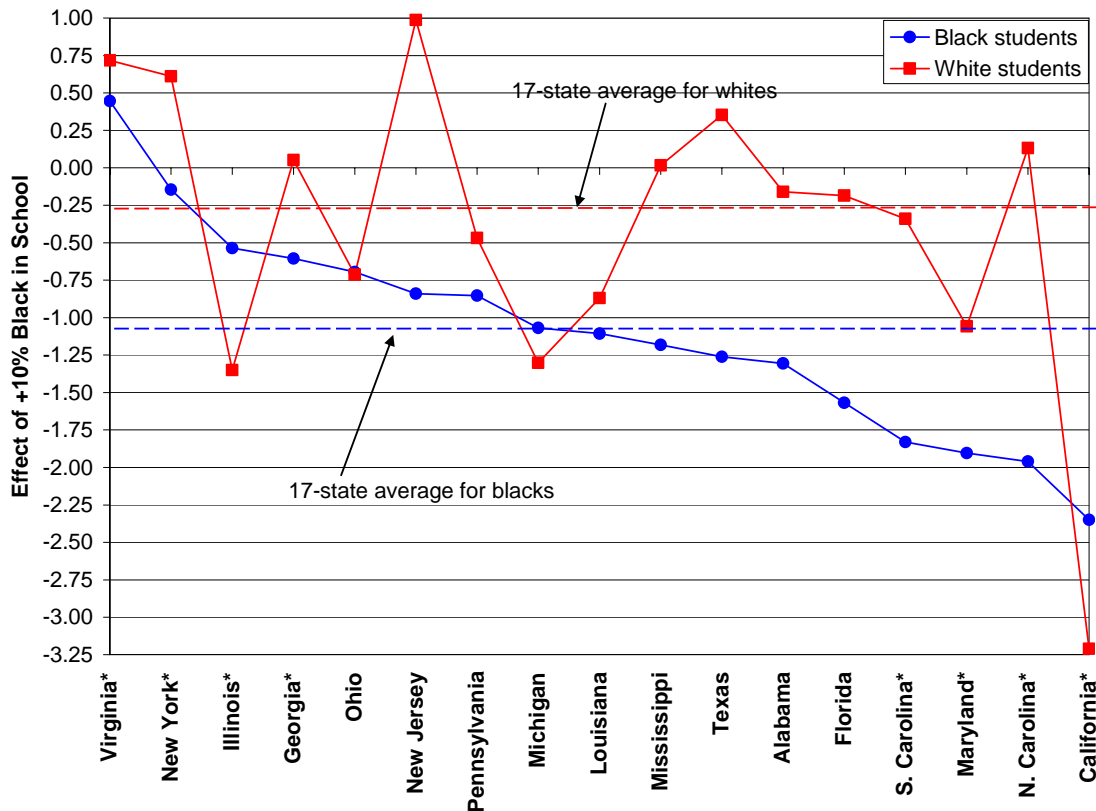


Figure 3 RACIAL COMPOSITION AND eighth GRADE MATH BY STATE (2003 NAEP; states ordered by effect for black students)

The 17 states can be classified into three categories according to the size of segregation effects. Virginia, New York, Illinois, and Georgia have no or very weak associations between racial composition and black math achievement, and they are significantly weaker than the much stronger relationships shown in South Carolina, Maryland, North Carolina, and California. The other nine states have moderate relationships but they are not statistically different from either the first four states or the last four states. In the four states with the strongest effects, black students in segregated schools are scoring from 10 to 13 points lower than students in desegregated schools even after removing the effects of individual student SES.

Consistent with the national results, the effects of segregation on white math achievement are generally smaller with fewer comparisons that are statistically significant. Virginia and New Jersey, both of which have a positive relationship between segregation and white achievement, are significantly different from the strong negative effects of Illinois, Michigan, and California. Also, the size of the effect for white students is generally unrelated to the size of the effect for black students. The major exceptions are Virginia, which has weak positive relationships for black and white students, and California, which has the largest negative relationships for both black and white students.

The differences in these associations may be easier to interpret if we examine the estimated performance of black students in segregated and desegregated schools. Figure 4 shows the

regression-estimated scores for black students in 20 percent black schools as compared to 80 percent black schools in each of the states (adjusted for SES). Overall SES-adjusted black scores are also shown, and states are listed in descending order according to the size of this measure.

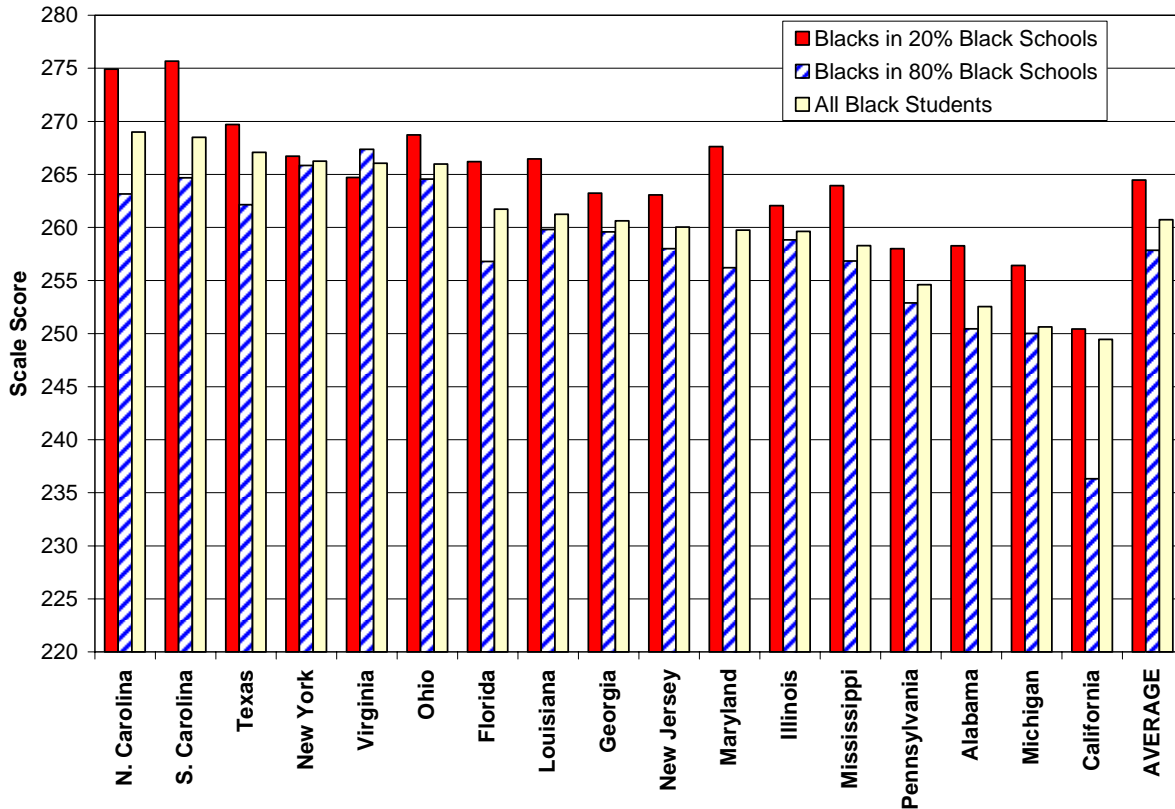


Figure 4 ESTIMATED EIGHTH GRADE MATH FOR BLACK STUDENTS BY SCHOOL PERCENT BLACK
(Adjusted for SES; ordered by overall black scores)

While North and South Carolina have the strongest relationships between eighth grade math achievement and racial composition, and Virginia and New York have the weakest, all four states have similar black scores in their predominately black schools; in fact, these states have four of the five highest black math scores in predominantly black schools.

The racial composition effects arise because the Carolinas have much higher scores for blacks in desegregated schools—a 12 point difference for North Carolina and 10 points for South Carolina. Ironically, North Carolina has the second strongest black peer effect (after California), yet it also has the highest SES-adjusted black scores overall (269) followed closely by South Carolina (268) and Texas (267). Virginia and New York have overall black math scores of 266 each.

The state results for eighth grade reading are much weaker than those for math, a finding consistent with the national relationships shown in Figure 2. For black students, most of the states have coefficients less than .75 points per 10 percent rise in black peers, and because of

larger standard errors, they do not differ significantly from zero (i.e., no relationship). Only four states have black peer effects larger than 1.0, but none are significantly different from zero due to larger standard errors. For this reason, the rest of the analyses will be confined to black eighth grade math scores.

The next task is to explore the extent to which these state variations might be explained by school characteristics including teacher quality and state accountability systems. While these exploratory analyses are limited by the cross sectional nature of the NAEP data, we can at least test whether there are any associations that deserve more careful study.

Teacher and Curriculum Correlates

The NAEP data includes several measures indicating the quality of teachers and the curriculum. Since teacher information is linked to individual students, teacher characteristics apply to students in their classrooms rather than being school-wide averages. The NAEP data includes the type of math class (eighth grade math, pre-algebra, algebra), hours of math instruction per week, and several measures relating to teacher quality: years teaching secondary math, certification in math, and a major or minor in math during college. These last two teacher characteristics are especially important because other research suggests that subject matter mastery is one of the most important correlates of student achievement.

To determine whether and to what extent these classroom and teacher characteristics explain state variations in black segregation effects, the analysis had several steps. First, regressions established relationships between school characteristics and achievement, and tabular analysis investigated whether classroom characteristics are related to school racial composition for black students. Second, SES-adjusted math scores are further adjusted for classroom and teacher characteristics, so that all black students have not only the same SES level but are also in classrooms with the same curriculum and teacher characteristics.

Three of the classroom characteristics had statistically significant correlations with math scores: type of math class, teacher certification, and having a math major or minor in college. Black students taking algebra score 11 points higher than students taking pre-algebra and 13 points higher than students taking eighth grade math.⁴⁸ Black students whose math teachers are certified in math and had a math major or minor in college score about 8 points higher than those whose teachers have neither attribute, while those whose teachers have either certification or college math (but not both) score 3.5 points higher than those with neither. Teacher experience in secondary math and hours of math per week were correlated with math scores but not statistically significant.

There is also some relationship between these characteristics and racial composition, although it is weak for most measures. The rate of taking algebra is highest for blacks in predominantly white schools, but it is only six points higher than the rate in predominantly black schools (29 vs. 23 percent). The rate varies from 20 to 22 percent in the other racial composition categories.

⁴⁸ The causal relationship could be just the reverse here if students are screened for algebra classes based on prior math grades. However, we shall err on the conservative side by assuming the type of class influences math scores.

The relationship between racial composition and high quality teachers is more linear; the percentage of black students with teachers who have both certificates and college math falls steadily from 61 percent in predominantly white schools to 44 percent in predominantly black schools.

Does classroom and teacher quality explain black peer effects, especially the variations by state? For the nation as a whole, the answer is no (Table 1). There is a 5-point racial composition effect for black students with the most favorable classroom characteristics, which is similar to the overall relationship for as the nation as a whole. That is, black segregation has a moderate adverse impact even among black students with the most favorable curriculum and the most qualified teachers.

Table 1 Math scores for Black Students with Higher Quality Curriculum & Teachers (2003 NAEP eighth Grade; scores adjusted for SES)

| Characteristic | Percent Black Students in School | | | | |
|--------------------------------|----------------------------------|-------|-------|-------|--------|
| | 0-19 | 20-39 | 40-59 | 60-79 | 80-100 |
| Taking Algebra | 273 | 270 | 272 | 270 | 268 |
| 4+ hours math/week | 265 | 264 | 263 | 261 | 257 |
| Teacher certified+college math | 261 | 258 | 258 | 260 | 256 |
| Taught math 6+ years | 266 | 265 | 265 | 263 | 258 |

In order to test whether classroom characteristics explain some of the state variations in segregation effects, SES-adjusted math scores for black students were further adjusted for classroom and teacher characteristics, and then these SES- and classroom-adjusted math scores were subjected to the same state fixed effects regression model (with state by percent black interactions) used for Figures 1 and 2.⁴⁹ The reason for restricting classroom-adjusted scores to black students were that some of the teacher characteristics had different coefficients for black and white students, and our primary interest is the effect of racial composition on black achievement.

Figure 5 compares the relationship between segregation and math achievement by state for black scores adjusted for SES only (as shown in Figure 3) and black scores adjusted for both SES and classroom characteristics. The adjustment for program and teacher quality does reduce the relationship for some states, particularly for Pennsylvania (the largest change), Maryland, and California, generally on the order of .4 to .5 of a point per 10 percent rise in percent black. But the adjustments for classroom characteristics are not large enough to affect the broad ranking of states according to weak, moderate or strong relationships. To the original group of weak relationships we could add Pennsylvania and possibly New Jersey, but the group of states with the strongest relationships is still the same. Florida, South Carolina, and Maryland are now more

⁴⁹ The regression results for black achievement and classroom characteristics are in Appendix 3, and the state regression results are in Appendix 4.

similar, and while North Carolina and California trade places, these two states still have the strongest relationships.

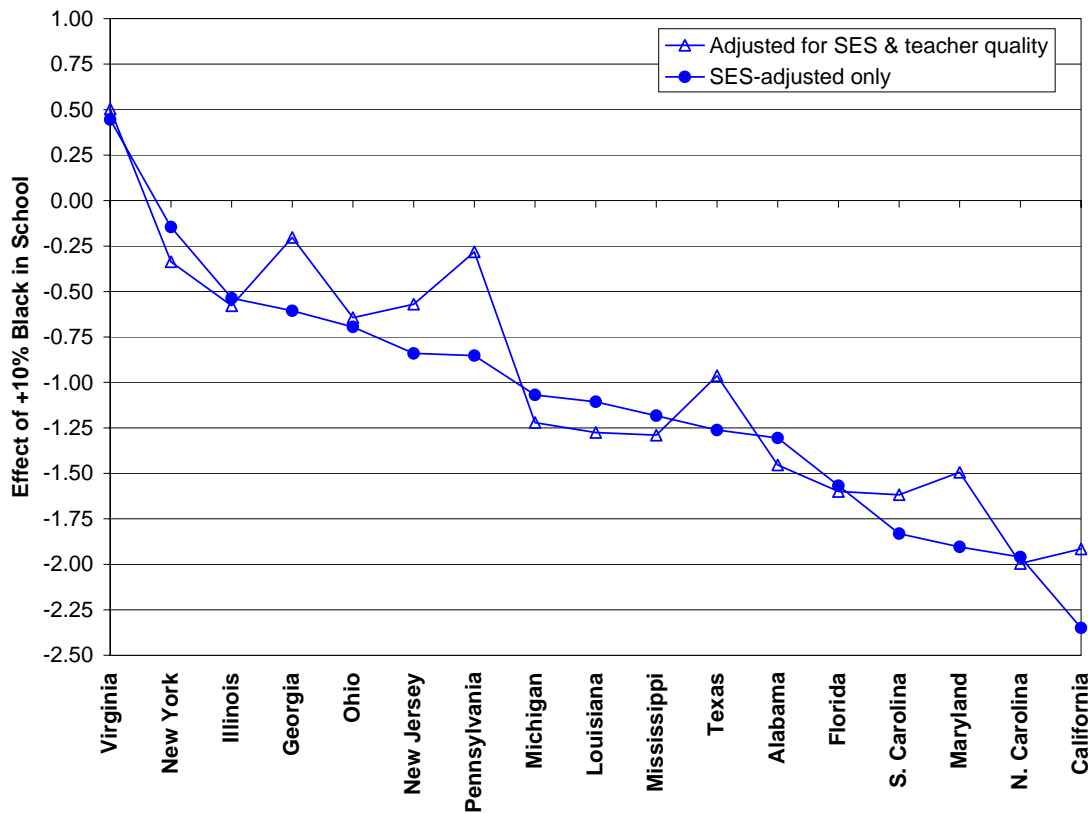


Figure 5 RACIAL COMPOSITION EFFECTS FOR BLACK MATH SCORES BY STATE (2003 NAEP eighth grade; states ordered by SES-adjusted effects)

Accountability and Racial Composition Effects

States with weak accountability systems and lower academic standards might have more schools that “teach to the norm,” and as a consequence schools with high concentrations of minority students might have lower achievement goals and lower achievement. In states with strong accountability systems and high standards, achievement goals are less likely to vary from one school to another and should not be affected by racial composition. In light of this reasoning, it seems reasonable to hypothesize that accountability is associated with black peer effects.

In approaching the relationship between accountability and peer effects, it must be emphasized that there is a strong possibility of selection effects; that is, states with stronger accountability systems may place higher value on education and therefore their educational systems and achievement scores may differ from states with weak accountability. Our goal here is simply to test whether there is an association between accountability and black peer effects, not to establish a strict causal relationship.

There are several published measures of state accountability systems in education, including Carnoy and Loeb,⁵⁰ Hanushek and Raymond,⁵¹ and Gordon and Armor.⁵² Each of these accountability scoring methods has strengths and weaknesses, but the Gordon method is the only one which gives a point for each of the major NCLB requirements implemented as of 2000 and again as of 2003 (up to a maximum score of four points).⁵³ In addition, preliminary analyses indicated that the Gordon measures had the strongest bivariate correlations with both black and white math achievement, so our analysis of black peer effects uses the Gordon measure. We converted the Gordon measures to a combined total score by adding the 2000 and 2003 scores, which provides a score ranging from 4 to 8 in the 17 states.

The hypothesis that state accountability explains some of the state variations in black peer effects is not supported by our analysis. Using scores adjusted for SES only, the correlation between the black peer effect and the accountability measure is $-.11$.⁵⁴ Aside from this low value, it is in the wrong direction (higher accountability leads to stronger black peer effects) but the relationship is not statistically significant. We did find, however, a relatively strong (and significant) correlation of $.58$ between accountability and black math scores in predominantly black schools.

Figure 6 provides a graphic display of the relationship between the state accountability score and black math scores in predominantly black schools (adjusted for SES). Of the six states with the highest black math scores, five have accountability scores of 7 or 8; the four states with the lowest black math scores have the lowest accountability scores (4 or 5). Three states go against the otherwise approximately linear relationship: Mississippi, Florida, and Maryland have relatively low black math scores but high accountability scores (7 or 8). Of course, these accountability scores are fairly crude measures; they do not tell us how well each state is doing in implementing the NCLB requirements at the local level.

50 See Martin Carnoy and Susanna Loeb, *Does External Accountability Affect Student Outcomes? A Cross-State Analysis*, EDUCATION EVALUATION AND POLICY ANALYSIS 24(4): 305-331 (2003).

51 See ERIC A. HANUSHEK AND MARGARET E. RAYMOND, DOES SCHOOL ACCOUNTABILITY LEAD TO IMPROVED STUDENT PERFORMANCE? (NBER Working Paper No. 10591) (2004).

52 See BRYON GORDON AND DAVID J. ARMOR, THE EFFECTS OF ACCOUNTABILITY SYSTEMS ON THE ACHIEVEMENT GAP, 2000-2003, Paper presented at the annual research conference of the Association of Public Policy Analysis and Management (Oct. 30, 2004).

53 Carnoy and Loeb also scored several components of the NCLB except for the requirement of reporting test scores by subgroup; also, it was scored in 2000. Hanushek and Raymond scored the number of years that a state had “consequential” accountability, meaning some type of explicit sanctions.

54 We used SES-adjustment only because the classroom adjustment might be confounded with accountability scores.

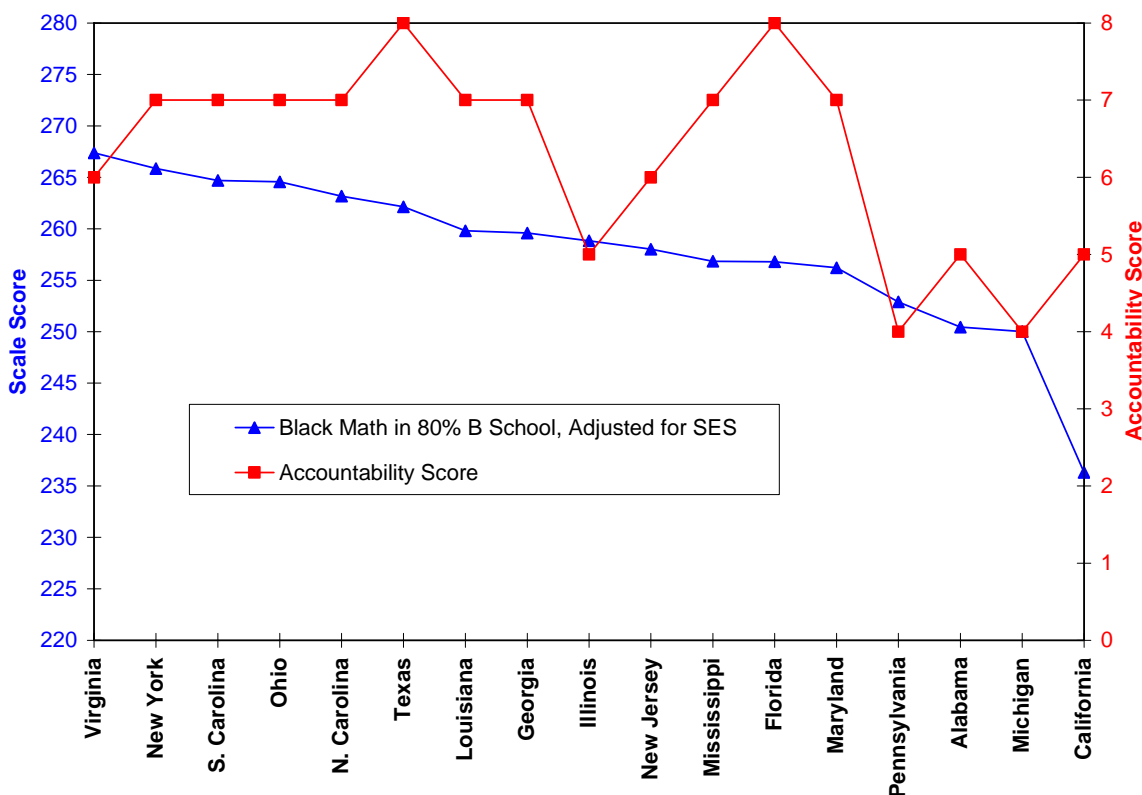


Figure 6 ACCOUNTABILITY AND eighth GRADE MATH SCORES FOR BLACK STUDENTS IN PREDOMINANTLY BLACK SCHOOLS

Conclusions

The analysis of 2003 NAEP yields answers several questions about the relationship between racial composition and achievement, but important issues remain. There is clearly an association between racial composition and academic achievement for all races, at all grade levels, and for all tests. A considerable portion of this relationship is explained by the fact that, for a given race, segregated schools have higher proportions of low SES students than desegregated schools. When test scores are adjusted for student SES, the racial composition association becomes much weaker for all races, grades, and tests. For white students, the relationship becomes quite small.

