



[Image description: Six elementary-aged children of varying ethnic/racial and gender expressions, standing in a circle, looking down at the camera, and smiling.]



Equity by Design:

**Staying the Course for School Desegregation:
Leveraging New and Prior Efforts**

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Staying the Course for School Desegregation: Leveraging New and Prior Efforts

Decades of school desegregation research overwhelmingly points to the myriad benefits for all students who attend integrated schools (see e.g., Mickelson, 2008; Mickelson & Nkomo, 2012; Schneider et al., 2022; Wells et al., 2016). Yet, nearly 70 years post-*Brown v. Board of Education* (1954), the majority of public school students are attending racially and socioeconomically segregated schools (NCES, 2022; Schaeffer, 2021). While desegregation efforts have had many flaws and were imperfect in their designs and implementations, which limited their reach, for those who attended desegregated schools the academic and social benefits were many and are why many school districts continue to actively pursue school integration (McDermott et al., 2015; Potter & Burris, 2020).

As school districts continue to work to create diverse and integrated schools, understanding the legal contribution of school desegregation is critical for staying the course. That is, school districts must not only be knowledgeable about the historical context of school desegregation but also what current efforts are occurring across the U.S. to combat school segregation as they may help guide them in leveraging policy in their own school communities' school integration endeavors. The purpose of this Equity by Design research brief is to illustrate the importance of continuing to pursue the initial goals of *Brown* (1954). We begin the brief by providing a short history of school

desegregation and how court rulings made it challenging for desegregation to be fully realized. We then discuss how flaws in policy design and implementation also contributed to unsustainable desegregation efforts and what we can learn from these missteps to create better desegregation policies. We conclude by highlighting what we believe are possibilities and areas where we must concentrate our work to actualize school integration.

Brief History of School Desegregation: Progress and Retreat

Desegregation has faced resistance since its inception. This resistance, particularly within white communities, and the catering to this resistance, contributed to desegregation not being fully implemented across many communities. Initially, the courts played a significant role in establishing and enforcing desegregation efforts throughout the nation.

One Step Forward...

As a response to a challenge to the "separate but equal" doctrine in *Plessy v. Ferguson* (1896), *Brown v. Board of Education* (1954) began the repeal of de jure segregation in school communities. The U.S. Supreme Court ruled in *Brown* that state-sanctioned segregation in public schools violated the Fourteenth Amendment of the U.S. Constitution. The ruling demonstrated that although landmark cases can be decided in favor of desegregation, the courts must also be

more specific in outlining a course of action. Because *Brown* did not provide a timeline for schools to desegregate, or the role the U.S. government had in ensuring the desegregation took place, *Brown v. Board of Education* (1955), or *Brown II*, addressed these areas to a certain extent. Justice Warren’s opinion in the *Brown II* ruling famously included that schools needed to desegregate “with all deliberate speed,” vague wording left open to multiple interpretations.

As many schools remained segregated after *Brown II* (1955), another significant segregation challenge was presented to the Court. *Green v. County School Board of New Kent County* (1968) brought de facto segregation via “freedom of choice” plans before the Court, showing these plans inadequately integrated schools after one all-white and one all-Black elementary-through-secondary school did not integrate when families were given the option to attend either school. This ruling made *Brown II*’s (1955) time-vague language of “all deliberate speed” concrete by determining the burden of a school board is to provide a realistic and timely desegregation plan. Referencing the Court’s language in *Griffin v. School Board* (1964) stating “[t]he time for mere ‘deliberate speed’ has run out (p. 377, U.S. 234),” the *Green* (1968) decision stated delays were no longer tolerable and integration must happen now. What became known as the “Green factors,” which included facilities, transportation, extracurricular activities, and student, faculty, and staff assignments, the Court also ruled schools must adopt plans that are practical and provide desegregation evaluation criteria . A few years later, the

Court unanimously upheld a district court’s decision that the Charlotte-Mecklenburg school district can use busing to integrate its schools (*Swann v. Charlotte-Mecklenburg Board of Education*, 1971), which set the precedent for large scale busing being used as a desegregation tool. As desegregation efforts continued to be evaluated by the Court, *Keyes v. School District No. 1* (1973) evaluated de jure segregation at the individual school level as a reflection of the larger district. If the Court determined most of the district was de jure segregated, then the Court can assume the rest of the district is as well—unless there is evidence to support the contrary. The presence of non-white (e.g., Black and Latinx) students does not render a school desegregated, if they are still discriminated against.