For black students, the results depend on the test and grade level. There is a modest national relationship for eighth grade math, such that blacks in segregated schools score about 5 points lower than blacks in desegregated schools. The national relationship is weaker for eighth grade reading, being only about 2 points between segregated and desegregated schools.

However, these national relationships may not be very meaningful, because they mask large and statistically significant variations in black peer effects among the 17 states with the largest black enrollments. One group of states has no or fairly small negative associations between racial composition and black eighth grade math scores (Virginia, New York, Illinois and Georgia).

Another group of states have fairly large negative associations (North and South Carolina, Maryland, and California), where the eighth grade math differences between blacks in segregated and desegregated schools is on the order of 10 to 13 points.

State variations in black peer effects remain substantial after black scores are adjusted for several teacher and curriculum characteristics measured in the NAEP, although the effects are reduced appreciably for several states. Likewise, the variations in black peer effects do not appear related to the level of state accountability, although at this point accountability measures are relatively crude. State accountability scores are correlated with the level of black math achievement in predominantly black schools.

The existence of a relatively strong association between racial composition and black achievement does not mean that black students are performing poorly in racially segregated schools, at least in terms of the NAEP tests. Indeed, while both North and South Carolina have fairly strong associations, the black students in their predominantly black schools score among the highest in any state (for predominantly black schools), and their overall black scores in eighth grade math are the highest in the nation when adjusted for socioeconomic status. Their relatively strong black peer effects arise because black students in their majority white schools score substantially higher than any other state (see Figure 4). Even without adjusting for SES, North Carolina is second only to Virginia for highest black eighth grade math scores, and South Carolina is tied with Ohio for fourth place (Texas has the third highest black scores).

The lack of a relationship between black peer effects and black achievement in segregated schools suggests a complex relationship between racial composition and black achievement. On the one hand, the relationship may not reflect differences in educational programs among schools, as commonly assumed, but rather idiosyncratic features related to organizational and demographic features that influence the distribution of students across schools. On the other hand, it may be that some states have managed to overcome the disadvantages of black concentrations, although we have no information in this study about how they might be doing this.

Whatever explains state variations in black peer effects, the NAEP findings suggest that a finding of black peer effects in a single state may not be generalizable to other states or to the nation as a whole. They also point to an important need to discover whether some policies or conditions can, indeed, ameliorate the effect of black concentrations, given the many political, legal, and practical difficulties in doing so via formal school desegregation plans.

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APPENDIX 1 REGRESSIONS FOR SES-ADJUSTED SCORES

| | Robust* | | | | Standardized | | |
|-----------------------------|-------------|-------------|--------|-------------|--------------|---------------------|--------|
| | Coefficient | Std. Errors | t-test | Probability | Coefficient | Confidence Interval | |
| <u>eighth Grade Math</u> | | | | | | | |
| Reading items | 4.87 | 0.102 | 47.69 | <.001 | 0.224 | 4.67 | 5.07 |
| Computer | 6.00 | 0.448 | 13.39 | <.001 | 0.059 | 5.12 | 6.88 |
| Free Lunch | -8.93 | 0.237 | -37.72 | <.001 | -0.225 | -9.39 | -8.47 |
| Limited English | -17.71 | 0.940 | -18.84 | <.001 | -0.110 | -19.55 | -15.87 |
| Mom < HS | 1.64 | 0.527 | 3.11 | 0.002 | 0.014 | 0.61 | 2.67 |
| Mom HS | 2.49 | 0.467 | 5.32 | <.001 | 0.029 | 1.57 | 3.40 |
| Mom Some Col. | 7.14 | 0.490 | 14.55 | <.001 | 0.078 | 6.17 | 8.10 |
| Mom BA | 6.54 | 0.470 | 13.92 | <.001 | 0.090 | 5.62 | 7.46 |
| Pop <HS | 0.51 | 0.515 | 1.00 | 0.319 | 0.004 | -0.50 | 1.52 |
| Pop HS | 1.54 | 0.433 | 3.56 | <.001 | 0.017 | 0.69 | 2.39 |
| Pop Some Col. | 6.63 | 0.448 | 14.79 | <.001 | 0.066 | 5.75 | 7.50 |
| Pop BA | 9.98 | 0.438 | 22.76 | <.001 | 0.135 | 9.12 | 10.83 |
| constant | 251.18 | 0.729 | 344.52 | <.001 | | 249.75 | 252.61 |
| R ² | 0.29 | | | | | | |
| N | 152016 | students | 6049 | schools | | | |
| <u>eighth Grade Reading</u> | | | | | | | |
| Reading items | 5.30 | 0.098 | 53.97 | <.001 | 0.257 | 5.10 | 5.49 |
| Computer | 5.07 | 0.418 | 12.12 | <.001 | 0.053 | 4.25 | 5.89 |
| Free Lunch | -7.41 | 0.217 | -34.23 | <.001 | -0.197 | -7.84 | -6.99 |
| Limited English | -24.07 | 1.101 | -21.85 | <.001 | -0.153 | -26.22 | -21.91 |
| Mom < HS | 6.42 | 0.551 | 11.64 | <.001 | 0.057 | 5.34 | 7.50 |
| Mom HS | 4.84 | 0.479 | 10.09 | <.001 | 0.059 | 3.90 | 5.78 |
| Mom Some Col. | 10.53 | 0.462 | 22.81 | <.001 | 0.122 | 9.63 | 11.44 |
| Mom BA | 8.60 | 0.462 | 18.64 | <.001 | 0.126 | 7.70 | 9.51 |
| Pop <HS | 0.67 | 0.498 | 1.34 | 0.179 | 0.006 | -0.31 | 1.64 |
| Pop HS | 2.11 | 0.388 | 5.43 | <.001 | 0.025 | 1.35 | 2.87 |
| Pop Some Col. | 6.27 | 0.417 | 15.03 | <.001 | 0.066 | 5.45 | 7.09 |
| Pop BA | 8.40 | 0.404 | 20.78 | <.001 | 0.121 | 7.61 | 9.19 |
| constant | 233.5521 | 0.652 | 358.29 | <.001 | | 232.27 | 234.83 |
| R ² | 0.31 | | | | | | |
| N | 153918 | students | 6059 | schools | | | |

*Robust standard errors are based on the number of schools

APPENDIX 2 BLACK PEER EFFECTS FOR eighth GRADE BLACK
MATH ACHIEVEMENT BY STATE, SES ADJUSTED

States in descending order by size of effect

Number of obs = 14553
R-squared = 0.0585

Number of clusters (schid) = 1637

| | Coef. | Std. Err. | t | P>t | Effect + Constant | |
|--------------------------------------|----------|-----------|-------|-------|----------------------|-------|
| <u>Main effects</u> | | | | | | |
| S. Carolina | 24.20 | 4.33 | 5.58 | 0.000 | 279.3 | |
| N. Carolina | 23.72 | 4.11 | 5.77 | 0.000 | 278.8 | |
| Texas | 17.10 | 3.63 | 4.72 | 0.000 | 272.2 | |
| Maryland | 16.31 | 4.31 | 3.78 | 0.000 | 271.4 | |
| Ohio | 14.99 | 4.57 | 3.28 | 0.001 | 270.1 | |
| Florida | 14.21 | 4.16 | 3.41 | 0.001 | 269.3 | |
| Louisiana | 13.53 | 4.67 | 2.90 | 0.004 | 268.7 | |
| New York | 11.88 | 4.69 | 2.53 | 0.011 | 267.0 | |
| Mississippi | 11.17 | 4.28 | 2.61 | 0.009 | 266.3 | |
| New Jersey | 9.61 | 4.31 | 2.23 | 0.026 | 264.7 | |
| Georgia | 9.31 | 4.16 | 2.24 | 0.025 | 264.4 | |
| Virginia | 8.68 | 4.15 | 2.09 | 0.037 | 263.8 | |
| Illinois | 8.01 | 4.65 | 1.72 | 0.085 | 263.1 | |
| Alabama | 5.76 | 4.18 | 1.38 | 0.169 | 260.9 | |
| Pennsylvania | 4.58 | 4.77 | 0.96 | 0.338 | 259.7 | |
| Michigan | 3.43 | 5.16 | 0.67 | 0.506 | 258.6 | |
| (California Omitted) | Constant | 255.125 | 3.151 | 80.96 | 0.000 | 255.1 |
| <u>Interactions with % Black</u> | | | | | Effect + % Black | |
| Virginia | 0.280 | 0.096 | 2.93 | 0.003 | 0.045 | |
| New York | 0.221 | 0.101 | 2.2 | 0.028 | -0.015 | |
| Illinois | 0.182 | 0.095 | 1.92 | 0.055 | -0.054 | |
| Georgia | 0.175 | 0.092 | 1.9 | 0.058 | -0.061 | |
| Ohio | 0.166 | 0.099 | 1.68 | 0.093 | -0.070 | |
| New Jersey | 0.152 | 0.096 | 1.58 | 0.114 | -0.084 | |
| Pennsylvania | 0.150 | 0.103 | 1.47 | 0.143 | -0.085 | |
| Michigan | 0.129 | 0.102 | 1.27 | 0.205 | -0.107 | |
| Louisiana | 0.125 | 0.101 | 1.24 | 0.215 | -0.111 | |
| Mississippi | 0.117 | 0.094 | 1.25 | 0.212 | -0.118 | |
| Texas | 0.110 | 0.094 | 1.16 | 0.245 | -0.126 | |
| Alabama | 0.105 | 0.091 | 1.15 | 0.248 | -0.131 | |
| Florida | 0.079 | 0.097 | 0.81 | 0.416 | -0.157 | |
| S. Carolina | 0.053 | 0.100 | 0.53 | 0.597 | -0.183 | |
| Maryland | 0.045 | 0.096 | 0.47 | 0.635 | -0.190 | |
| N. Carolina | 0.040 | 0.101 | 0.4 | 0.693 | -0.196 | |

California % Black -0.236 0.084 -2.8 0.005 -0.235

Appendix 3 Effect of Curriculum & Teacher Characteristics on SES-adjusted Math Achievement for Black Students (2003 NAEP, eighth Grade)

| Classroom Characteristic | Effect | (Significance*) |
|---|--------|-----------------|
| <u>Type of Math Class</u> | | |
| eighth math (vs. other) | 6.10 | (p=.001) |
| Pre Algebra (vs. other) | 7.85 | (p<.001) |
| Algebra (vs. other)** | 18.82 | (p<.001) |
| <u>Math Instruction per Week</u> | | |
| 4 hours (vs 2 or less hrs) | -0.25 | ns |
| 3 hours (vs. 2 or less hrs) | -0.58 | ns |
| <u>Teacher Certification & College Training in Math</u> | | |
| Certified or College (vs. neither) | 3.45 | (p=.08) |
| Both (vs. neither) | 7.77 | (p<.001) |
| <u>Years Teaching Math at Grades 6 to 12</u> | | |
| 6 or more years (vs. 2 or less) | 1.41 | ns |
| 3 to 5 years (vs. 2 or less) | -0.48 | ns |
| <u>Number of Professional Development Experiences</u> | | |
| | 0.45 | ns |

* Robust estimates using N=2638 schools; black student N=16,264; R² = 5%

** Includes small numbers of students in geometry or higher math

APPENDIX 4 BLACK PEER EFFECTS FOR eighth GRADE BLACK MATH ACHIEVEMENT
 ADJUSTED FOR SES AND CLASSROOM CHARACTERISTICS

| <u>Main Effects</u> | Coef. | Std. Err. | t | P>t | Effect + Constant |
|--------------------------------------|---------|-----------|------|-------|----------------------|
| N. Carolina | 29.4378 | 4.73535 | 6.22 | 0 | 280.0 |
| S. Carolina | 27.3547 | 4.44129 | 6.16 | 0 | 277.9 |
| Ohio | 20.4181 | 5.12148 | 3.99 | 0 | 270.9 |
| Texas | 20.3605 | 3.95005 | 5.15 | 0 | 270.9 |
| Louisiana | 20.1116 | 5.06579 | 3.97 | 0 | 270.6 |
| New York | 19.8301 | 5.09578 | 3.89 | 0 | 270.3 |
| Florida | 18.4215 | 4.70017 | 3.92 | 0 | 268.9 |
| Mississippi | 17.5259 | 4.62341 | 3.79 | 0 | 268.0 |
| Maryland | 16.9756 | 5.0965 | 3.33 | 0.001 | 267.5 |
| New Jersey | 13.9322 | 4.82135 | 2.89 | 0.004 | 264.4 |
| Virginia | 12.1995 | 4.45762 | 2.74 | 0.006 | 262.7 |
| Illinois | 11.5124 | 5.34038 | 2.16 | 0.031 | 262.0 |
| Alabama | 11.3781 | 4.65443 | 2.44 | 0.015 | 261.9 |
| Georgia | 10.2655 | 4.55175 | 2.26 | 0.024 | 260.8 |
| Michigan | 8.31001 | 6.68743 | 1.24 | 0.214 | 258.8 |
| Pennsylvania | 6.41996 | 5.7964 | 1.11 | 0.268 | 256.9 |
| (California omitted) Constant | 250.513 | 3.57341 | 70.1 | 0 | 250.5 |
| | | | | | |
| <u>Interactions with % Black</u> | | | | | Effect + % Black |
| Virginia | 0.24186 | 0.10093 | 2.4 | 0.017 | 0.050 |
| Georgia | 0.17118 | 0.09896 | 1.73 | 0.084 | -0.020 |
| Pennsylvania | 0.16332 | 0.11753 | 1.39 | 0.165 | -0.028 |
| New York | 0.15786 | 0.11127 | 1.42 | 0.156 | -0.034 |
| New Jersey | 0.13456 | 0.10243 | 1.31 | 0.189 | -0.057 |
| Illinois | 0.13371 | 0.10651 | 1.26 | 0.21 | -0.058 |
| Ohio | 0.12713 | 0.1044 | 1.22 | 0.224 | -0.064 |
| Texas | 0.09522 | 0.09819 | 0.97 | 0.332 | -0.096 |
| Michigan | 0.06948 | 0.11635 | 0.6 | 0.55 | -0.122 |
| Louisiana | 0.06403 | 0.10754 | 0.6 | 0.552 | -0.127 |
| Mississippi | 0.06254 | 0.10018 | 0.62 | 0.533 | -0.129 |
| Alabama | 0.0461 | 0.10033 | 0.46 | 0.646 | -0.145 |
| Maryland | 0.0421 | 0.10669 | 0.39 | 0.693 | -0.149 |

| | | | | | | |
|--------------|---------|---------|---------|-------|-------|--------|
| Florida | | 0.03158 | 0.10425 | 0.3 | 0.762 | -0.160 |
| S. Carolina | | 0.02972 | 0.10274 | 0.29 | 0.772 | -0.162 |
| N. Carolina | | -0.008 | 0.11141 | -0.07 | 0.942 | -0.200 |
| (California) | % Black | -0.1915 | 0.09163 | -2.09 | 0.037 | -0.191 |

Figure 3 SCHOOL % BLACK 8TH GRADE MATH ACHIEVEMENT, 2003 NAEP

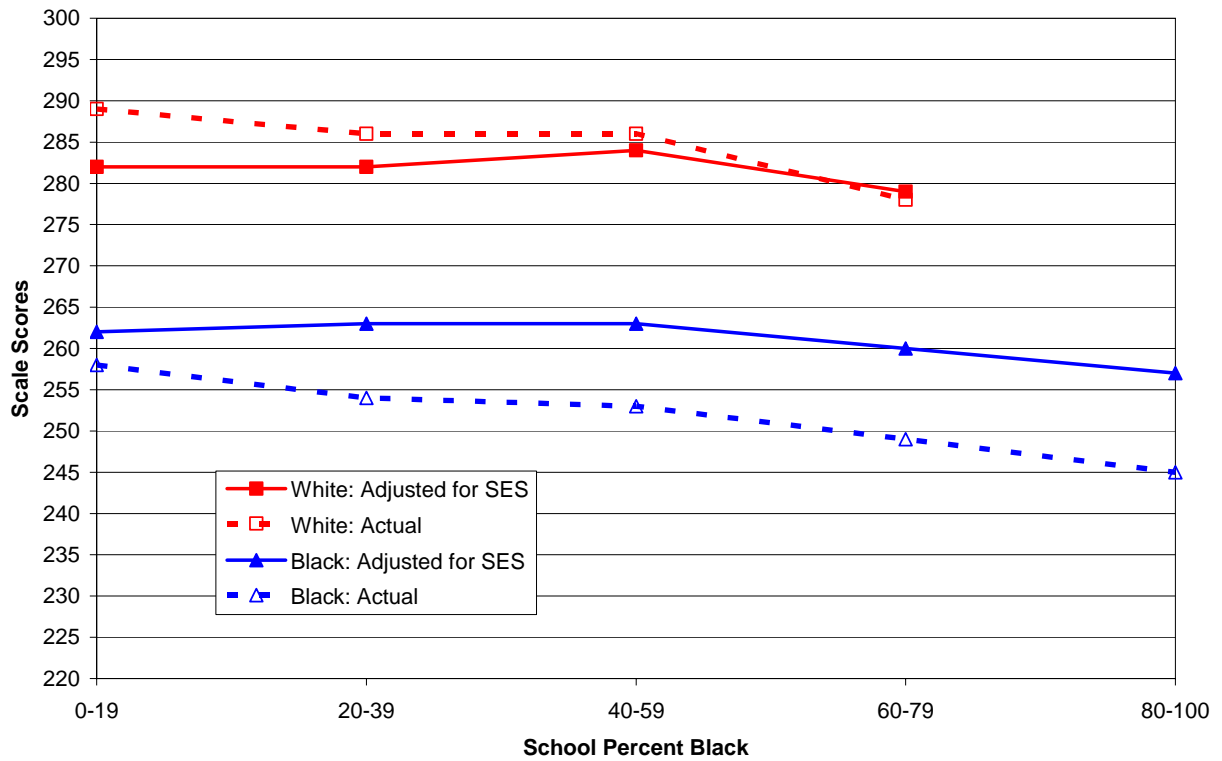
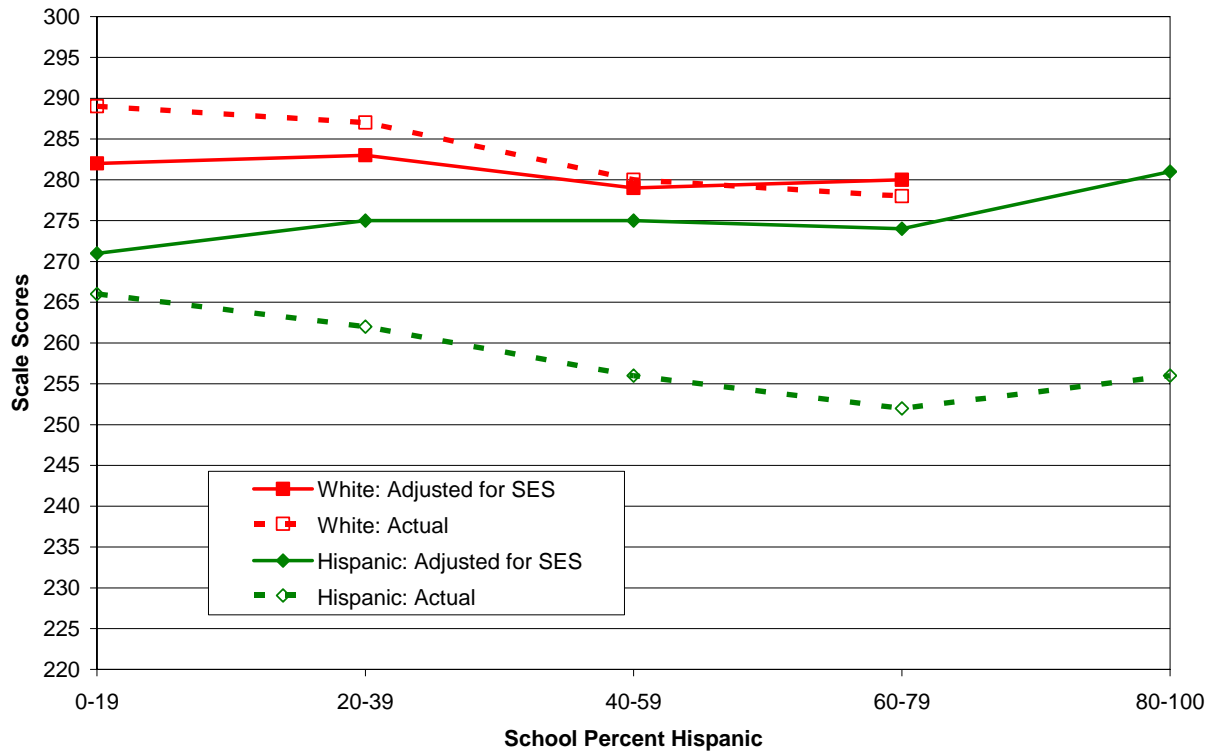


Figure 4 SCHOOL % HISPANIC AND 8TH GRADE MATH ACHIEVEMENT, 2003 NAEP



Testimony Prepared for the U.S. Commission on Civil Rights
Regarding the Educational Benefits of Diversity in Elementary and Secondary
Education

Arthur L. Coleman

Introduction

I want to thank the Commission for its invitation to present testimony regarding the benefits of diversity in elementary and secondary education, a subject that is an area of focus for so many education leaders around the country. Only three years after the U.S. Supreme Court's landmark opinions in *Grutter v. Bollinger* and *Gratz v. Bollinger*—in which the Court addressed the benefits of diversity in *higher* education ["the *Bollinger* cases"]—it has agreed to hear two appeals in two different cases that raise key questions about K-12 diversity-related practices. (Those cases are *Parents Involved in Community Schools v. Seattle School District, No. 1* and *Meredith v. Jefferson County Public Schools*.) It is on the foundational issue giving rise to those questions—the educational benefits of diversity—that I'm pleased to share my perspectives today.