[Image description: A gavel resting on a book.]

...Two Steps Backwards

Exactly 20 years after *Brown* (1954), the Court began a series of retreats from desegregation, starting with the *Milliken v. Bradley* decision (1974). The Detroit school district was ordered by a federal district judge to create a metropolitan desegregation plan that included 53 of the 85 surrounding districts; this decision was upheld by the U.S. Court of Appeals in the Sixth District. However, the U.S. Supreme Court found integration was only legally enforceable in districts determined to have de jure segregation, thus halting the cross-district plan to desegregate *and* making it more difficult to cross district boundary lines for the purposes of integration (Holme et al., 2016).

The next chipping away at legal desegregation efforts came with *Washington v. Seattle School District No. 1* (1981). The state of Washington put forth an initiative effectively blocking districts from enforcing mandatory busing policies. The U.S. Supreme Court determined this violated the Equal Protection Clause of the Fourteenth Amendment by targeting integration efforts. Although the Court upheld desegregation policies, this also demonstrated that the Court places a burden of proof on plaintiffs to determine de jure segregation. Without such proof, the Court refers to the *Milliken* (1974) decision.

Almost a decade later, such a retreat from desegregation efforts by the Court was evident in two back-to-back year cases. In 1991, the Court ruled that an Oklahoma City school district had reached unitary status within the federal desegregation plan and could therefore be released from said

mandate. This set a precedent for districts to withdraw from desegregation orders once they proved their schools were integrated (*Board of Education of Oklahoma City v. Dowell*, 1991). Similarly, *Freeman v. Pitts* (1992) decided that after a Georgia school district was determined to be compliant in four of six Green (1968) factors regarding court-ordered desegregation, then the Court no longer needed to oversee those four areas.



[Image description: Top-view of a child's shoes standing in front of a curved arrow pointing back at them.]

Rounding out the cases of the 1990s that gradually abandoned desegregation was the *Missouri v. Jenkins* (1995) decision. In this case, the Court overturned a district court ruling requiring the state of Missouri to fund district salary increases and select education programs in an effort to address deliberate racial discrimination in the schools. The case began in 1977 when the Kansas City, Missouri School District sued the state and sought to create a metropolitan plan to attract more white suburban students and improve school quality, which was ruled against per *Milliken* (1974). *Jenkins* (1995), alongside *Dowell*

(1991) and Freeman (1992), are three decisions generally proclaiming a shift in the Court's interpretation of de jure desegregation enforcement from being that of a federal mandate and oversight in previous decades, to a local school district. As this shift occurred, the Court focused more on the constitutionality of school district plans. Most noteworthy, over 50 years after *Brown*, the Supreme Court ruled the Seattle School District's policy of using race as a factor in placing a student in a school after the family's initial choice of school was overcrowded was unconstitutional (*Parents Involved in Community Schools v. Seattle School District No. 1*, 2007). The Court determined the school district did not make a strong enough justification for why a student's race was the sole factor used in school assignment. While they ruled that race could not be used as the only factor in student assignment policies and favored color-evasive approaches to desegregation, the decision did leave room for school districts to use race alongside other factors to achieve integrated schools.

Despite the Court's abandonment of school desegregation, there is still a long legal precedent for continuing our pursuit of dismantling segregation in public schools.