Before I do so, I think that it's important for the Commission to know just a bit about my background and my more general world view regarding educational policy issues and compliance with federal law, which shape my conclusions today.

I am currently a partner at Holland & Knight LLP in Washington, where I co-lead our firm's education policy practice. My colleagues and I work with educators throughout the United States in an effort to help them develop policies that will best serve their core educational interests—advancing opportunities and better outcomes for all students. A key element in that work is our effort to infuse federal law into strategic planning and policy development discussions, based on the view that federal law should affirm sound educational decisions and that, therefore, there needs to be a harmony between getting it right (as a matter of policy) and making it legal.

Among the issues on which I spend substantial time is diversity. On this subject, along with some of my colleagues, I counsel educators regarding policy development and implementation issues, and have co-authored a number of publications that are intended to ensure that educators are asking the right (and tough) questions on the front end of policy development—in an effort to minimize the risk of litigation while improving educational outcomes for all students.⁵⁵

This work follows from my experience at the U.S. Department of Education [USED], where I served for a little over six years, including as Deputy Assistant Secretary for Civil Rights. During my USED tenure, I was responsible for helping lead and manage policy development for

55 Some relevant publications include: EDWIN C. DARDEN, ARTHUR L. COLEMAN AND SCOTT R. PALMER, *FROM DESEGREGATION TO DIVERSITY: A SCHOOL DISTRICT'S SELF-ASSESSMENT GUIDE ON RACE, STUDENT ASSIGNMENT, AND THE LAW* (NATIONAL SCHOOL BOARDS ASSOCIATION, COUNCIL OF URBAN BOARDS OF EDUCATION 2002); ARTHUR L. COLEMAN AND SCOTT R. PALMER, *ADMISSIONS AND DIVERSITY AFTER MICHIGAN: THE NEXT GENERATION OF LEGAL AND POLICY ISSUES* (THE COLLEGE BOARD 2006).

OCR, as well as assisting on complex and large cases brought before the agency. Issues of affirmative action and diversity were central to the portfolio of matters I handled at that time.

Also, while I know that this hearing is going to focus, in part, on the relevant social science research on the topic of diversity, I want to be very clear that I am not a social scientist. My work as an attorney and policy advisor to educators means, however, that social science research in education is a key tool and foundation for much of the work that I do, as my testimony will explain.

Framing the Issue

Before beginning any discussion of diversity, it is important to be clear regarding the context in which the diversity issues present themselves.

First, at core, my discussion today will focus on racial and ethnic diversity.⁵⁶ That focus, however, should not divert attention from the reality that there are many facets to educational diversity of which race and ethnicity are only two.

Second, this discussion is about voluntary choices that school districts may make to pursue their educational goals—choices based upon decisions by locally elected boards of trustees that should be clearly distinguished from circumstances where districts are required as a matter of law to remedy the present effects of past discrimination. In short, this discussion (and the present-day context in which the two cases before the U.S. Supreme Court arise) does not involve federal or state "mandates," as some have suggested; rather, the decisions that are at issue involve school board choices and the balancing of a multitude of factors that affect the establishment of any local board policy regarding its diversity goals. Moreover, like countless other policy decisions that school boards make, decisions regarding diversity issues involve a balancing of interests regarding both individual student rights and broader goals established for the entire student population served. There are few, if any, educational decisions made by public school educators affecting children regarding that parents do—or should—have the absolute, unmitigated right to dictate. (As a parent, while I might like to control all of my ten-year-old's curricular choices and teachers, for instance, I recognize that my input must be weighed against that of many others—in the context of issues that affect my daughter *and* her classmates.)

Third, the discussion of the educational benefits of diversity has direct relevance to a number of more specific objectives that school districts may pursue. Numerous school districts (as well as federal policy makers) have pursued goals like reducing racial isolation and eliminating the effects of *de facto* segregation. As the records in the pending U.S. Supreme Court cases demonstrate, these issues (while distinct) are related to the educational benefits of diversity—different sides of the same coin, if you will. Stated differently, the effort to reduce or eliminate racial isolation in a public school district may very much depend on the district's views about the importance and value—the educational benefits—of diversity. It is this latter, and foundational, issue that I will address.

⁵⁶ References to "race" in this testimony refer to both race and ethnicity.

The Educational Benefits of Diversity in Elementary and Secondary Education: Key Issues to Consider

Mission. In the world of educational policy-making, the answer to one over-arching question should inevitably drive policy development: What are your mission-driven goals? In other words, what are you trying to achieve? Clarity on that question provides the necessary baseline to make informed judgments about strategies to pursue, investments to make, and the like.

As a legal matter (and as the *Bollinger* cases aptly illustrate), decisions about mission-driven goals provide the backdrop for making frequently tough judgments regarding the circumstances in which race should or should not be used. Indeed, constitutional principles do not operate in a vacuum. In the elementary and secondary setting, federal courts resolve constitutional issues with specific regard to the unique mission of public schools.⁵⁷

In fact, the mission that public education serves, most eloquently expressed by the U.S. Supreme Court in its landmark *Brown v. Board of Education* decision, continues to hold true today. And this articulation of our public schools' mission has direct bearing on the value of diversity in that setting. The Court said:

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.⁵⁸

In short, all public schools in one way or another have as their charge: [1] educating all students and ensuring that they have the opportunity to achieve to high standards; and [2] ensuring that all students are fully prepared to be productive citizens in our diverse, democratic society.

As a consequence, it is impossible to consider the mission of elementary and secondary schools without attention to the sectors to which they connect. In simple terms, our elementary and secondary public schools are the beginning of the educational pipeline, which leads to higher education, jobs in the private sector, jobs in the public sector, and careers in the military. The importance of diversity in those sectors is of direct relevance to how we define and value diversity in elementary and secondary education.⁵⁹ [See Exhibit A, which illustrates these connections]

⁵⁷ See, e.g., *Tinker v. Des Moines Indep.Sch.Dist.*, 393 U.S. 503,506 (1969); *New Jersey v. T.L.O.*, 469 U.S. 325, 340 (1985); *Plyler v. Doe*, 457 U.S. 202 (1982). See generally Brief of Amici Curiae National School Boards Assn., et al., in Support of Respondents filed in *Grutter v. Bollinger*.

⁵⁸ *Brown v. Board of Education*, 347 U.S. 483, 493 (1954). See also Brief of Amici Curiae National School Boards Association et al, *Montgomery County Public Schools v. Eisenberg* (2000) (“A complete education is holistic, addressing the child's development in areas of social skills, workplace skills, and critical thinking, nurturing a youngster's ability to grow in all respects.”)

⁵⁹ As a purely legal matter, this statement is *directly* supported by the *Grutter* Court's analytical framework. In reaching its conclusion that the educational benefits of diversity were, in fact, compelling, the Court analyzed

Higher education. Based on documented and substantial social science research—both institution-specific and more generally—the U.S. Supreme Court in *Grutter v. Bollinger* found that there were "substantial " and "real" educational benefits associated with a diverse student body. The Court found, specifically, that those benefits included:

- Promoting cross-racial understanding;
- Breaking down racial stereotypes;
- Enabling students to better understand persons of different races;
- Enhancing classroom discussions;
- Promoting better learning outcomes;
- Better preparing students for an increasingly diverse workforce and society; and
- Promoting confidence in the "openness and integrity" of educational institutions, with visible pathways to positions of leadership.

Notably, many of these benefits are of direct relevance in the elementary and secondary setting,⁶⁰ as I will discuss in a moment.

The private sector. American businesses have similarly championed the issue of diversity, with an emphatic message that the future of American businesses and our national economy depend on having a talented, trained, diverse workforce.⁶¹ Notably, as it relates to the elementary and secondary context, leading businesses have stated:

Employees *at every level of an organization* must be able to work effectively with people who are different from themselves. [Businesses] need the talent and creativity of a workforce that is as diverse as the world around it.⁶²

The research bears out this conclusion—as does, I should note, my first-hand knowledge of the power and importance of diversity at my law firm, Holland & Knight. My firm has established diversity as one of the core values in our strategic plan. We work daily to infuse attention to diversity issues for our attorneys and staff, our clients, and the many communities around the world that we serve. In short, diversity for us is an imperative on many levels. We would not invest the time and attention to issues of diversity if they didn't matter. Our experience, like that of other leading businesses, is that these issues matter a lot. They are, simply, mission critical.

business and military interests connected to higher education. Moreover, as explained below, the interrelationship between higher education and elementary and secondary education is hardly debatable, given (among other things) the similarities among certain mission-related goals.

⁶⁰ See Goodwin Liu, *Brown, Bollinger and Beyond*, 47 HOWARD L.J. 705 (2004) (If “diminishing the force of racial stereotypes is a compelling pedagogical interest in elite higher education, it can only be more so in elementary and secondary schools—for the very premise of *Grutter's* diversity rationale is that students enter higher education having had too few opportunities in earlier grades to study and learn alongside peers from other racial groups.”)

⁶¹ See Brief for Amici Curiae 65 Leading American Businesses in Support of Respondents, *Grutter v. Bollinger* (citing research, including research from the National Academy of Public Administration, in support of the proposition that “an educational environment that ensures participation by diverse people, viewpoints and ideas will help produce the most talented workforce”); Brief of General Motors Corporation as Amicus Curiae in Support of Respondents, *Grutter v. Bollinger* (citing research in support of position that “to achieve excellence in the new, diverse global economy, employees of any race, culture or ethnicity must possess cross-cultural competence”).

⁶² Brief for Amici Curiae 65 Leading American Businesses in Support of Respondents, *Grutter v. Bollinger*.

Public sector. The very benefits associated with diversity cited by the private sector—the ability to creatively problem-solve, the ability to better market to a diverse consumer base, the ability to work better with others and create a positive work environment⁶³—have equal force in the public sector, as well. In the federal government, for instance, one of the six standards guiding management of the workforce is that federal agencies have a "diverse, results oriented, high performance workforce." President Bush has, in fact, mandated that federal agencies recruit a diverse workforce.⁶⁴

The Military. The Armed Services (through their policies) and their leaders (through their statements) have similarly affirmed the compelling nature of a racially and ethnically diverse military. Twenty-nine military leaders have, in fact, pressed the point that the national security interest in a cohesive military and military effectiveness depends on a "diverse officer corps and substantial numbers of officers educated and trained in diverse educational settings."⁶⁵ In short, they have stated, "Success with the challenge of diversity is critical to national security."⁶⁶

What Research Tells Us. To use the terms that a majority of the U.S. Supreme Court used when describing the benefits of diversity in higher education, I believe that the existing research supports the conclusion that there are, indeed, "substantial" and "real" educational benefits to diversity in elementary and secondary education. (Many of these benefits correspond to the previously discussed benefits, especially in higher education.) They include:

1. Preparing students to become productive citizens in our diverse, democratic society, including
 - Enhancing civic values;
 - Improving learning; and
 - Improving preparation for employment and economic success.
2. Helping ensure high-quality educational opportunities for all students, regardless of their backgrounds

[See Exhibit B.⁶⁷]

63 *See id.* (citing research foundations).

64 *See* Federal Equal Opportunity Recruitment Program Annual Report to the Congress, FY 2002. *See also* Speech by Janice Lachance, Director, Office of Personnel Management, June 7, 2000 ("We value diversity because our private sector, our government and our nation are all learning the same lesson, that *diversity* means strength and vitality....")

65 *See* Consolidated Brief of Lt. Gen. Julius W. Becton, Jr. et al, *Grutter v. Bollinger*.

66 *Id.*

67 The research that supports these conclusions is partially summarized in EDWIN C. DARDEN, ARTHUR L. COLEMAN AND SCOTT R. PALMER, *FROM DESEGREGATION TO DIVERSITY: A SCHOOL DISTRICT'S SELF-ASSESSMENT GUIDE ON RACE, STUDENT ASSIGNMENT, AND THE LAW* (NATIONAL SCHOOL BOARDS ASSOCIATION, COUNCIL OF URBAN BOARDS OF EDUCATION 2002). That overview of social science research in education framed (among others) four research questions of relevance: Whether racially diverse environments [1] improve teaching and learning; [2] enhance civic values; [3] promote better preparation for employment; and [4] enhance educational opportunity and achievement. Of the 31 studies surveyed, 30 provided support for affirmatively answering one or more of those questions. Exhibit B provides the overview of this research. Other studies (not included in that research overview) bear out these conclusions. *See, e.g.,* Jacinta S. Ma and Michal Kurlaender, *The Future of Race-Conscious Policies in K-12 Public*

Indeed, the American Educational Research Association has affirmed that:

Studies of racially integrated learning environments in the K-12 educational system underscore the findings of studies showing the positive benefits of diversity in higher education. Findings in this area are relevant not only because of the parallels between the systems, but because research shows that students' sustained exposure to integrated learning environments leads to greater racial interaction as adults....

In sum, the research literature documenting the positive effects of diversity is extensive.

Consensus. The combination about what we know from sectors so directly connected to elementary and secondary education, as well as the research that is elementary and secondary-specific, raises the question of whether the question of the educational benefits of diversity is really a debatable point at all. While there are, to be sure, disagreements frequently about the *means* for achieving the educational benefits of diversity, the *goal* has garnered emphatic support among conservatives and liberals, Republicans and Democrats—a notable point of broad-based consensus.

Indeed *all* branches of the federal government have embraced the notion that the pursuit of diversity is critically important for our national well being—notably in elementary and secondary education. Echoing many of the themes, findings and research that I've discussed, Congress in the No Child Left Behind Act of 2001, for example, found that it was "in the best interest of the United States—

(A) to continue ...support of [districts]...that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

(B) to ensure that all students have equitable access to a high quality education that will prepare [them for]...a highly competitive economy comprised of people from many different racial and ethnic backgrounds; and

(C) to continue to ... diversify schools by supporting magnet schools, recognizing that segregation exists between minority and nonminority students as well as among students of different minority groups.

20 U.S.C. § 7231. Correspondingly, the U.S. Department of Education in 2004 recognized, implicitly, the compelling nature of reducing, eliminating and preventing minority group

Schools: Support from Recent Legal Opinions and Social Science Research in RESEGREGATION OF THE AMERICAN SOUTH, (Jack Boger, Chris Edley, and Gary Orfield, eds.) (2005) (greater civic engagement); GARY ORFIELD AND SUSAN E. EATON, DISMANTLING DESEGREGATION: THE QUIET REVERSAL OF BROWN V. BOARD OF EDUCATION (1996) (greater college success and employment success).

isolation with its requirement that voluntary, race-conscious magnet school plans comply with federal Title VI standards, specifically including a reference to "narrow tailoring" requirements.⁶⁸

There can be little debate that, in the words of Justice O'Connor, "race unfortunately still matters" in our society. Correspondingly, I would submit, there can be little debate that there are substantial and compelling educational benefits associated with diversity in elementary and secondary education that states and school districts should be able to pursue, consistent with federal legal standards.⁶⁹

Deference to Educational Judgments. Against the backdrop of [1] pipeline-connected sectors where diversity goals are of paramount importance and [2] the substantial social science research regarding the educational benefits of diversity, there is one additional point that should be made very clearly. As a legal matter—and I would submit, as a matter of policy—we should pay very careful attention to what our public school leaders are telling us and tread very warily before reaching conclusions that undermine their abilities to do their jobs.

Federal law provides that state and local education officials are entitled to substantial deference when making mission-driven governance decisions and that judges should "refrain from imposing...inflexible constitutional restraints that could circumscribe or handicap the continued research and experimentation so vital to finding even partial solutions to educational problems and to keeping abreast of ever-changing conditions."⁷⁰ This reluctance to interfere with policy decisions made by public school officials stems from two long-standing and related principles. First, state and local officials have education-policy expertise not possessed by federal courts. (The Supreme Court has observed, in fact, that this expertise relates to a "myriad of 'intractable economic, social and even philosophical problems.'"⁷¹) Second, state and local education officials have the primary authority and responsibility to make education policy decisions.⁷² These principles help explain the U.S. Supreme Court's conclusion in a 1982 decision that the "question whether to provide an integrated learning environment rather than a system of neighborhood schools surely involve[s]" a decision "firmly committed to [a local school] board's discretion."⁷³

68 See Magnet Schools Assistance Program, FR Doc. 04-1949 (February 2, 2004). See also Brief for the United States as Amicus Curiae Supporting Petitioner, *Grutter v. Bollinger* ("Measures that ensure diversity, accessibility and opportunity are important components of government's responsibility to its citizens.").

69 Importantly, as the National School Boards Association and ten educational organizations have observed: The conclusion that "race matters does not disavow the goal of building a 'race blind' society (in the sense of a nation where people are not treated differently because of the color of their skin). Rather, the question is: What is more likely to achieve that goal—permitting limited race-conscious actions where necessary to build diverse educational environments where children can live and grow together, or prohibiting any race-conscious action to promote diversity ..., thereby ensuring that students learn in increasingly segregated settings?" Brief of Amici Curiae National School Boards Assn., et al., in Support of Respondents filed in *Grutter v. Bollinger*.

70 *San Antonio Indep.Sch.Dist. v. Rodriguez*, 411 U.S. 1, 42-43 (1973).

71 *Id.*

72 See, e.g., *Goss v. Lopez*, 419 U.S. at 578 (1975) ("Judicial interposition in the operation of the public school system of the Nation raises problems requiring care and restraint...By and large, public education in our Nation is committed to the control of state and local authorities"); *Hazelwood Sch. Dist. V. Kuhlmeier*, 480 U.S. 260, 273 (1988) ("[O]ur oft expressed view [is] that the education of the Nation's youth is primarily the responsibility of parents, teachers, and state and local officials, and not of federal judges.")

73 *Washington v. Seattle Sch. Dist. No. 1*, 458 U.S. 457 (1982).

At the same time, let there be no doubt that this very appropriate deference and reluctance to second-guess educational policy decisions does not provide states and districts with carte blanche in matters involving race. There are meaningful, judicially enforceable standards, applicable to any race-conscious policy that confers educational opportunities and benefits to students, which states and districts use to guide their deliberations on matters involving diversity. These "strict scrutiny" standards require the establishment of a "compelling interest," involving a rigorous examination of and evidentiary support for the pursuit of race-conscious diversity goals; and a policy that in design and operation is "narrowly tailored" to meet that interest, involving an exacting evaluation of the means by which compelling interests are pursued (to ensure that any use of race is in fact necessary to achieve those goals and, if used, is as limited as it can be in achieving those goals).⁷⁴

In sum, before we are too quick to second-guess mission-driven policy decisions that have been made by locally elected school officials through a strategic and deliberative process (which includes the consideration of relevant research and evidence) we should think about the implications such a step has—regardless of the issue—for our Nation's educational system.

Conclusion

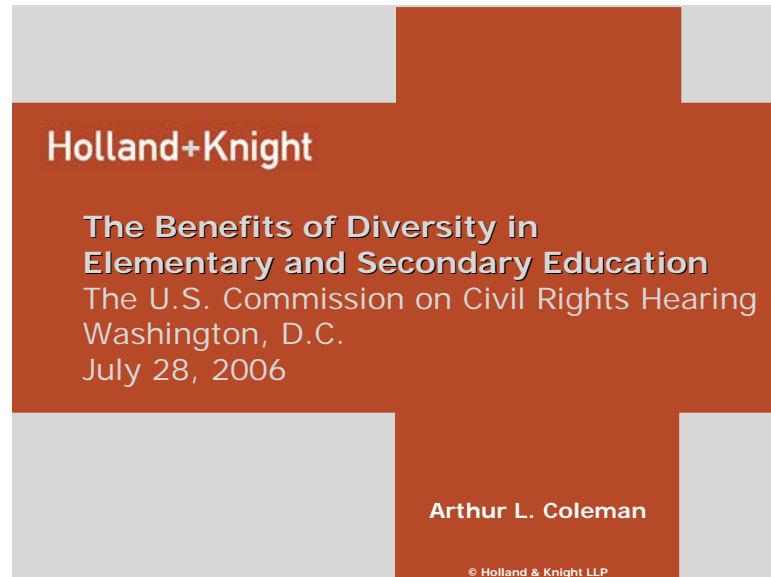
I would like to conclude my testimony with a reference to the last sentence of Justice O'Connor's 2003 *Grutter* opinion. In that higher education case, she said: "We expect that 25 years from now, the use of racial preferences will no longer be necessary to further [the diversity] interest approved today." Without entering the rather robust debate among some about what that line means, exactly, in terms of legal precedent, allow me to pose a simple but profoundly important question. How do we best move toward the day in which we no longer need the use of race as a factor in college admissions—a day where, presumably, we will have made sufficient strides as a nation with respect to the education of all of nation's youth, regardless of racial and ethnic background? Is it by categorically eliminating the use of race by school boards that are attempting to achieve their mission goals (as described in the U.S. Supreme Court's landmark *Brown v. Board of Education* decision)? Or is it by recognizing the myriad interests that local boards must address and providing them the appropriate discretion (in the context of strict scrutiny standards) to continue to work to ensure that all students achieve to high standards and, as importantly, are prepared to become productive citizens in an increasingly diverse, twenty-first century America?

The bottom line, I believe, is this: The existing elementary and secondary research, coupled with: [1] corresponding research in sectors directly connected with the mission of elementary and secondary education, [2] evidence regarding the important judgments that local boards of education are making each year throughout our country, and [3] federal policies that specifically

⁷⁴ One very good example of education leaders taking seriously and acting upon the teachings of the U.S. Supreme Court in this area is the College Board's Access and Diversity Collaborative, which has involved the work and participation of hundreds of higher education officials coming together to develop guidance that operationalizes federal strict scrutiny standards and that assists institutions in implementing the mandate of the U.S. Supreme Court in the *Bollinger* cases. See www.collegeboard.com/diversitycollaborative.

affirm and support those judgments, provides a compelling basis upon which to resolve that the issue of the educational benefits of diversity in elementary and secondary education is beyond debate.

Exhibit A



Holland+Knight

**The Benefits of Diversity in
Elementary and Secondary Education**
The U.S. Commission on Civil Rights Hearing
Washington, D.C.
July 28, 2006

Arthur L. Coleman

© Holland & Knight LLP

Introduction

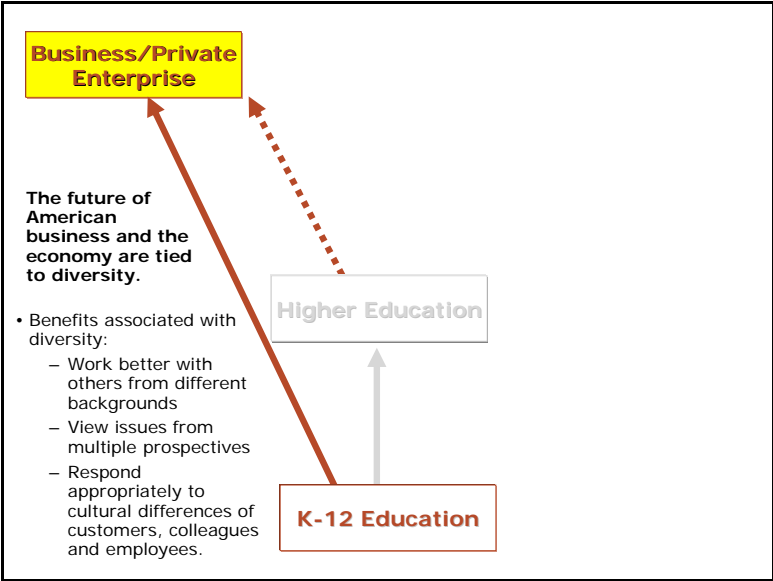
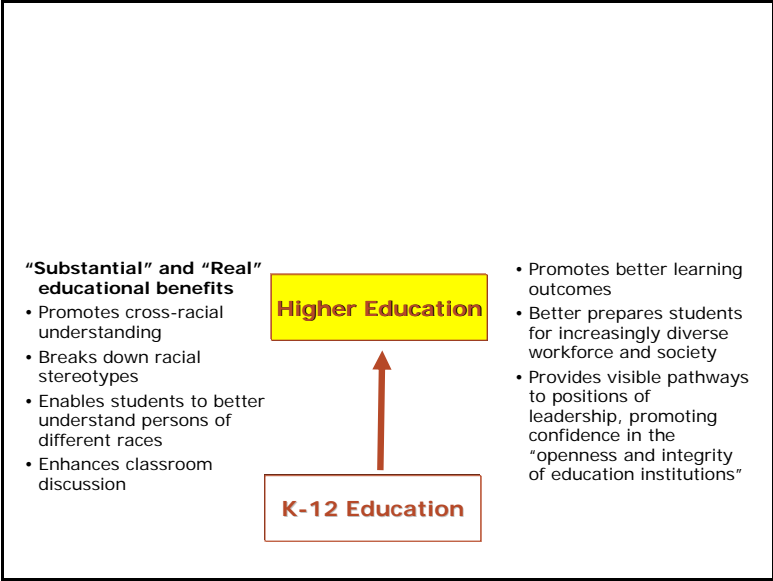
- Background
 - A “Lens” for Examining the Question of Diversity in Elementary and Secondary Education
- Key Framing Points
 - Definitions
 - Distinctions Between Ends and Means

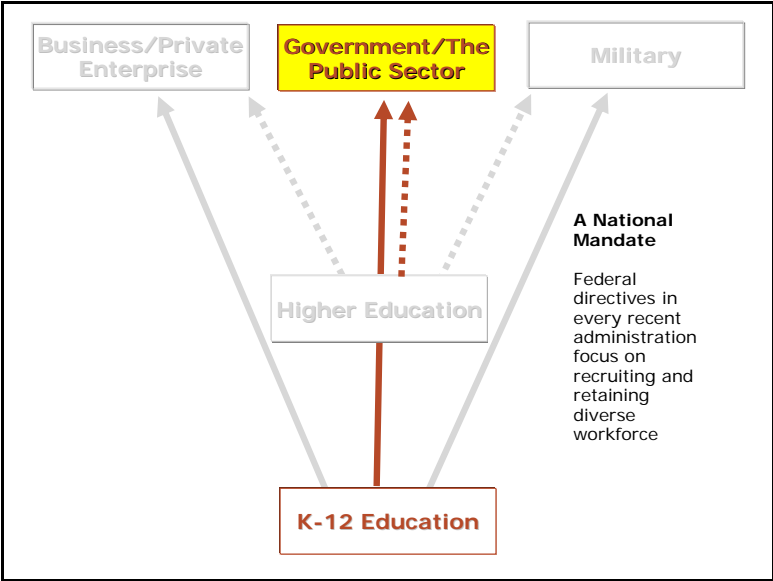
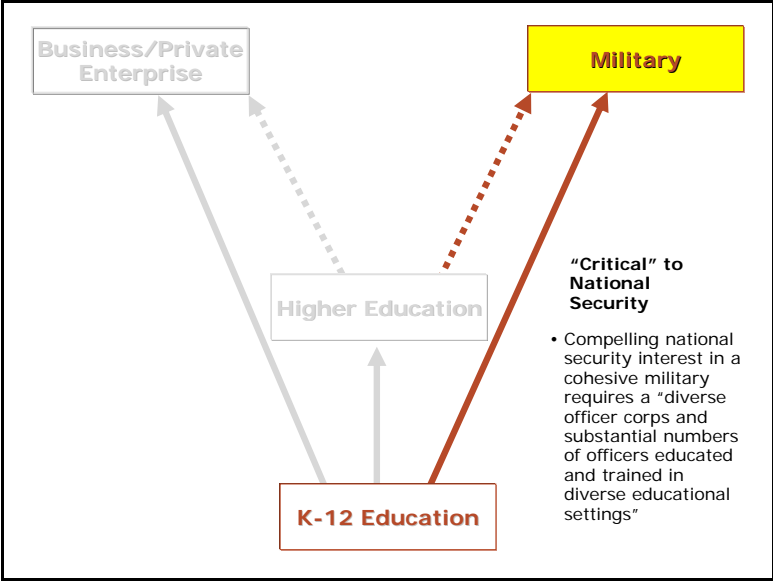
The Educational Benefits of Diversity: Key Issues

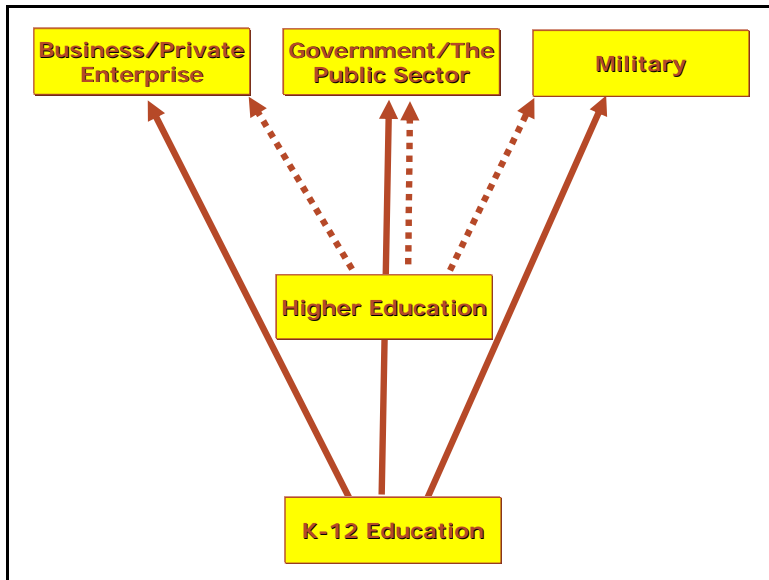
- The Mission of Schools: Preparing Students for Productive Lives and To Be Good Citizens
- Relevant Research and Evidence: Foundations Informing Judgments
- Experience and Judgment: What Policy Makers Say

The Mission of Public Schools

- To prepare students with opportunities to achieve to high standards
 - Preparation for “later professional training” and for “service in the armed forces”
- To prepare students to be productive citizens in a diverse, democratic society
 - “The very foundation of good citizenship”
 - “A principal instrument in awakening the child to cultural values”







Relevant Research and Evidence

- Social science research in education demonstrates the educational benefits of diversity, which include:
 - Improving learning
 - Improving preparation for employment and economic success
 - Enhancing civic values
 - *Brown*: Education is critical for “our democratic society. It is required in the performance of our most basic responsibilities...It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values....”
- See research studies collected in *From Desegregation to Diversity (2002)*
- Note important parallels between higher education interests and elementary and secondary interests

What Policy-Makers Say...Consensus?

- Broad-based agreement about the value of diversity, generally
- Executive and Legislative Branch Bi-Partisan Agreement: The No Child Left Behind Act of 2001
 - In the “best interest of the United States” to promote voluntary interaction among students of different racial and ethnic backgrounds
 - Important to prepare students for “a highly competitive economy comprised of people from many different racial and ethnic backgrounds”
 - Recognition of the problem of segregation “between minority and non-minority students”

What Policy-Makers Say, *cont.*

- Endorsing the view that “diversity, including racial and ethnic diversity, is a vital tool for ensuring a complete educational experience” and is a “compelling” interest for school districts seeking to promote the educational benefits of diversity:
 - The National School Boards Association
 - The National Association of State Boards of Education
 - The National Association of Secondary School Principals
 - The National Association of Independent Schools
 - The Council of Great City Schools

Deference to Educational Policy Judgments

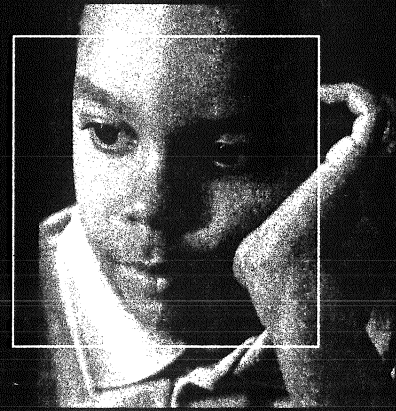
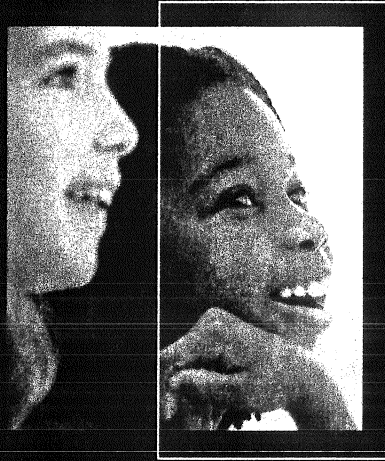
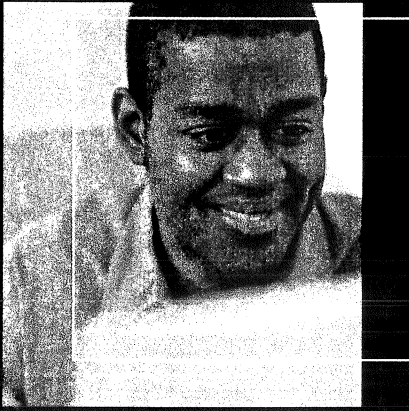
- State and local education officials merit a degree of deference when they make core, mission-driven policy decisions
 - Inherent expertise
 - Primary authority under our constitutional system
- Deference on these issues is not carte blanche
 - Meaningful standards should guide judgments with respect to race and ethnicity:
 - Interests compelling?
 - Methods appropriately limited with respect to race?

Conclusion

- The role of public education in preparing students for an increasingly diverse workforce and to be good citizens in an increasingly diverse society is without question.
- The conclusion that education of our children should include educational benefits associated with diversity—a conclusion reached by countless educators throughout the country—logically follows.
- How do we prepare to satisfy Justice O'Connor's "expectation" that in 22 years, we won't need race-conscious admissions practices in higher education to promote the recognized compelling interests in the educational benefits of diversity?

Exhibit B

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From Desegregation to Diversity

**A School District's Self-Assessment Guide
on Race, Student Assignment, and the Law**

Edwin C. Darden, National School Boards Association
Arthur L. Coleman, Nixon Peabody LLP
Scott R. Palmer, Nixon Peabody LLP



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Design by Stephanie Wikberg Design

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APPENDIX: RESEARCH ON THE VALUE OF DIVERSITY (AND DESEGREGATION) IN K-12 EDUCATION

NOTE: This bibliography of research on the value of diversity in K-12 education (and the introductory text, with some edits to focus exclusively on K-12 education) is part of a larger draft on the value of diversity in K-12 and higher education that was originally released by the U.S. Department of Education's Office for Civil Rights (November 2000) and was updated by the Harvard University Civil Rights Project (March 2001). The bibliography below is not intended to be an exhaustive list of relevant research, and the characterizations may not reflect the full breadth and depth of each entry.

Introduction: The use of race in K-12 education will likely be upheld only where there is a sufficient *basis in evidence* to support the belief that the given program serves a compelling interest and is narrowly tailored to achieve that interest. This evidentiary requirement likely serves the related purposes of demonstrating that the use of race is legitimately necessary to promote the articulated compelling interest and ensuring that the articulated interest is not a pretext for discrimination.

The justifications for the use of race in K-12 education include the non-remedial interest in promoting the educational benefits that flow from learning in diverse (or desegregated) environments. These interests include the interest in promoting the educational benefits that accrue to all students from interacting in diverse schools (which raises research questions # 1-5 below). (They also include the related interest in promoting desegregated schools to improve educational opportunity and, thereby, achievement, especially for minority students (which raises research question #6 below).) To justify the use of race based on these non-remedial interests, it is important to collect and promote research linking racial diversity the educational benefits it is strongly believed to promote. The table below lists existing research.

Research Questions: The key research questions regarding the educational benefits of diversity (or desegregation) include:

1. **Teaching and Learning** - Can racially diverse environments improve student learning, including students' understanding of substantive issues and/or critical thinking/problem solving skills?
2. **Civic Values** - Can racially diverse environments enhance students' civic values, including students' racial attitudes and/or intergroup relations?
3. **Employment** - Can racially diverse environments promote students' preparation for employment, including students' understanding of the value of diverse perspectives and/or ability to function effectively in diverse business environments?
4. **Critical Mass** - What level of diversity is necessary or optimal to promote each of the educational benefits listed above?
5. **Policies and Programs** - What campus are necessary or optimal to promote the educational benefits of diversity listed above?
6. **Opportunity and Achievement** - Can racially desegregated environments enhance educational opportunity and achievement, especially with regard to minority students?

Types of Evidence: Several types of research may provide both direct and indirect evidence of the educational benefits of diversity (or desegregation). These include, but are not limited to, (1) opinion evidence (e.g., testimony from education leaders and survey evidence from students and educators on the benefits of diversity), (2) outcome evidence (e.g., studies showing positive educational outcomes from learning in diverse (or desegregated) environments), and (3) programmatic evidence (e.g., success stories of what works and what institutions are doing to promote the benefits of diversity).

SUMMARY OF RESEARCH EVIDENCE

| Author(s) | Title/Citation | Date | Research Questions ¹ | | | | | | Description |
|--|--|------|---------------------------------|---|---|---|---|---|---|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | |
| 1. Bankston, III, Carl L. & Caldas, Stephen J. | <i>The American School Dilemma: Race and Scholastic Performance</i> , 38 Soc. Q. 423 | 1997 | | | | | | | Study showing diversity is linked to improved black student achievement on graduation exams; theorizes that improvement is due to enhanced expectations of upward mobility. |
| 2. Braddock, II, Jomills Henry | <i>The Perpetuation of Segregation Across Levels of Education: A Behavioral Assessment of the Contact Hypothesis</i> , in <i>Sociology of Educ.</i> , 53, 178-186. | 1980 | | X | | | | | Black students from majority-white high schools are more likely to enroll at majority-white four-year colleges. |
| 3. Braddock, II, Jomills Henry, Crain, Robert L. & McPartland, James | <i>A Long-Term View of School Desegregation: Some Recent Studies of Graduates as Adults</i> , Phi Delta Kappan, 66, p. 259 (December). | 1984 | | X | | | | X | Provides an overview of several studies which show that white and black students who attend desegregated schools are more likely as adults to attend diverse colleges, live in integrated neighborhoods, work in diverse firms, and have friends from another racial group. |
| 4. Braddock, II, Jomills Henry & Dawkins, Marvin P. | <i>The Continuing Significance of Desegregation: School Racial Composition and African American Inclusion in American Society</i> , J. of Negro Educ., 63, (3), 394. | 1994 | | X | | | | X | Provides an overview of several studies illustrating long-term benefits to school desegregation in terms of increased integration in college, employment, community, etc. |
| 5. Braddock, II, Jomills Henry, Dawkins, Marvin P. & Trent, William | <i>Why Desegregate? The Effects of School Desegregation on Adult Occupational Desegregation of African Americans, Whites and Hispanics</i> , Int'l J. of Contemporary Sociology, 31 (2), p. 273. | 1994 | | X | | | | | Blacks, whites, and Mexican Americans who attend desegregated high schools are more likely to work in desegregated firms (but shows no statistically significant effect for southern blacks when controlling for neighborhood racial composition). |

¹ Research questions: (1) Teaching/Learning; (2) Civic Values; (3) Employment; (4) Critical Mass; (5) Policies/Programs; (6) Opportunity/Achievement

| Author(s) | Title/Citation | Date | Research Questions ¹ | | | | | | Description |
|---|--|------|---------------------------------|---|---|---|---|---|--|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | |
| 6. Braddock, II, Jomills Henry & McPartland, James | <i>Going to College and Getting a Good Job: The Impact of Desegregation</i> , in W.D. Hawley (ed.). Effective School Desegregation: Equality, Quality, and Feasibility, (p.141-54). London: Sage Publications. | 1981 | | | X | | | | Argues that the major positive effect of going to desegregated schools is increased opportunities in both education and the job market. |
| 7. Braddock, II, Jomill Henry & McPartland, James | <i>Assessing School Desegregation Effects: New Directions in Research</i> , in Sociology of Educ. And Socialization, Vol. 3, p. 259 | 1982 | | X | X | | | | Black students from majority-white elementary-secondary schools are more likely to enroll in and persist at majority-white two- and four-year colleges. |
| 8. Braddock, II, Jomills Henry & McPartland, James M. | <i>How Minorities Continue to Be Excluded from Equal Employment Opportunities: Research on Labor Market and Institutional Barriers</i> , Journal of Social Issues, 43, 5-39 | 1987 | | | X | | | | Study addressing the obstacles that minorities face in obtaining jobs and promotions. Attending predominantly minority schools may result in segregated social networks and reduced opportunity. |
| 9. Braddock, II, Jomills Henry & McPartland, James | <i>The Social and Academic Consequences of School Desegregation</i> , in Equity and Choice, 5 (February). | 1988 | | X | X | | | X | Provides an overview of the social and academic consequences of school desegregation, including positive race relations (in short- and long- term), increased academic achievement, and preparation for future diverse settings. |
| 10. Braddock, II, Jomills Henry & McPartland, James | <i>Social-Psychology Processes that Perpetuate Racial Segregation: The Relationship Between School and Employment Desegregation</i> , J. of Black Studies, 19 (3), 267. | 1989 | | X | X | | | | Northern blacks from majority-white high schools are more likely to have white co-workers. In the South, this relationship is also positive but confounded with community racial composition. Desegregated blacks evaluate white co-workers and supervisors more positively than do segregated blacks. |

¹ Research questions: (1) Teaching/Learning; (2) Civic Values; (3) Employment; (4) Critical Mass; (5) Policies/Programs; (6) Opportunity/Achievement

| Author(s) | Title/Citation | Date | Research Questions ¹ | | | | | | Description |
|--|--|------|---------------------------------|---|---|---|---|---|--|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | |
| 11. Cook, T.D. | <i>What Have Black Children Gained Academically for School Integration? Examination of the Meta-Analytic Evidence</i> , in School Desegregation and Black Achievement, 6 (T. Cook, D. Armor, R. Crain, N. Miller, W. Stephan, H. Walberg & P. Wortman, Eds.) | 1984 | | | | | | | Meta-analysis of other meta-analyses on effects of desegregation on black educational achievement. Concludes that desegregation likely has a mild (but potentially important) positive effect on black students' reading scores, but not on math scores. |
| 12. Crain, Robert L. & Mahard, Rita E. | <i>School Racial Composition and Black College Attendance and Achievement Test Performance</i> , 51 Soc. Of Educ. 81 | 1978 | | | | | | | Study showing positive effects from desegregation in the north but negative effects for southern black student achievement and college enrollment. |
| 13. Dawkins, Marvin P. | <i>Black Students' Occupational expectations: A national study of the Impact of School Desegregation</i> . Urban Education, 18, p. 98 (April) | 1983 | | | | | | | Study showing that southern black males from desegregated high schools have greater expectations of entering high-status, professional occupations. |
| 14. Eurich-Fulcer, Rebecca & Schofield, Janet W. | <i>When and How School Desegregation Improves Intergroup Relations: The Relationship Between Social Psychology and Social Policy</i> (Draft paper). | 1988 | | X | | | X | X | Provides overview of requirements for improving intergroup relations through diversity in K-12 education and overview of studies showing that diversity, when used properly per Allport's contact hypothesis, can improve race relations. |
| 15. Ferguson, Ronald F. | <i>Teacher Perceptions and Expectations and the Black-White Test Score Gap</i> , in <i>The Black White Test Score Gap</i> , 273, 289 (Christopher Jencks & Meredith Phillips, Eds.) | 1998 | | | | | | X | Stating in one section of the chapter that teacher expectations have a greater impact on the academic achievement of black students than on that of white students. |

¹ Research questions: (1) Teaching/Learning; (2) Civic Values; (3) Employment; (4) Critical Mass; (5) Policies/Programs; (6) Opportunity/Achievement

| Author(s) | Title/Citation | Date | Research Questions ¹ | | | | | | Description |
|---|---|------|---------------------------------|---|---|---|---|---|--|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | |
| 16. Hallinan, Maureen T. | <i>Diversity Effects on Student Outcomes: Social Science Evidence</i> , 59 Ohio St. L.J. 733 | 1998 | X | X | | | | | Provides an overview of the theories and social science evidence supporting the belief that racial diversity promotes educational benefits in K-12 and higher education. |
| 17. Hallinan, Maureen T. & Smith, Steven S. | <i>The Effects of Classroom Racial Composition on Students' Interracial Friendliness</i> , Soc. Psychol. Q. vol. 48, p.3 | 1985 | | X | | | | | Study showing desegregated classrooms increase the number of interracial friends students have, supporting the "opportunity theory." |
| 18. Hallinan, Maureen T. & Teixeira, Ruy A. | <i>Opportunities and Constraints: Black-White Difference in the Formation of Interracial Friendships</i> , 58 Child Dev. 1358 | 1987 | | X | | | | | Study showing complex effects of classroom dimensions on interracial friendliness. |
| 19. Hawley, Willis D., et al | <i>Strategies for Reducing Racial Prejudice: Essential Principles for Program Design</i> , in <i>Toward a Common Destiny</i> , 423 (W.D. Hawley & A.W. Jackson, Eds.) | 1995 | | X | | | X | | Identifies elements of programs that diverse schools should use with students to reduce racial prejudice. |
| 20. Mahard, Rita E. & Crain, Robert L. | <i>Research on Minority Achievement in Desegregation Schools</i> , in <i>The Consequences of School Desegregation</i> , 103 (Christine H. Rossell & Willis D. Hawley, Eds.) | 1983 | | | | | | X | Meta-analysis showing positive effects of desegregation on black achievement, specifically in early grades (due to increased resources, expectations, etc.); supports critical mass notion; theorizes that increased minority achievement is due to black students learning that they control their destiny, which is related to teacher expectations and escaping racial isolation. |

¹ Research questions: (1) Teaching/Learning; (2) Civic Values; (3) Employment; (4) Critical Mass; (5) Policies/Programs; (6) Opportunity/Achievement

| Author(s) | Title/Citation | Date | Research Questions ¹ | | | | | | Description |
|-------------------------------|--|------|---------------------------------|---|---|---|---|---|--|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | |
| 21. Oickle, E. & Slavin, R.E. | <i>Effects of Cooperative Learning Teams on Student Achievement and Race Relations: Treatment by Race Interactions, Sociology of Educ.</i> , Col. 54, p.174 | 1981 | | | | | | | Controlled study showing that cooperative learning in diverse class is positively related to achievement and interracial friendship, though achievement gains largely for blacks and friendship increases largely for whites, who gained more black friends. |
| 22. Sanders, Jimmy M. | <i>Faculty Desegregation and Student Achievement</i> , 21 Amer. Educ. Res. J. 605 (Fall 1984) | 1984 | | | | | | | Faculty desegregation policy negatively affected student achievement. |
| 23. Schofield, Janet W. | <i>School Desegregation and Intergroup Relations: A Review of the Literature</i> , in <i>Review of Research in Education</i> , 335 (G. Grant, Ed.) | 1991 | | X | | | | | Provides a historical overview of research on the effects of desegregation on intergroup relations. |
| 24. Schofield, Janet Ward | <i>Review of Research on School Desegregation's Impact on Elementary and Secondary School Students</i> , in <i>Handbook of Research on Multicultural Education</i> 597 (James A. Banks. Ed.) | 1995 | | X | X | | | | Provides an overview of the social science evidence, both positive and negative, behind the value of diversity in K-12 education. |
| 25. Slavin, Robert E. | <i>When Does Cooperative Learning Increase Student Achievement?</i> , <i>Psychological Bulletin</i> , 94, p. 429. | 1983 | | | | | | | Study shows that cooperative learning increases achievement where individuals are accountable for grades of team. |

¹ Research questions: (1) Teaching/Learning; (2) Civic Values; (3) Employment; (4) Critical Mass; (5) Policies/Programs; (6) Opportunity/Achievement

| Author(s) | Title/Citation | Date | Research Questions ¹ | | | | | | Description |
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| | | | 1 | 2 | 3 | 4 | 5 | 6 | |
| 26. Slavin, Robert E. | <i>Effects of Biracial Learning Teams on Cross-Racial Friendships</i> , Journal of Educational Psychology, 71 (3), 381. | 1994 | | X | | | | | Controlled study showing positive effects of cooperative learning on interracial friendships and that the increase in friends is sustained over time and extends beyond learning groups. |
| 27. Slavin, Robert E. | <i>Cooperative Learning and Intergroup Relations</i> , in Handbook of Research on Multicultural Education, 628 (James A. Banks. Ed.) | 1995 | X | X | | | | X | Provides an overview of studies showing that cooperative learning in diverse K-12 schools can improve racial attitudes among all students (including increased friendships, close friendships, and friendships beyond learning group). Also shows that cooperative learning in diverse groups yields improved academic achievement (for all students). |
| 28. Sonleitner, Nancy & Woods, Peter B. | <i>The Effect of Childhood Interracial Contact on Adult Antiblack Prejudice</i> , 20 Int'l J. of Intercultural Rel., Vol. 20, P.1 | 1996 | | X | | | | | Study showing increased child cross-racial interaction has positive, long-term effect of decreasing whites negative racial stereotypes and prejudice toward blacks. |
| 29. Trent, William | <i>Outcomes of School Desegregation: Findings from Longitudinal Research</i> , J. of Negro Educ. 66 (3), p. 255. | 1997 | | | X | | | X | Provides a discussion of several positive benefits of desegregation. |
| 30. Wells, Amy Stuart & Crain, Robert L. | <i>Perpetuation Theory and the Long-Term Effects of School Desegregation</i> , 64 Rev. of Educ. Res. 531-555 (winter) | 1994 | X | X | | | | X | Provides an overview of studies on the long-term benefits of desegregation to black students, including increased and more accurate aspirations, increased higher education attainment, and increased occupational attainment. |
| 31. Willie, Charles Vert | <i>The Sociology of Urban Education</i> . Lexington, Mass.: Lexington Books, D.C. Heath and Co. p.20 | 1978 | | | | | X | | Discusses the importance of "sufficient minority representation" to have a meaningful impact on the system. |

¹ Research questions: (1) Teaching/Learning; (2) Civic Values; (3) Employment; (4) Critical Mass; (5) Policies/Programs; (6) Opportunity/Achievement

The Benefits of Racial/Ethnic Diversity in Elementary and Secondary Education

Michal Kurlaender

Over the last half-century, many researchers from a variety of disciplines have studied and written about the impact of race in American schools. Many of these studies have been specifically on the benefits and costs of school desegregation brought about by the *Brown* decision, the 1964 Civil Rights Act, and other legal and policy changes that increased enforcement of *Brown*. These studies concentrated largely on the impact of desegregated schooling on the experiences of African American students, focusing on short-term achievement gains of blacks attending desegregated schools. More recent studies have continued to investigate the role of school racial composition in mediating achievement gaps between African Americans and Whites, but there has also been an increased focus on the non-cognitive benefits to racially and ethnically diverse schooling experiences on all students, including whites—a group frequently considered as having weak benefits associated with desegregated schooling and many costs.

There is an important context for the research development in this area. Recent years have brought renewed attention to diversity in schools, as several reports suggest that America's public schools are re-segregating.¹ Yet, the discussion of segregation trends is complicated by changing demographics, a more diverse school-age population, and as many districts are witnessing an end to their federal oversight of court-ordered school desegregation.² All of this has led to considerable advancement in social science around developing more complex ways to measure segregation in a multi-racial environment and to thinking about a wider set of outcomes that may be enhanced in the racially or ethnically diverse school setting. Moreover, it has also contributed to greater innovation in how researchers can tease out the direct (or causal) impact of school racial composition or diversity on student outcomes.

It is important to note that research on the impact of school racial composition on students' outcomes has historically been plagued with several methodological problems and design limitations (most of which are not unique to this particular field, but which are common to much social science research). The primary one is a result of the profound selection issues associated with school assignment. Parents' choices about where to live and where to send their children to

1 See, e.g., GARY ORFIELD AND JOHN YUN, RESEGREGATION IN AMERICAN SCHOOLS: A REPORT BY THE CIVIL RIGHTS PROJECT AT HARVARD UNIVERSITY (1999); GARY ORFIELD, SCHOOLS MORE SEPARATE: CONSEQUENCES OF A DECADE OF RESEGREGATION (The Civil Rights Project at Harvard University 2001).

2 For a more in-depth discussion of the complexity of segregation trends, see, e.g., Sean Reardon and John Yun, *Suburban Racial Change and Suburban School Segregation, 1987-1995*, SOCIOLOGY OF EDUCATION. 74(2):79-101 (2001); Sean F. Reardon and John T. Yun, *Integrating Schools, Segregating Neighborhoods: The Retreat From School Segregation in the South, 1990-2000*, in SCHOOL RESEGREGATION: MUST THE SOUTH TURN BACK? 51-69 (Jack Boger and Gary Orfield, eds.) (2005); Sean Reardon, John Yun, and Tamela McNulty Eitle, *The Changing Structure of School Segregation: Measurement and Evidence of Multiracial Metropolitan-Area School Segregation, 1989-1995*, DEMOGRAPHY 37(3):351-364 (2000); LEWIS MUMFORD CENTER FOR COMPARATIVE URBAN AND REGIONAL RESEARCH, ETHNIC DIVERSITY GROWS, NEIGHBORHOOD INTEGRATION LAGS BEHIND (2001); JOHN R. LOGAN, JACOB STOWELL, AND DEIRDRE OAKLEY, CHOOSING SEGREGATION: RACIAL IMBALANCE IN AMERICAN PUBLIC SCHOOLS, 1990-2000 (Lewis Mumford Center for Comparative Urban and Regional Research, State University of New York, Albany 2002); Charles T. Clotfelter, *Public School Segregation in Metropolitan Areas*, LAND ECONOMICS 75:487-504 (1999).

school impacts any study of school effects, and school diversity research is no different. In fact, families value different aspects of schooling, including diversity, and thus, researchers must consider selection into types of educational settings as a critical component to understanding whether there are any direct effects of school racial composition or diverse learning environments on outcomes. The scholarship on school racial composition effects has also been widely contested for a variety of reasons. Much of the earlier work was cross-sectional rather than longitudinal, there is often a lack of a clear control group, difficulty in defining what diversity, desegregation, or racial balance looks like, how long does a student need to be in a desegregated school to have reaped its benefits; and of course the many other differences—observable or not—between individuals and between schools that may confound the diversity effect.

Outcomes

Overall, there are four broad categories of outcomes that have been associated with school racial/ethnic diversity: enhanced learning, long-term educational and occupational gains, increased social interaction, and improved attitudes and citizenship.³

Enhanced Learning

The earliest studies of school desegregation recorded various changes in achievement outcomes for African American students who moved from segregated to desegregated settings with white students. These studies primarily focused on short-term gains in test scores, paying little attention to differences in implementation of racial balance or in the types of desegregation experiences taking place in different school settings. The 1980s and 1990s brought several important reviews of the social science evidence on this question; the most heavily cited one is Cook's 1984 synthesis, which concludes that desegregation had positive-albeit modest- effects on black students' average reading achievement.⁴ The magnitude and persistence of these benefits, however, have been widely debated in educational research.

More recent studies by several economists have contributed to the otherwise dated literature on the academic benefits of school desegregation. For example, analyzing test score data from Texas, Hanushek, Kain and Rivkin (2002) found that there is a positive effect of school racial composition on black students' scholastic achievement. Specifically, higher achieving blacks (as

3 For more in-depth reviews of the social science evidence on some of these outcomes, see, e.g., J.W. Schofield, *Review of Research on School Desegregation's Impact on Elementary and Secondary School Students*, in HANDBOOK OF RESEARCH ON MULTICULTURAL EDUCATION (J.A. Banks and C.A.M. Banks, eds.) (1995); Maureen T. Hallinan, *Affirmative Action in the Classroom: Diversity Effects on Student Outcomes: Social Science Evidence*, 59 OHIO STATE L.J. 733 (1998); Marvin P. Dawkins and Jomills H. Braddock II, *The Continuing Significance of Desegregation: School Racial Composition and African American Inclusion in American Society*, JOURNAL OF NEGRO EDUCATION 63(3):394-405 (1994).

4 See, e.g., Thomas D. Cook, *What Have Black Children Gained Academically from School Integration? Examination of Meta-Analytic Evidence*, in SCHOOL DESEGREGATION AND BLACK ACHIEVEMENT (Thomas D. Cook and David Armor et al, eds., U.S. Department of Education, National Institute of Education) (1984).; Robert L. Crain and Rita Mahard, *The Effect of Research Methodology on Desegregation Achievement Studies: A Meta Analysis*, AMERICAN JOURNAL OF SOCIOLOGY 88(5):839-54 (1983).

measured by test scores) benefit from a more diverse school racial composition. However, this effect did not extend to lower performing blacks, whose test scores were not influenced by the school racial composition above and beyond other school quality characteristics.⁵

Long-term educational and occupational gains

Other studies of desegregation impacts have focused on individual life chances, rather than test score improvement. Specifically, such studies have focused on college attendance and completion, occupational attainment, or wages. Overall, these studies suggest that desegregated schooling is associated with higher educational and occupational aspirations, and, to a modest degree, attainment for African American students.⁶ The theory being that segregated schools that are predominantly non-white often transmit lower expectations for students and offer a narrow range of occupational and educational options. Generally, schools with a substantial white enrollment can offer minority students a higher set of educational and career options due to the more developed social networks that represent white middle-class norms. As a result, minority students in desegregated settings are exposed to a higher set of educational expectations and career options, which are rarely present in segregated minority schools. This coupled with the fact that minority segregated schools often suffer from a severe lack of resources such as quality teachers, counselors, and other educational advantages, that contribute to the inferior opportunity structure.⁷

More recent studies have found that black students who attended racially isolated schools obtained lower paying and more racially isolated jobs than whites.⁸ The evidence on actual wages is less definitive. For example, one study indicates a very clear negative relationship between black enrollment and blacks' wages, suggesting that higher black wages are associated with attending schools with higher white enrollment,⁹ while another study does not find a

5 See ERIC A. HANUSHEK, JOHN F. KAIN, AND STEVEN G. RIVKIN, NEW EVIDENCE ABOUT BROWN V. BOARD OF EDUCATION: THE COMPLEX EFFECTS OF SCHOOL RACIAL COMPOSITION ON ACHIEVEMENT (NBER Working Paper No. w8741) (2002) available at <https://www.nber.org/papers/w8741> (last visited Aug. 22, 2006).

6 See, e.g., Jomills H. Braddock II, *The Perpetuation of Segregation across Levels of Education: A Behavioral Assessment of the Contact-Hypothesis*, SOCIOLOGY OF EDUCATION 53(3):178-186 (1980); Jomills H. Braddock II and James M. McPartland, *Social-Psychological Processes That Perpetuate Racial Segregation: The Relationship Between School and Employment Segregation*, JOURNAL OF BLACK STUDIES 19(3):267-289 (1989); Robert L. Crain, *School Integration and Occupational Achievement of Negroes*, AMERICAN JOURNAL OF SOCIOLOGY, 75(2):593-606 (1970); James M. McPartland and Jomills H. Braddock II, *The Impact of Desegregation on Going to College and Getting a God Job*, in EFFECTIVE SCHOOL DESEGREGATION: EQUALITY, QUALITY, AND FEASIBILITY (W.D. Hawley, ed.) (1981).

7 For examples of work that describe the intersection of race and educational opportunity, see, e.g., Maureen T. Hallinan, *On the Linkages Between Sociology of Race and Ethnicity and Sociology of Education*, in HANDBOOK OF THE SOCIOLOGY OF EDUCATION (Maureen T. Hallinan, ed.) (2000); Robert L. Carter, *The Unending Struggle for Equal Educational Opportunity*, in BROWN V. BOARD OF EDUCATION: THE CHALLENGES FOR TODAY'S SCHOOLS (Ellen Condliffe Lagemann and LaMar P. Miller, eds.) (1996); GARY NATRIELLO, EDWARD MCDILL, AND AARON PALLAS, *SCHOOLING DISADVANTAGED CHILDREN: RACING AGAINST CATASTROPHE* (1990).

8 See MICHAEL A. BOOZER, ALAN B. KRUEGER, AND SHARI WOLKON, RACE AND SCHOOL QUALITY SINCE BROWN V. BOARD OF EDUCATION. BROOKINGS PAPERS ON ECONOMIC ACTIVITY. MICROECONOMICS, VOL. 1992: 269-338 (1992).

9 See Jeff Grogger, *Does School Quality Explain the Recent Black/White Wage Trend?*, JOURNAL OF LABOR ECONOMICS 14(2):231-53 (1996).

statistically significant relationship between white school enrollment and black earnings, controlling for various school quality measures.¹⁰ Nevertheless, because so often school racial composition is confounded with many school quality measures, such as teacher qualifications, or career and college counseling resources, it is difficult to control for school quality without regard to school racial composition.

Increased Social Interaction

One of the important pieces of evidence about the impact of racial segregation is its tendency to become self-perpetuating. Perpetuation theory suggests that only when students are exposed to sustained desegregated experiences will they lead more integrated lives as adults. In studies that apply perpetuation theory or contact-hypothesis using time series data, the relationship between the extent of desegregation experienced earlier in life, for example in a school or neighborhood, is compared with that experienced later in life, in postsecondary study or in occupations. From a review of these studies researchers have concluded that desegregated experiences for African American students lead to increased interaction with members of other racial groups in later years.¹¹ Specifically, that both blacks and whites who attended desegregated schools were more likely to function in diverse settings later in life. These later diverse environments include workplaces, neighborhoods, and colleges and universities.

For minorities, these findings suggest that the goal of desegregation may be to break the cycle of racial isolation and provide access to white social networks. But, it is important to recognize the potential impact of interracial contact for white students as well. If the ability to work with and understand people of backgrounds different than your own is an educational and democratic goal, then the benefit from the interactions whites experience in diverse schools is also an important and measurable educational outcome.

Another way this has been examined is by looking at the existence of interracial friendships across different schooling environments. Classroom racial composition has been found to have a positive impact on the stability of interracial friendships between whites and blacks, with the effect stronger for white students.¹² In addition, other studies suggest that whites' proximity to blacks in schools, workplaces, and neighborhoods leads to their likelihood of cross-racial interactions and friendships.¹³ Looking at adult cross-racial friendships, researchers also found that proximity (measured in the neighborhood context) and personal contact influenced white racial attitudes.¹⁴

10 See Steven G. Rivkin, *School Desegregation, Academic Attainment, and Earnings*, JOURNAL OF HUMAN RESOURCES 35(2):333-346 (2000).

11 See Amy Stuart Wells and Robert L. Crain, *Perpetuation Theory and the Long-term Effects of School Desegregation*, REVIEW OF EDUCATIONAL RESEARCH 64 (4):531-555 (1994).

12 See Maureen T. Hallinan and Steven S. Smith, *The Effect of Classroom Racial Composition on Students' Interracial Friendliness*, SOCIAL PSYCHOLOGY QUARTERLY 48(1):3-16 (1985).

13 See, e.g., Maureen T. Hallinan and Richard A. Williams, *Interracial Friendship Choices in Secondary Schools*, AMERICAN SOCIOLOGICAL REVIEW 54(1):67-78 (1989); Maureen T. Hallinan and Richard A. Williams, *The Stability of Students' Interracial Friendships*, AMERICAN SOCIOLOGICAL REVIEW 52(5):653-664 (1987).

14 Mary R. Jackman and Marie Crane, *Some of My Best Friends are Black...Interracial Friendship and Whites' Attitudes*, PUBLIC OPINION QUARTERLY 50:459-486 (1986).

Improved Attitudes and Citizenship

If we believe that the goal of the Brown decision or of voluntary desegregation efforts today is more than simply to improve test scores, but also to rethink historical relationships between groups in society then there are other important attitudinal and behavioral outcomes that can occur as a result of attending a diverse school. Specifically, a more recent set of studies on attitudes of students toward their peers of other racial groups found that students—of all racial/ethnic groups—who attend more diverse schools have higher comfort levels with members of racial groups different than their own, an increased sense of civic engagement and a greater desire to live and work in multiracial settings relative to their more segregated peers.¹⁵ This finding corroborates with earlier findings that white students in integrated settings exhibit more racial tolerance and less fear of their black peers over time than their counterparts in segregated environments.¹⁶ It also corroborates with more recent experimental and quasi-experimental findings from the work on diversity in higher education settings.¹⁷

Comparing studies of school desegregation is a difficult task because the desegregation plans implemented operate very differently from locale to locale, and often have different definitions of racial balance. However, several general findings emerge from previous reviews. First, voluntary or metropolitan plans involving voluntary urban to suburban transfers have a greater impact on African American achievement than do mandatory school assignment plans. Second, the age at which students enter desegregated schools is important, with a general consensus in the literature on the achievement benefits at lower grades. Third, despite disagreement about the size or magnitude of the achievement effect, most reviews have concluded that there are clearly no negative academic outcomes associated with desegregated schooling for Blacks or for Whites. Moreover, recent work in this area has adopted more rigorous methodological approaches employing, for example, longitudinal rather than cross-sectional designs and exploiting the various changes in school assignment policies for the unique opportunity to identify an appropriate comparison. In sum, the findings from this broad area in social science have

15 See, e.g., John Yun and Michal Kurlaender, *School Racial Composition and Student Educational Aspirations: A Question of Equity in a Multiracial Society*, JOURNAL OF EDUCATION FOR STUDENTS PLACED AT RISK 9(2):143-168 (2004); Michal Kurlaender and John Yun, *Measuring School Racial Composition and Student Outcomes in a Multiracial Society* (forthcoming in THE AMERICAN JOURNAL OF EDUCATION); Michal Kurlaender and John T. Yun, *Fifty Years after Brown: New Evidence of the Impact of School Racial Composition on Student Outcomes*, INTERNATIONAL JOURNAL OF EDUCATIONAL POLICY, RESEARCH AND PRACTICE, 6(1): 51-78 (2005).

16 For a summary of the attitudinal benefits, see Janet Ward Schofield, *Review of Research on School Desegregation's Impact on Elementary and Secondary School Students*, in HANDBOOK OF RESEARCH ON MULTICULTURAL EDUCATION (J.A. Banks C.A.M. Banks, eds.) (1995).

17 See, e.g., GREG J. DUNCAN, JOHANNE BOISJOLY, DAN M. LEVY, MICHAEL KREMER, AND JACQUE ECCLES, EMPATHY OR ANTIPATHY? THE CONSEQUENCES OF RACIALLY AND SOCIALLY DIVERSE PEERS ON ATTITUDES AND BEHAVIORS (working paper) (2003), available at http://www.jcpr.org/wpfiles/Duncan_et_al_peer_paper.pdf?CFID=2404610&CFTOKEN=94127637 (last accessed Aug. 24, 2006); ANTHONY LISING ANTONIO AND KENJI HAKUTA (PRINCIPAL INVESTIGATORS), STANFORD UNIVERSITY, THE EFFECTS OF RACIAL DIVERSITY ON COGNITIVE COMPLEXITY IN COLLEGE STUDENTS: A TRUE CLASSICAL EXPERIMENT, STANFORD UNIVERSITY, available at <http://www.stanford.edu/group/diversity/> (last accessed Aug. 24, 2006).

suggested that there are clear benefits to racial and ethnic diversity in schools, most of which may not be neatly summarized by test score gains.

Demographic Perspectives on Diversity, Racial Isolation, and the Seattle School Board's Plan to “Cure” Residential “Segregation”

Stephan Thernstrom

The United States Commission on Civil Rights briefing for which this paper was written was framed as a discussion of “the benefits of diversity in elementary and secondary education.” I take this formulation as overhasty shorthand for a broader consideration of this controversial topic. Surely any serious exploration of the issues must give attention to the *costs* as well as the *benefits* of diversity. Furthermore, the important question for the formulation of public policy is not the effects of diversity in general; it is the question of the efficacy of engineering diversity in educational institutions by using the power of the state to exclude children from certain schools because of their race or ethnicity. Whatever benefits might flow from diversity that “comes naturally,” it does not follow that diversity created by compulsory race-driven pupil assignment plans will have the same impact.

The costs of engineering racial balance in our public schools are high, I believe, and they far outweigh any benefits that can be demonstrated from the existing social science literature. Telling families that the race of their children bars them from attending a school they prefer is morally repugnant and probably unconstitutional. When a school district has deliberately segregated students by race, race-conscious policies may be required to remedy that wrong. But, in the absence of that intentional segregation, race-based pupil assignment denies a fundamental right guaranteed by the equal protection clause of the Fourteenth Amendment.

Furthermore, it must be remembered that race-conscious admissions policies often fail to produce the racial balance for which they are designed. Parents vote with their feet. The problem is commonly called “white flight,” but in fact the “flight” is by parents of all races who have the resources to afford private school, to home-school their child, or to move to the suburbs. Boston is a classic example, where a majority-white system was quickly transformed into one in which white enrollments barely reach the double digits. Black, Latino, and Asian parents with incomes above the poverty line joined whites in abandoning the Boston public schools, with only a pyrrhic victory for integration.¹⁸ “We had to destroy the village to save it.”

Four key terms have been thrown about with casual abandon in the record of *Parents Involved v. Seattle School District*: “diversity,” “racial isolation,” “racial quota,” and “de facto residential segregation.” I offer some observations to clarify these murky concepts, and provide some basic demographic information of central relevance to the dispute.

Measuring Diversity

Diversity is an astonishingly elastic and amorphous concept. If our constitutional right to the equal protection of the laws can be suspended whenever an instrument of government makes the claim that it is acting to enhance diversity, we should be worried.

¹⁸See STEPHAN THERNSTROM AND ABIGAIL THERNSTROM, AMERICA IN BLACK AND WHITE: ONE NATION, INDIVISIBLE 331-337 (1997).

Policies that purport to enhance diversity are difficult to evaluate, because the concept is rarely given a clear operational definition. The sharpest and clearest definition of a diverse population is one that precisely mirrors the composition of the total population in all of the characteristics thought to be relevant. A large random sample of the population of the United States would fully capture its diversity, within the range of the sampling error. If all students in the Seattle Public Schools were randomly assigned to a high school and given no other choice, each school would mirror the diversity of the city's public school population of high school age.

In practice, though, it likely would not do so. Some parents would likely refuse to let their child attend the designated school. Their refusal could produce considerable slippage, so that the actual population attending the public high schools of the city would deviate somewhat from the perfect diversity the pupil assignment plan sought to create.

How much deviation from pure proportional representation can be allowed without losing the alleged diversity benefits the plan seeks to provide? No one can say with any authority, but the Seattle School Board purports to know. When the present suit was filed, Seattle school officials allowed a deviation of plus or minus 10 percent in the proportion of white pupils and students of color in any particular school. For the 2001-2002 school year, with a legal challenge to its plan pending in court, the board broadened the band of possible deviation to plus or minus 15 percent. Where did the original 10-point formula come from? Why the change to 15 points? Not from any evidence about how the alleged educational and social benefits of diversity would be affected. Judge O'Scannlain's opinion for the Ninth Circuit panel reports that the School Superintendent had strongly recommended that the band of permissible deviation be increased even more, to 20 percent, because he was convinced that such a broadening would not diminish the benefits of diversity.¹⁹ (It is unclear what evidence he considered in reaching this conclusion.) The board was unmoved by his argument and settled upon 15 percent. Thus the school district over the years has arbitrarily decided, without benefit of any evidence that has been made public, exactly how many of the city's students would be assigned to a high school on the basis of the color of their skin or ethnic origins. Whether the board broadened the band, narrowed the band, or left it unchanged, we are expected to believe that they have always acted so as to maximize diversity.

Added to the sheer arbitrariness of the school board in fixing the band of possible deviation from strict proportional representation is an equally arbitrary fixation on race/ethnicity as the only kind of diversity that schools require. This criticism has been well developed in the majority opinion of the Ninth Circuit panel and in some of the dissents in the Ninth Circuit's *en banc* opinion, and I will not dwell on it here. Suffice it to say that social class, poverty status, and the language spoken in the home of students are surely elements of any meaningful conception of diversity; so too is religion. Race is far from the sole basis of social division in our society. If school authorities are allowed to say that a certain school is unavailable to a child because it has "enough" whites already, would it be equally acceptable to deny a pupil's choice because the school had "enough" Jews or Catholics?

Even if we were to accept the board's narrowing of the concept of diversity to apply to groups based on race or ethnicity, an even more troubling feature of the Seattle plan is the astonishing

19 377 F.3d 949

crudity of the racial classifications used to determine which pupils may attend “oversubscribed” schools—those with more applicants than empty seats. Although the city's public schools employ several racial and ethnic categories in collecting data about their students, the fine distinctions made in the school records are ignored when it comes to engineering diversity in the high schools. Instead, race is simplified into a binary category; students are either white or “of color,” and that’s all that matters. African Americans, Alaskan Natives, Cambodians, Dominicans, Filipinos, Koreans, and Samoans, in the eyes of the school board, have so much in common that they are interchangeable for this purpose. No effort is made to balance the distribution of each of these and other racial groups across schools. For some reason, the school system pays no heed at all to the manifest diversity *within* the “student of color” category. In its parochial view, diversity stops when you cross the color line. No school is allowed to have “too few” or “too many” whites; once there are enough whites to fall within the arbitrarily determined band of permissible deviation, diversity has been assured. Schools that have three times as many Asian as black students or three times as many black as Asian students are not regarded as problematic at all, though it could easily be argued that such imbalances diminish diversity and reduce interracial contact.

It is passing strange in the opening years of the twenty-first century to have public policies framed in the bipolar racial terms appropriate in Mississippi half a century ago. At the time of *Brown v. Board*, the United States was a basically biracial society (though there were always people who didn't fit in either category). But that is hardly true any more, and certainly not true in Seattle. The largest minority population enrolled in the Seattle public schools consists of Asian Americans, 23 percent of the total, just a shade above the African American proportion. But the school authorities apparently view Asians as somehow racially disadvantaged and in need of the leavening presence of white classmates, even though their educational performance matches or exceeds that of whites, and their parents are both more highly educated and more affluent than the typical white American.²⁰ (Note that Asian Americans account for half of enrollments at both Berkeley and UCLA today, and that non-Hispanic white students are in fact an “underrepresented minority,” although the University of California refuses to call them that.) Since the 1970s, all federal agencies have been required to gather statistical information about the race and ethnicity of the citizens they serve, distinguishing at a minimum whites, African Americans, American Indians, Asians, Latinos, and persons of mixed race. Why Seattle's schools ignore these distinctions is a puzzle.

A Seattle high school with a student body that is 26 percent white and 74 percent Asian American has “enough” whites to be adequately balanced racially, and so too does one that is 26 percent white and 74 percent African American. Both schools offer the alleged educational and social benefits of diversity, and are indistinguishable when viewed through the curious spectacles worn by members of the Seattle School Board. And if white enrollment were allowed to slip two or three points lower in these two schools, both would suddenly become “racially concentrated” schools and hence lacking in diversity. The tool Seattle has chosen to meet its diversity goals is a very dull axe that is only capable of chopping a log into two large chunks.

20 The Asian American academic success story is reviewed in detail in chapter 5 of ABIGAIL THERNSTROM AND STEPHAN THERNSTROM, *NO EXCUSES: CLOSING THE RACIAL GAP IN LEARNING* (2003).

It is difficult to fathom how school officials who have striven for decades to create racially integrated schools and who profess a deep attachment to fostering diversity could be so locked into seeing the world in black and white terms—so oblivious to the profound cultural and socioeconomic differences within the “students of color” category. Seattle’s pupil assignment scheme is a relic of another era. If it is not abandoned altogether, as I would prefer, it surely needs to be redesigned to reflect the far more complex racial scene today. If engineering diversity has all the benefits that defendants in this case claim, then they need to put in place a racial balance plan that is sensitive to current realities.

The Problematic Concept of “Racial Isolation”

Seattle's school officials employ the indefensibly crude "students of color" category because they have such a constricted, white-focused vision of what diversity means. Their diversity policy amounts to nothing more than spreading white students as broadly as possible across the city's high schools. That obsession with whites explains the school board's curious and counter-intuitive notion of “racial isolation.” The Seattle plan assumes that kids in a school that is 30 percent black, 30 percent Asian, 20 percent Latino, and 20 percent white are "racially isolated" because they attend a “racially concentrated” school. Students attending a school that is 25 percent white and 75 percent African American, though, are not racially isolated. Yet the former surely offers its students much greater opportunity for interracial contact than the latter. The latter avoids being classed racially concentrated simply because it has a few more whites than the former; that it lacks the diversity that would be added by the presence of Asian American and Latino students does not register in the binary pupil assignment system used in Seattle.

The Seattle plan is designed to reduce “racial isolation.” Racial isolation certainly sounds like a bad thing, on the face of it. But in fact this concept is measured in a curious and highly questionable way in scholarly studies of both residential patterns and schools. The values generated by the standard Index of Isolation in any community are largely determined by the overall racial composition of the population of the unit under study. Cities with overwhelmingly white populations will normally have a low isolation index; those with comparatively small white populations will invariably have a high one. An Index of Isolation of blacks from whites tells us how many whites attend the school of the typical black student or live in the same census tract as the average black resident. Thus its level depends upon the supply of non-Hispanic whites within the system. It is a measure of minority exposure to whites. For reasons that are never adequately spelled out, a high level of minority exposure to whites is taken as a measure of the social health of a community. This tacitly assumes that minorities will lead unsatisfactory lives without the benefit of frequent interactions with white people, the more frequent the better.

The oddity of this measure as an indicator of the quality of life for minorities in a community is evident from the studies of residential patterns using the 2000 Census data. If African Americans truly benefit from residing in places with a low Index of Isolation and hence very high exposure to whites, the Orange County, California Metropolitan Statistical Area was the best place for them to have lived in 2000. The Salt Lake City-Ogden, Utah metropolitan area came in a close second. By this odd way of measuring isolation, blacks were hardly isolated in these

communities for the simple reason that black families were very few and far between.²¹ The greater their *isolation from members of their own race*, strangely enough, the less isolated they were, as measured by the isolation index.

Despite the very low isolation indexes for African Americans in places like Orange County and Salt Lake City, the news has not inspired a mass migration of blacks determined to escape the “racial isolation” they must live with in New York, Chicago, and Detroit. Indeed, a wealth of evidence about black preferences indicates that very few blacks wish to reside in heavily white neighborhoods. Most prefer places in which the racial mix is roughly half and half, and that very few wish to be in neighborhoods in which their numbers are small. A 2003 Gallup poll, for example, found that just 4 percent of African Americans wished to live in a neighborhood composed “mostly” of people of a different race, just what they would find in Orange County and Salt Lake City.²² And just what they would find in many north Seattle neighborhoods as well. Nor is there evidence that Koreans, Dominicans, and other recent immigrant groups wish to have a great many more white neighbors than they currently have. Substantial numbers of them choose to live in ethnic enclaves with others of similar background, in the same manner as immigrants did a century earlier.

Those who place a high priority on reducing racial isolation measured in this odd way implicitly assume that identifiably ethnic neighborhoods, schools, churches, social clubs and mutual benefit societies are obstacles to an integrated society. The only solution to racial and ethnic tensions, in their mind, is the abolition of social groups based on race or national origin, and their complete absorption into the white majority.

Note that this definition of racial isolation is in direct opposition to the meaning of the term as used in arguments involving racial preferences in admissions to higher education. Selective colleges and graduate schools, it is commonly said, need a “critical mass” of underrepresented minority students so to keep such students from feeling racially isolated. The solution is to admit more students of their race. And yet any increase in minority enrollments will increase their isolation from whites as measured by the standard Index of Isolation.

What is this old white magic that has the Seattle School Board and some judges in its spell? The share of non-Hispanic whites in the population of the nation has plunged over the past four decades. The shift in population composition has been particularly great in our metropolitan centers, and greatest of all among the school-age population. Only 55 percent of American children under the age of five were non-Hispanic whites in 2005, and the proportion will continue to decline. In 2004, non-Hispanic whites under the age of 15 were outnumbered by minority children in 27 of our largest metropolitan areas, and these figures include the suburbs.²³

In the central cities, the declining demographic significance of whites is even more pronounced. As of 2001, only one of the 27 largest urban school districts in America had a white majority—

21 See U.S. BUREAU OF THE CENSUS, CENSUS 2000 SPECIAL REPORTS, RACIAL AND ETHNIC RESIDENTIAL SEGREGATION IN THE UNITED STATES: 1980-2000 Table 5-4 (Series CNSR-3) (2002).

22 See THE GALLUP ORGANIZATION, CIVIL RIGHTS AND RACE RELATIONS 76 (2004).

23 See WILLIAM H. FREY, DIVERSITY SPREADS OUT: METROPOLITAN SHIFTS IN HISPANIC, ASIAN, AND BLACK POPULATIONS SINCE 2000 (Brookings Institution 2006).

Salt Lake City—and an average of only one out six students in the other 26 districts was white.²⁴ It is time to reconsider the unfounded assumption that white pupils are a precious resource that must be distributed as evenly as possible across schools, even if denying them choices available to students of other races may lead them to abandon the city public schools altogether. There can be doubt that the future will see even fewer white students in the nation's urban public schools. If the learning of students of other ethnic/racial background will somehow be hampered in the absence of an adequate supply of white students, the future is bleak. But there is no compelling body of social science evidence demonstrating that minority achievement depends upon white magic.

Does the Seattle Plan Employ Racial Quotas?

The district Court judge in this case argued at length that the city's school officials did not make use of racial quotas. According to her, a quota is rigid, inflexible, precise. In contrast, Seattle set a broad band for the proportion of whites and students of color at each high schools, which posed no constitutional problem, she said.

To determine what constituted a quota, the judge relied upon a number of dictionaries but ignored history. The most infamous quotas in American educational history—the Jewish quotas employed by most highly selective colleges and graduate schools from approximately World War I down to the 1950s—were not quotas at all by her definition. The Yale Admissions Committee, after all, was not instructed to make sure that exactly 5 percent—no more, no less—of the entering freshman class was Jewish. Yale instead had a ceiling of 5 percent for Jews; Harvard, the most liberal of the Ivies had a 10 percent ceiling. Yale really operated with a flexible band, that ranged from zero to 5 percent, and Harvard was even more flexible, with a band extending from 0 to 10 percent. Those colleges, she would have to say, only set broad and flexible goals, in an effort to preserve diversity and prevent ethnic imbalance in their student bodies.

Furthermore, the Seattle program *does* employ a fixed quota in the narrow sense of the term when closely examined. Although the band of allowable deviation in the plan under challenge is fairly broad, each of the five oversubscribed high school schools in the city has a precise racial quota. Once a school's white enrollment hits the 55 percent ceiling, no whites at all can be added, only students of color. Conversely, when minority enrollment at a particular school hits the 75 percent ceiling, no students of color can be accepted. In either case, at some point there is a precise quota of zero for students based solely on their race or ethnicity.

“Curing” Residential Segregation

The district court opinion devoted considerable space to arguing that the Seattle Public Schools did not try to engineer racial balance in the schools for its own sake. Instead, she contended, the high school assignment plan was an effort to address the larger problem of residential

²⁴ See Thernstrom, *supra* note 94, at 173.

segregation, an attempt to “cure de facto segregation.” This broad aim, she maintained, demonstrated that more than racial balancing for its own sake was involved.

The legal argument strikes this non-lawyer as quite silly. Has there ever been a system-wide racial balancing plan that did not purport to offset or mitigate the effects of residential segregation? Such plans only appear in communities in which minority groups are clustered in certain areas and absent from others. If there were zero neighborhood segregation to begin with, neighborhood schools would all be racially balanced because the neighborhoods from which they drew their pupils would have been racially balanced. Integration would be a fact, and no plan would be needed to engineer it.

Furthermore, the district court made only the feeblest effort to support the premise that Seattle was indeed a segregated city, and that its residential segregation was a serious social problem. Only one piece of evidence was mentioned in her opinion: The white population was disproportionately concentrated in north Seattle and various minority groups tended to live to the south of them.

If American cities fall into only two categories, segregated and not-segregated, this datum may be sufficient to establish that Seattle is residentially segregated. The trouble with such a simple dichotomy is that it would be impossible to find any American city—indeed, any city in the world—without any trace of residential clustering of particular subgroups of the population. The not-segregated category would thus be empty, and we could leap to the conclusion that racial balancing of the schools is a remedy universally needed to cure the American urban ill of neighborhood segregation.

This conception of segregation is much too simplistic. The record of this case would be more useful if it included evidence of two kinds. First, evidence is needed to assess exactly *how* “segregated” Seattle is compared to other American cities. Second, it needs to be demonstrated, rather than assumed, that the degree of racial and ethnic residential clustering that currently exists in Seattle is harmful to the city’s residents. The court terms the school assignment plan a “cure,” but fails to tell us what damage the alleged disease does. Nothing in the record suggests that the minority populations are disproportionately concentrated on the south side because, while they actually wish to reside in predominantly white neighborhoods to the north, they have been prevented from doing so. Can it be shown that people of color live where they do because whites don’t want them as neighbors and have somehow managed to bar their entry?

Regrettably, plaintiffs in the case failed to challenge the defense's contention that residential segregation is a serious problem in Seattle, and offered no expert testimony that would permit a more nuanced analysis of this very important issue. Plaintiffs could have developed a powerful argument along the following lines.

The returns from the 2000 Census have been thoroughly analyzed by now, and a number of investigators have calculated various measures of residential segregation for all major American metropolitan areas, including Seattle. The most authoritative is the Census Bureau’s own study, *Racial and Ethnic Residential Segregation in the United States: 1980-2000* and its results are highly instructive and pertinent to this case.

The most commonly used measure of residential segregation is the Index of Dissimilarity (DI). It has its drawbacks, because it measures the extent to which the residential patterns of two particular racial groups deviate from each other and makes an identical distribution the implicit ideal. This is a serious flaw in examining a multiracial, multicultural society made up of many groups that have their own institutions and distinctive cultural preferences. Nevertheless, it is a standard tool and it does tell us something significant about a community.

The Census Bureau study identified the largest American metropolitan areas with major concentrations of minority residents. In terms of black/white segregation, Seattle's DI of .489 ranked it the 37th lowest out of the 43 metropolitan areas that had at least 20,000 African American residents. The DI for Detroit, which headed the list, was .846, for Milwaukee it was .818, for New York .810. For African Americans, Seattle was thus among the half a dozen or so *least segregated* cities in the U.S. By the other most widely used measure, the Isolation Index, Seattle was even closer to the bottom on the national black-white segregation scale, 39th out of 43.

Latinos in Seattle were even less segregated by national standards. In the Census Bureau study, 36 major metropolitan areas had enough Hispanic residents to be included. Seattle ranked the 35th lowest in the nation on the DI for Hispanic-white segregation, and 34th lowest on the Isolation Index.

The same holds for Asian Americans in Seattle, with only a slight qualification. Just 20 large metropolitan areas had enough Asian American residents to be included in the study. Seattle ranked as the 19th least segregated out of 20 in its DI for Asians. Its isolation index for Asians, though, was towards the middle of the pack; it ranked #9. Like other West Coast cities, it has a large Asian population, and the Isolation Index is very sensitive to group size; in general, the larger the minority group the more likely they are to be "isolated" from white people. Most of the highest isolation indexes for Asians are to be found in California cities, with San Jose standing at #1, San Francisco #2, Los Angeles #3, and Oakland #5.

In sum, by national standards Seattle clearly ranks among the least segregated large metropolitan areas in the United States. If assigning pupils to schools on the basis of their race is legitimate in a city with segregation levels as low as those in Seattle, then it would have to be considered legitimate in just about any large city in the country.

What are the concrete harms of Seattle's comparatively low level of ethnic and racial segregation by neighborhood? The Seattle School Board assumed that it was somehow damaging that more whites than minorities lived on the north side of town, but provided no evidence whatever that anyone was harmed by this pattern. The board never entertained the possibility that contemporary immigrants find a certain comfort in living near substantial numbers of their ethnic compatriots, just as the Irish, German, Italian, Polish and other immigrant groups did at an earlier point in our history. Louis Wirth's 1928 classic, *The Ghetto*, after all, was not a study of Chicago's Black Belt but of its Jewish community. Most of the classic ethnic ghettos faded away in time, but many groups continued to cluster to a greater or lesser degree. Close to a century after East European Jews arrived in Boston in large numbers, the cities of Brookline, Newton,

and Sharon, Massachusetts still have heavily Jewish neighborhoods. Revere and Lynn, Massachusetts similarly have distinct Italian neighborhoods. Such residential clustering is clearly voluntary, and one has to wonder what evidence led Seattle's school authorities to conclude that the very modest levels of residential segregation in their community amounted to a disease that required a "cure."

It could be argued, of course, that African-Americans are quite different from the immigrants of the past and present—that prejudice and discrimination has confined them to ghettos that are different in kind from immigrant enclaves. (This, of course, would suggest that the "students of color" category be abandoned, and that a more modest quota setting a floor and ceiling on black enrollments in each high school be substituted for the present plan.) There is something to this claim, but it is too simple. With strong national laws barring discrimination in real estate transactions and a steep decline in prejudicial attitudes in the society at large, it can be argued that blacks today have a different residential distribution than whites largely because most of them have no desire to be dispersed evenly across the urban landscape and to live in heavily white neighborhoods.²⁵ Scholars continue to debate this complex issue, but the question does not seem to have been examined at all by the Seattle School Board.

Does Seattle have a black ghetto? Douglas Massey and Nancy Denton, the authors the widely cited study, *American Apartheid: Segregation and the Making of the Underclass* (1993) define a "ghetto" as "a set of neighborhoods that are exclusively inhabited by members of one group, within which virtually all members of that group live."²⁶ In a subsequent publication, Massey declared that in "hypersegregated" American metropolises today blacks "live within large, contiguous settlements packed tightly around the urban core. Inhabitants typically would be unlikely to come into contact with non-blacks in the neighborhood where they live. If they went to the next neighborhood beyond that, no Whites would be there either. If they were to travel to an adjacent neighborhood, no Whites would be there either."²⁷

Whether anything resembling this dire picture of extreme racial isolation and exclusion exists in Seattle may be determined by a close inspection of the 2000 Census returns by census tract. A convenient link to these data is provided on the Seattle school district's web site, though it is hard to believe that anyone with authority there actually studied the numbers. Seattle had 121 census tracts, which averaged about 4,500 people in each. A review of the racial composition of these 121 tracts does not suggest a city in which African Americans or any other group within the school board's hopelessly crude "people of color" category are shut out of most neighborhoods and confined to a few areas in which they are isolated from the life of the city.

The first thing that leaps out from the numbers is that not a single tract in the city had no black residents in 2000, and in almost all cases the African-American numbers were significant. If we take a minimum of 50 people as a reasonable way of screening out tracts with just one or two

25 See Thernstrom, *supra* note 92, at 219-230.

26 See DOUGLAS S. MASSEY AND NANCY DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 18-19 (1993).

27 See Douglas S. Massey, *Residential Segregation and Neighborhood Conditions in U.S. Metropolitan Areas*, in *AMERICAN BECOMINGS: RACIAL TRENDS AND THEIR CONSEQUENCES* 410 (Neil J. Smelser, William Julius Wilson, and Faith Wilson, eds.) (2001).

token black families, we find that just seven of the 121 tracts in the city lacked a significant black population, and none of the seven had fewer than 20 black residents.

Nor were there any tracts without any Latino residents. Hispanics, in fact, were more broadly dispersed than the larger African-American population. Only 2 of the 121 tracts had fewer than 50 Latino residents (and those two had 38 and 45).

Asian Americans were still more broadly dispersed, not surprising perhaps in light of their generally higher income and educational levels. Not a single tract in the city had fewer than 100 residents of Asian background.

It is worth inspecting the residential distribution of African Americans in Seattle in a little more detail, because concern over black ghettos underlies most discussions of housing segregation. Looking closely at the census tracts inhabited largely by blacks in 2000 suggests some important conclusions. It is apparent, first of all, there is nothing remotely resembling a black ghetto in Seattle, if we use the Massey and Denton definition—an area that is exclusively black and that contains virtually all of a city's black population. Indeed, just one census tract in all of Seattle had a black majority, and that tract (#8800) had a slender majority of African American residents—54.9 percent. The tract contained a mere 3.4 percent of the city's total black population.

Even in this census tract, the closest thing to a ghetto Seattle has to offer, blacks were not enclosed in a social world in which they rarely encountered white people. Furthermore, the remaining 45 percent of the residents of Tract #8800 were not all other "people of color." In fact, three quarters of them were non-Hispanic whites.

The second most heavily African-American tract in Seattle was #8900. Just 40.4 percent of its residents reported their race as black alone, and another 4.4 percent said that were a mixture of black and another race, for a total of 44.8 percent. They barely outnumbered whites in the tract, who accounted for 40.5 percent of the total. The tract was also home to sizable numbers of Asians and Pacific Islanders (8.6 percent), Latinos (6.6 percent), and American Indians/Alaskan Natives (2.6 percent). In short, it appears to have been a Melting Pot neighborhood par excellence. It is hard to say that this tract was not a thoroughly integrated residential area, even though it had a lower proportion of white residents than the city population as a whole.

A final locale worthy of scrutiny is census tract, #11800, one of the most heavily populated tracts in Seattle and the one with the highest absolute number of black residents. Here African Americans made up 36.1 percent of the population, with almost as many Asians and Pacific Islanders (30.7 percent). Non-Hispanic whites made up 21.7 percent of the total, with another 8.6 percent Latino and a small number of American Indians/Alaskan natives. Again, this seems a highly integrated residential area, even though it has fewer whites than tracts #8800 or #8900.

Methodological Problems in Measuring the Social Benefits of Diversity

As David Armor's paper for this briefing well demonstrates, a balanced appraisal of the social science literature on the effects of diversity on student learning reveals no scholarly consensus that schools with diverse student bodies promote greater student achievement than those with more homogeneous populations. Furthermore, most studies that show educational benefits lack adequate controls for selection bias. Since students rarely attend the schools they do because they were randomly assigned to them, it is impossible to measure diversity effects by simply comparing those attending diverse schools, however they are measured, with those in a truly comparable control group who were not.

Armor's analysis of the 2003 NAEP results, it should be underscored, not only finds no educational benefits from greater diversity for Latino pupils; it finds just the opposite. Latino students performed best when they attended heavily Hispanic schools. If this finding could be replicated with other data, it would suggest that Latinos actually suffer educationally from being the beneficiaries of racial balancing plans.

Similar questions about the educational benefits of diversity are raised by two recent papers on black and white student achievement by the economist Thomas S. Dee, an associate professor at Swarthmore College and a Faculty Research Fellow at the National Bureau of Economic Research. Both studies appeared in highly respected economics journals—*The Review of Economics and Statistics* and the *American Economic Review*.²⁸ The first examined the achievement of Tennessee students in grades K-3 in the late 1980s and 1990s, and found that black students performed significantly better when their teachers were black, and that white students learned more from white teachers. Dee then extended his research to the national level, using the 1988 National Education Longitudinal Study, and found the same pattern among middle and high school students. If his findings could be generalized, they would establish that diversity at the classroom level is educationally harmful. It would be logical to conclude that racially segregated classes taught by teachers whose race matched that of their students would significantly promote academic achievement. Racial balancing, at least at the classroom level, would be positively counterproductive.

Suppose that a Tennessee school district aware of this research decided to use race as a basis for assigning students to particular classes, strictly segregating them and their teachers in order to improve learning. If the plan were challenged in court, school officials could argue that race is admittedly a suspect category, but that social science had demonstrated that their plan had educational benefits too large to ignore. Opponents of the plan would not be able to counter Dee's findings for Tennessee by citing research on Tennessee that showed that he was wrong. As of now, at least, no scholar has analyzed Tennessee data and found errors in Dee's analysis.

I refer to this work not to make the case that Tennessee or any other state should re-segregate its public schools. The point is only that there is no social science consensus on the educational benefits of racial and ethnic diversity in K-12 education, and that it is thus unwarranted to suspend the equal protection clause on the basis of the complex, confusing, contradictory, and ever-changing social science literature bearing on the issue.

28 See Thomas S. Dee, *Teachers, Race, and Student Achievement in A Randomized Experiment*, 86 REV. OF ECON. & STAT. 195-210 (February 2004); Thomas S. Dee, *A Teacher Like Me: Does Race, Ethnicity, or Gender Matter?*, 95 AMER. ECON. REV. 158-165 (May 2005).

One other important social science study that merits attention deals not with the K-12 years but with the undergraduate college experience, so its relevance to elementary and secondary education can be questioned. Nonetheless, its results should be sobering to those who believe that racial balance is so beneficial that coercive policies to bring it about are justifiable. The distinguished team of Seymour Martin Lipset, Stanley Rothman, and Neil Nevitte surveyed a representative sample of American college students and faculty members in 1999.²⁹ Excluding the historically black colleges and universities from the analysis because they had far too many black students to be considered “diverse,” they found that the proportion of blacks in an institution's student body was *negatively* related to student satisfaction with their college experience overall, their estimate of the quality of the education they received, and their estimate of how hard their classmates worked. The correlations were not huge—.08, -.14, and -.09 respectively—but all were statistically significant.³⁰ Furthermore, the study found, faculty assessment of both student skills and of student work effort were also *negatively* related to the proportion of African Americans in the student body. It would be foolish to place too much weight on a single study, of course, but the superb academic credentials of the authors suggest that its findings cannot be ignored.

The literature on achievement yields a very mixed picture, but at least it focuses on a dependent variable that is reasonably clear—student test scores. The many other benefits some claim to see in diversity-enhancing policies are far more elusive to pin down. A number of investigators have made claims that experiencing diversity early in life—in school or in a neighborhood—has positive effects upon development in later life. Americans who are exposed to it while young, it is claimed, are more likely to seek out diverse settings in later life.

Although I have not made a systematic and comprehensive survey of the literature, I have not seen any reported study in this vein that was not severely flawed methodologically. For example, Professor Patricia Gurin of the University of Michigan, prepared an expert report that played a role in the *Grutter* and *Gratz* decisions. She testified that white students who attended schools with 25 percent or more minority enrollment were more likely to have diverse friendships after leaving college and to live in diverse neighborhoods and to work in diverse settings.³¹

Does this really demonstrate that students develop a taste for diversity, a love for having a certain level of racial mixing in their schools, and that this taste for diversity exerts a strong influence on their later decisions about where to live and who their friends are? It seems a highly dubious interpretative leap, given the availability of a much simpler explanation. Students who grow up in California, say, very often attend diverse schools because the racial composition of the entire state is so diverse. Those who grow up in Utah, North Dakota, and Vermont, by contrast, rarely attend racially diverse schools because of the racial mix in the population in their states. Since Americans show a strong tendency to settle down in life near where they grew up,

29 See Stanley Rothman, Seymour Martin Lipset, and Neil Nevitte, *Does Enrollment Diversity Improve University Education?*, 15 INT’L. J. PUB. OPINION RES. 8-26 (2003).

30 Note that these findings conflict sharply with the optimistic picture painted by William G. Bowen and Derek Bok in *THE SHAPE OF THE RIVER; LONG-TERM CONSEQUENCES OF CONSIDERING RACE IN COLLEGE AND UNIVERSITY ADMISSIONS* (1998). The many flaws in the Bowen and Bok discussion of this issue are detailed in Stephan Thernstrom and Abigail Thernstrom, *Reflections on The Shape of the River*, 46 UCLA L. REV. 1620 (1999).

31 "Expert Report of Patricia Gurin" in *Gratz v. Bollinger* and *Grutter v. Bollinger*, 24.

California youth often end up in California after finishing school, and Vermonters tend to remain in Vermont or nearby Maine and New Hampshire, where they will predictably have few black friends or neighbors. Do Californians choose to settle down in California *because of* its highly mixed population? Do Vermonters really remain in their state of birth or nearby because it is so heavily white? How can it be proven that the racial mix in a state is important in attracting some migrants and repelling others? Since California and Vermont, or Utah and New York, differ in so many ways, it seems absurd to assume that migration decisions are driven by race or even influenced by it at all.

Similarly, growing up in a big city exposes one to greater diversity in school than would normally be found in a smaller city or town or a rural area. And the products of big city schools are likely more drawn to big city life as adults. But to posit a specific taste for racial diversity or the lack thereof as a driving force behind such decisions seems highly questionable.

For school officials in a city like Seattle to restrict students' choices of high school purely on the basis of their race or ethnicity in the hope of promoting a lifelong taste for diversity is unwarranted by anything social scientists have been able to establish as yet.

Conclusion

In sum, the concept of diversity in K-12 schooling is impossibly vague and amorphous. A principal reason why the research as to its effects is so contradictory and inconclusive is that the concept cannot be pinned down with precision, and has been used so loosely that causal connections to outcomes cannot be convincingly established. Seattle's crude binary racial classification scheme used in student assignments completely neglects vital elements of diversity, and does not guarantee that the city's high schools are truly diverse in their racial and ethnic composition. The legal rationale for this racial balancing plan—that it is a “cure” for the city's residential segregation—rests upon the false premise that Seattle is a highly segregated city, and that its minority populations are disadvantaged by living where they live. If other cities seek to engineer what they consider a “better” racial balance in their schools by assigning students to school on the basis of their race, they need to carry out their job in a far more careful and responsible way. If Seattle's plan receives anything close to real “strict scrutiny,” it will not pass.

Dissenting Statement of Commissioners Arlan Melendez and Michael Yaki

We respectfully disagree with the findings issued by the majority of Commissioners in this report on the “*Benefits of Racial and Ethnic Diversity*.” The report findings present an incomplete, unbalanced view of the social science research on this topic. Such a view reflects the opinions of the lawyer who was its chief drafter and the Republican Commissioners who approved it. As described below, the problems with the findings fall into three main categories.

Flawed Research Process Undermines Findings’ Credibility

Due to the hasty, *ad hoc* research process used to assemble this report, these findings do not accurately reflect the state of social science research on this topic.

First, the Commission did no independent social science research on this briefing topic. All the research cited in the bibliography was mentioned in the oral testimony or written comments of the four briefing speakers. Moreover, the four briefing speakers did not know that their references would be the sole basis for findings that purport to judge the overall state of the science on this topic. The social science research put before report drafters and Commissioners, therefore, was never intended to be comprehensive nor even representative of the entire field of social science research on this topic.

Second, neither at the briefing nor subsequently have all the expert speakers been asked to comment on the accuracy of the assertions in the findings. It appears that findings were cherry-picked by the report drafters (neither of whom are social scientists) from speakers’ written comments and research citations, most of which were not discussed at the public briefing. The authority for some of the majority’s findings rests upon the isolated, unquestioned comments of just one invited speaker. Thus, the partial, unrepresentative research underlying the Commission findings has not necessarily been peer-reviewed or subjected to the test of expert criticism.

Third, Commission social scientists did not review the report for accuracy and various other internal procedures concerning the issuance of national office reports were ignored.³² For over a year the Commission has been issuing so-called “briefing reports” as its main form of publication without following any written procedures. Timelines and procedures for editorial, legal, and other reviews are *ad hoc*. Despite criticism by the United States General Accounting Office about the inadequacy of procedures to ensure the quality of Commission reports,³³ and our repeated requests that Commission staff follow the procedures already on the books for all National Office Reports, the Commission still lacks a written procedure for drafting and issuing

32 See United States Commission on Civil Rights Administrative Instruction 1-6 §§ 14-19 (detailing procedures to ensure the accuracy and objectivity of all national office reports). The Staff Director and several Republican members of the Commission have stated that, despite the plain language of Administrative Instruction 1-6, they do not think that procedure was intended to apply to reports on so-called “briefings.” We disagree.

33 General Accounting Office, *U.S. Commission on Civil Rights: The Commission Should Strengthen Its Quality Assurance Policies and Make Better Use of Its State Advisory Committees*, GAO-06-343 pgs. 35-36 (May 2006).

briefing reports like this.³⁴ In their zeal to produce “timely” findings, our Republican colleagues voted to issue this report, which falls short of the quality, balance, and objectivity that should be the mark of this Commission’s work.

In sum, given the extremely limited input of social scientists (inside or outside the Commission) on the report findings, and the lack of review procedures, no findings should have been written in this report.

Findings’ Mistaken Focus On The Benefits Of Diversity To Academic Performance Ignores Broader Goals Of K-12 Education

The findings of the Commission majority wrongly focus on quantifiable academic performance as the chief indicator of whether there are benefits to racial and ethnic diversity in our nation’s classrooms.

What is the purpose of public education? To assess the benefits of racial and ethnic classroom diversity one first must answer this question. We know of no more eloquent or powerful response than that of the Chief Justice Warren in *Brown v. Board of Education*: Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.³⁵

No goal of K-12 public education is more important than the fashioning of good citizens, individuals who will embody the values, behaviors, and abilities necessary to ensure our country’s future. Moreover, perhaps the most important value for citizenship in our increasingly diverse, multi-cultural world is tolerance.³⁶

The pressing question this report’s findings should have addressed is *how* (not whether) diverse classrooms foster tolerance and other important public values among our young people.

34 Several Republican Commissioners have recently agreed that the current *ad hoc* procedures for briefing reports are flawed and a process is now underway to draft written guidelines that will apply to future briefing reports. However, our colleagues were unwilling to strike the issuance of findings in this report in the meanwhile.

35 *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

36 *Bethel School District v. Fraser*, 478 U.S. 675, 681 (1986) (Supreme Court Chief Justice Burger writing about the purpose of public schools). (“The role and purpose of the American public school system were well described by two historians, who stated: “[Public] education must prepare pupils for citizenship in the Republic. . . . It must inculcate the habits and manners of civility as values in themselves conducive to happiness and as indispensable to the practice of self-government in the community and the nation.” C. Beard & M. Beard, *New Basic History of the United States* 228 (1968). In *Ambach v. Norwick*, 441 U.S. 68, 76-77 (1979), we echoed the essence of this statement of the objectives of public education as the ‘[inculcation of] fundamental values necessary to the maintenance of a democratic political system.’ These fundamental values of ‘habits and manners of civility’ essential to a democratic society must, of course, include tolerance of divergent political and religious views, even when the views expressed may be unpopular.”)

Improved academic performance certainly is one important piece of public education, but it is not everything or even the most important thing we should be thinking about. The many intangible cultural cues and deeper understanding that are gained from interacting with people of different race and ethnicity—those are the real, invaluable benefits of classroom diversity that we need to understand better and increase. Such small experiences often are difficult to quantify or measure because they involve such personal and unique interactions.

The fact that social scientists may struggle to quantify the “social” and other “soft” benefits³⁷ of diverse classrooms in the same way that they can quantify standardized test scores does not make the benefits any less objective, real, or important. To research how diversity affects “soft” and social benefits, scientists just use different tools, such as surveys or modified experimental designs. While our Republican colleagues correctly note the imperfect nature of many studies using such alternative research tools,³⁸ often such studies are the only way to study the benefits of diversity. Expert social scientists obviously know to weigh the evidence of different study designs differently and look at all the available evidence when they discern trends.

Readers of this report will notice that the testimony of two of the four briefing speakers, Professor Michal Kurlaender and Attorney Arthur L. Coleman, did consider the social and other “soft” benefits of classroom diversity and found them to be powerful and well-established by existing research.

Speaking from a policy perspective, Mr. Coleman urged the Commission to view K-12 schools as “the beginning of the educational pipeline, which leads to higher education, jobs in the private sector, jobs in the public sector, and careers in the military.”³⁹ In fact, Mr. Coleman pointed to the Supreme Court’s decision in *Grutter* as supporting the view that the “importance of diversity in those sectors is of direct relevance to how we define and value diversity in elementary and secondary school.”⁴⁰ Viewed from this broader perspective of what K-12 education is about, Mr. Coleman noted research that shows classroom diversity enhances civic values, improves preparation for employment and economic success, and helps ensure high-quality educational opportunities for students of all backgrounds.⁴¹

Similarly, one of the leading social scientists on the effects of classroom diversity, Professor Michal Kurlaender, informed the Commission that “the Findings from this broad area in social science have suggested that there are clear benefits to racial and ethnic diversity in schools, most of which may not be neatly summarized by test score gains.”⁴² Looking beyond mere academic performance, Professor Kurlaender noted that, “[o]verall, there are four broad categories of

37 Some of the benefits of classroom racial diversity that could be said to fall into this category of “social” or “soft” include: 1) avoiding the feelings of inferiority created in minorities by their isolation in de facto racially segregated schools; 2) preparation for the job market; 3) preparation for advanced education; 4) fewer incidences of discrimination, racism, and hate crime by students educated in diverse classrooms; 5) visibly affirming the desire of society at large to work toward greater racial integration; 6) the qualitative enjoyment of diverse classrooms by students; and 7) ensuring equal opportunities for children of all races by having them share the same facilities.

38 *See, e.g.*, Finding 4, Briefing Report at 15-16.

39 *Id.* at 53.

40 *Id.*

41 *Id.* at 55.

42 *Id.* at 84.

outcomes that have been associated with school racial/ethnic diversity: enhanced learning, long-term educational and occupational gains, increased social interaction, and improved attitudes and citizenship.”⁴³ As noted below, the majority’s findings largely ignore (or seek to discount) the dozens of studies cited by Professor Kurlaender establishing the non-academic benefits of diversity. Apparently this is because the Commission majority disagrees with Kurlaender’s contention that “the goal of the *Brown* decision or of voluntary desegregation efforts today is more than simply to improve test scores, but also to rethink historical relationships between groups in society.”⁴⁴

Unfortunately, the majority’s fundamentally different understanding of the legacy of *Brown* seems to have prevented it from looking more carefully at the effects of a racially diverse education on job preparation, the inculcation of values like tolerance, and other benefits. Without proper attention to these non-academic areas, we think the majority’s findings are both incomplete and highly misleading as to the overall benefits of diversity.

Findings Present Unbalanced View of Briefing Testimony

The majority’s findings do not accurately reflect even the limited social science testimony and research heard by the Commission at its July briefing. The report findings often downplay or disregard the comments of one social scientist, Professor Michal Kurlaender, and instead echo the comments of another researcher, Professor David J. Armor.

The most basic example of this bias in the findings is the report’s attempt to bury the expert conclusions of Professor Kurlaender and Mr. Coleman that “there are clear benefits to racial and ethnic diversity in schools”⁴⁵ and that these benefits are “‘substantial’ and ‘real.’”⁴⁶ Nearly all the research showing positive effects of diversity are presented in the report findings with caveats and speculation about alternative explanations for the study results. Kurlaender and Coleman themselves admitted that it can be difficult to disentangle the effects of racial diversity from the other numerous factors that influence students’ academic performance, and research has not always been unanimous in finding benefits of racial diversity to academic performance. However, that difficulty did not reverse their opinions that, based on several decades of social science research—research that has used many methods, including direct observation, surveys, and experimentation—the mainstream view of experts is that there are significant academic benefits to racial and ethnic diversity in the classroom. Even when controlling for socio-economic status,⁴⁷ there are unique benefits to being schooled in classrooms that are racially and ethnically diverse.

The majority’s generally uncritical adoption of Professor Armor’s research (and his characterizations of others’ research) stands in sharp contrast to its skepticism of Kurlaender’s expert testimony. For instance, findings 1 and 5 both refer to an unpublished study of the 2003

43 *Id.* at 80.

44 *Id.* at 83.

45 *Id.* at 84.

46 *Id.* at 57.

47 *Id.* at 11 (noting Professor Kurlaender’s opinion, expressed during the briefing, that studies demonstrate socio-economic status is not a proxy for race).

National Assessment of Educational Progress (NAEP) results by Professor Armor. Assuming the research community accepts Professor Armor’s socio-economic status “adjustments,” it remains the case that the NAEP data is like numerous other significant but limited studies in the field. The NAEP study reports adjusted results only for 8th graders in reading and mathematics, shows great variation between state school systems, does show significant impact of diversity on test scores, and is a cross-sectional study.⁴⁸ Yet, Armor’s NAEP study findings aren’t quarantined in a finding footnote under a warning that the study does “not definitively identify a causal relationship” the way Kurlaender’s findings do.⁴⁹

We do not think we need to review the characterizations in each of the findings, pointing out how they seek to diminish the importance of research showing diversity benefits (cited by Kurlaender or Coleman) while simultaneously strengthening any research that questions diversity benefits (cited by Armor). One need only read the written testimony included in this briefing report to see how the majority’s findings track the comments of Professor Armor and largely ignore the expertise of Professor Kurlaender and Mr. Coleman. Nonetheless, we want to draw readers’ attention to the fact that the report findings do not present a balanced view of the briefing speakers’ testimony.

Is there general consensus in the scientific community that the educational benefits of diversity have been clearly established? This report, with all its flaws, begs an answer to this technical question about the state of the science. Since no independent research was done by the Commission and the briefing speakers do not represent the actual range of views in the academic community, we think this Commission is not qualified to judge the state of the social science research on this record. Two experts at the briefing said there is a general consensus among researchers that such benefits are proven, two said there isn’t. The evidence in the record shows a solid basis for Kurlaender and Coleman’s view, despite the majority’s bias in favor of Professor Armor’s views. More complete and independent investigations by others will hopefully resolve this question which, due to the Commission’s research process, must here go unanswered.

Conclusion

We are strong believers in the importance of the Commission’s ongoing mission to provide Congress, the President, and the American people accurate and balanced information on the exercise of civil rights. Furthermore, we think it is important to better understand the social, academic, and other benefits of classroom diversity so that educational reform and decision-making at all levels can maximize these benefits for future generations. Unfortunately, for the three reasons listed above, we respectfully disagree with our colleagues’ findings.

48 *Id.* at 38.

49 *See, e.g.*, Finding 10 (referring to a 2005 study by Kurlaender and Yun that established positive social benefits of diverse classrooms); *see also* Finding 7 (apparently deriving from an oral exchange at the briefing between one of the Commissioners and Professor Armor, who said that Professor Kurlaender had done research on classroom discussion and showed a “small” effect of diversity—in contrast to Kurlaender’s own representation that the research showed a “significant” effect).

Dissenting Statement of Commissioner Michael Yaki

While I subscribe fully to the Joint Dissenting Statement filed with Commissioner Melendez, I feel compelled to write separately to express my continuing surprise and shock at the audacity of the majority of the Commission to first write a conclusion and then find whatever limited, shopworn and ill-tested authority to support it. The usage of the Commission briefing – by its nature, a very limited, by time and resources, exploration of an issue – to issue pronouncements on profound issues of national civil rights issues is, I believe, a travesty of the principles of sound research, creating nothing more than a Potemkin’s village reflecting the ideologies of the majority.

The Commission briefing, as originally conceived, was to delve into an issue and produce questions and issues for further identification, development, and research. It was meant to allow the Commission to respond to important issues of the day while cognizant of our budgetary and staff limitations. That response, however, was not meant to issue far-reaching pronouncements that would deliver the opinion of the Commission on an issue. We do that with our national reports, and our hearings, for which we are empowered with the power of the subpoena.

A single three-hour briefing can scarcely comprehend the full scope and breadth of an issue. The findings, therefore, of the majority are a house of cards built upon a foundation of sand, based on a very micro-thin bibliography and flying in the face of ample peer-reviewed academic studies that come to the opposite – and I believe correct – conclusion.

Any discussion about the benefits of diversity in elementary school education must begin, as it must, with the powerful words of the unanimous court in the *Brown* decision:

“Today, education is perhaps the most important function of state and local governments It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.”⁵⁰

The notion that the “educational benefits of diversity” are academic only are belied by the court in *Brown* and underscored by social science research today that continues to support the fact that the next generation of Americans is better served by continued diversity in the elementary school classroom. *Brown* clearly encompassed more than academic achievement by emphasizing the roles of citizenship, cultural values, and adjustment to the changing environment of our nation. The idea that objective measurement only – the yardstick of “separate but equal” was soundly rejected by the *Brown* court in favor of qualities “incapable of objective measurement” and “intangible considerations” that go towards the development of a complete individual who can fully function in society.⁵¹ In short, test scores and school facilities are not the critical factors in determining the need and validity of school diversity. Despite this, the majority only gives passing reference to the real import of the *Brown* decision in favor of what can only be described as a *Plessy*-type standard. To put it bluntly, the words and values of *Brown* are absent from any

⁵⁰ *Brown v. Board of Education of Topeka, Kansas*, 347 U.S. 483 (1954)

⁵¹ *See id.* at 493.

substantive discussion by the majority, despite the fact that any coherent civil rights discussion of school diversity must include these principles.

For readers interested in the social science supporting the full benefits of diversity in elementary school education, I direct you to the Brief of 553 Social Scientists as Amici Curiae in Support of Respondents in the Supreme Court hearing of the Seattle and Louisville school cases.⁵²

It is instructive to remember that the court in *Brown* stated, unanimously, and without reservation or equivocation: “We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.”⁵³

In the 21st century, the notion that resegregation, racial division, and ethnic isolation has no more place now than it did over a half-century ago. While we must acknowledge that the methods of ensuring diversity have become immensely more complicated, and that the challenge of ensuring diversity becomes ever greater as the diversity of our country increases, it does not mean that we, as a country, should retreat from our obligations – indeed, our sacred duty -- to ensure that the next generation of Americans, and the generations after, are raised in a United States, indivisible, not merely regardless of race, color, creed or national origin, but embracing each other’s race, color, creed and national origin.

⁵² http://www.civilrightsproject.harvard.edu/research/deseg/amicus_parents_v_seattle.pdf

⁵³ See *Brown*, *supra* note 124, at 495.

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Speaker Biographies

David J. Armor, Professor of Public Policy, George Mason University.

Dr. Armor is a Professor of Public Policy in the School of Public Policy at George Mason University, Fairfax, Virginia. From 2002 to 2005, Dr. Armor served as Director of the PhD Program in Public Policy. He received his B.A. in Mathematics and Sociology from UC Berkeley and his Ph.D. in Sociology from Harvard University, where he also served on the faculty as Assistant and Associate Professor from 1965 to 1972. Previously, Dr. Armor was a Senior Social Scientist at the Rand Corporation from 1973 to 1982, and in 1985 he was elected to the Los Angeles Board of Education. From 1986 to 1989 Dr. Armor was Principal Deputy and Acting Assistant Secretary of Defense for Force Management and Personnel. He has done extensive research and writing in the field of education and school desegregation, and he has testified as an expert witness in more than 35 school desegregation cases. Some of his recent publications include *FORCED JUSTICE: SCHOOL DESEGREGATION AND THE LAW* (Oxford, 1995); *Race and Gender in the U.S. Military* (ARMED FORCES & SOCIETY, 1996); *COMPETITION IN EDUCATION* (Pioneer Institute, 1997); *MAXIMIZING INTELLIGENCE* (Transaction Publishers, 2003); and *ATTITUDES, ASPIRATIONS, AND APTITUDES OF AMERICAN YOUTH* (National Academy Press, 2003).

Arthur L. Coleman, Former Deputy Assistant Secretary for Civil Rights, U.S. Department of Education

Mr. Coleman is a partner with the law firm of Holland & Knight, where he provides legal, policy, strategic planning and advocacy services to educators throughout the country as co-leader of the firm's education policy team. He works to help states, school districts, higher education institutions, private education providers, and associations understand how to structure programs in ways that best serve their educational goals and meet federal and state legal requirements thereby improving education while reducing the risk of litigation or enforcement. He also focuses on federal advocacy before the United States Department of Education and Congress on key education issues. Mr. Coleman deals extensively with issues related to the implementation of the No Child Left Behind Act and federal non-discrimination laws. In particular, he addresses issues such as the development of accountability and assessment systems, the use of high-stakes tests, services for students with disabilities and English language learners and efforts to promote diversity. Mr. Coleman served as Deputy Assistant Secretary of the U.S. Department of Education's Office for Civil Rights (OCR) from June of 1997 until January of 2000 following his service as Senior Policy Advisor to the Assistant Secretary for Civil Rights from November of 1993 until 1997. Throughout his Department of Education tenure, Mr. Coleman was responsible for the development of federal civil rights legal policy in education. His focus included issues relating to standards reform, test use, students with disabilities, English language learners, affirmative action, sexual and racial harassment, and gender equity in athletics. Mr. Coleman was a partner in the firm of Nelson Mullins Riley and Scarborough in Columbia, South Carolina, where he practiced law from 1984 until 1993. He was also Counsel at Nixon Peabody LLP in Washington, D.C. from 2000 until 2004. Mr. Coleman received his J.D. from Duke

University School of Law (with honors) in 1984 and his B.A. with High Distinction from the University of Virginia in 1981, where he was a Phi Beta Kappa graduate. Mr. Coleman has served as an adjunct professor at two law schools and at one graduate school of education. Mr. Coleman is a member of the Advisory Board of the Alliance for Excellent Education, the National Association of College and University Attorneys, and the National School Boards Association's Council of School Attorneys. He has spoken widely and published extensively regarding legal and policy issues in education.

Michal Kurlaender, Assistant Professor of Education, University of California-Davis.

Dr. Kurlaender's research interests include access to post-secondary schooling for underrepresented populations; K-12 school desegregation and integration, and bringing innovative quantitative methods to bear on issues of education policy. Kurlaender has published widely in top academic journals in the fields of education and sociology and has received research grants from institutions including the Spencer Foundation and the American Educational Research Association. She received an Ed.D. in Education Policy from the Harvard Graduate School of Education in June 2005.

Stephan Thernstrom, Winthrop Professor of History, Harvard University, and Senior Fellow, The Manhattan Institute

Professor Thernstrom was born in Port Huron, Michigan and educated in the public schools of Port Huron and Battle Creek. He graduated with highest honors from Northwestern University in 1956, and was awarded the Ph.D. by Harvard in 1962. He held appointments as assistant professor at Harvard, associate professor at Brandeis University, and professor at UCLA before returning to Harvard as a professor in 1973. In 1978-1979 he was the Pitt Professor of American History and Institutions at Cambridge University and Professorial Fellow at Trinity College. He has been awarded fellowships from the John S. Guggenheim Foundation, the American Council of Learned Societies, the Social Science Research Council, and the John M. Olin Foundation, and research grants from the National Endowment for the Humanities, the Mathematical Social Science Board, the American Philosophical Society, the Rockefeller Foundation, and the Smith Richardson Foundation. His most recent book, co-authored with Abigail Thernstrom, is *NO EXCUSES: CLOSING THE RACIAL GAP IN LEARNING*. He also collaborated with Abigail Thernstrom in *AMERICA IN BLACK AND WHITE: ONE NATION, INDIVISIBLE*. He is the editor of the *HARVARD ENCYCLOPEDIA OF AMERICAN ETHNIC GROUPS*, the co-editor of *NINETEENTH CENTURY CITIES: ESSAYS IN THE NEW URBAN HISTORY* and *Beyond the Color Line: New Perspectives on Race and Ethnicity*, and the author of *POVERTY AND PROGRESS: SOCIAL MOBILITY IN A 19TH-CENTURY CITY*. His books have been awarded the Bancroft Prize in American History, the Harvard University Press Faculty Prize, the Waldo G. Leland Prize of the American Historical Association, and the R. R. Hawkins Award of the Association of American Publishers. He also has written widely in periodicals for general audiences, including *THE NEW REPUBLIC*, *THE TIMES LITERARY SUPPLEMENT*, *THE PUBLIC INTEREST*, *COMMENTARY*, *DISSENT*, *PARTISAN REVIEW*, *THE WALL STREET JOURNAL*, and *THE WASHINGTON POST*. He was appointed to serve on the National Humanities Council by President Bush in 2002.