Learning From and Avoiding the Mistakes of Desegregation

The pushback regarding desegregation in white communities contributed to many of the flaws in its design and implementation. Indeed, desegregation initially only focused

on balancing student demographics in schools (Hilbert, 2018), rather than taking a more holistic approach to achieve true integration. We needed more professional development opportunities (Diem et al., 2022) for educators teaching children from racially marginalized backgrounds, curricular offerings that provided a nuanced examination of race in the U.S. (Lazzell & Skelton, 2018), and a diversity of teachers and staff in schools (Jackson et al., 2017), among other remedies (powell, 1996). Not surprisingly, the mere presence of students from different racial backgrounds in schools was not enough to develop systems that could dismantle the vestiges of segregation that existed pre-*Brown*. Racial prejudices and discrimination persisted in schools in the absence of larger societal efforts to dismantle white supremacy (Epperson, 2005).

Misplaced Burdens

Burdens placed on racially marginalized families and students, particularly Black students, was another major flaw of desegregation. It was Black students, not white students, who had to endure long bus rides to desegregate predominantly white schools (powell, 1996). Further, when Black students arrived at these schools, they often represented a small portion of the student population (Welch et. al, 1987) and were thus isolated in schools that did not seek to truly integrate them.

Black teachers and administrators also lost their jobs when desegregation plans began to be implemented (Walker, 2020). Schools were shuttered in Black communities, a practice that continues to exist today in Black and other non-white communities

(Ewing, 2018). Schools are important places in local communities and when they close, important resources cease to exist, including the connections and ties that are established between young people and their communities (Kirshner & Pozzoboni, 2011).

Possibilities for Contemporary Desegregation Efforts

A recent national survey that sought to understand Americans' views on school integration found that the majority of the respondents overwhelmingly felt it was important for public schools in their communities to be both racially and economically diverse (Potter et al., 2021). This is also coupled with a large number of school districts and charter schools implementing school integration policies or other legal measures that are working to combat segregation in their school communities (Anderson & Frankenberg, 2019; Potter et al., 2021). Yet, we also know that while many families value the idea of diverse schools, their actions can look quite different. This is particularly true for white families who support racial and economic diversity but do not send their children to integrated schools because they perceive them to not be as "good" or of "high" quality (Billingham & Hunt, 2016; Roda & Wells, 2013; Torres & Weissbourd, 2020). Given this push and pull of what we know are the benefits of integrated schools, as well as the majority of society's support for these schools, with the choices families are actually making as to where to send their children to school, what can we do moving forward to stay the course of school desegregation? Also, what policies can school leaders and districts leverage to further desegregation efforts?

Federal Efforts

While the courts were a good avenue for initially pursuing school desegregation, they did not maintain their efforts (e.g., desegregation orders have been lifted) or resolve the ongoing segregation that exists in public schools. However, we believe that the federal government can play an important, proactive role in fostering and supporting desegregation efforts at state and local levels through legislation and government-sponsored programs. For example, the Strength in Diversity Act (2020) would be an important step that would help school districts develop and expand desegregation efforts. However, the legislation needs to be coupled with a serious financial investment in programs that seek to establish and increase school district diversity.

One longstanding federal program that has supported magnet schools in their efforts to further desegregation goals, the Magnet Schools Assistance Program (MSAP), must be allocated more funding if we are serious about diversifying our public schools. In 2020, only eight awardees were funded at \$107 million (U.S. DOE, 2020), which is well short of the program's demand, particularly when research illustrates the value of magnet schools and programs that are designed and implemented with diversity and equity as their goals (Ayscue et al., 2017).

State and Local Efforts

State lawmakers can also play an important role in advancing desegregation efforts. In New Jersey, lawmakers recently introduced a bill that would establish a Division of School Desegregation that would be

housed in their state's education department. The new division would examine racial and economic segregation and its impact in the state's schools, and work to create a plan to expand integration efforts (Wall, 2022). If more states were willing to institutionalize desegregation via the creation of divisions or units in their education departments, perhaps more state-level desegregation plans could be created *and* mandated at the state level. These plans could then assist school districts at the local level in crafting their own policies and practices that adhere to state requirements, which may be particularly helpful for those districts who may face resistance to school desegregation in their communities.

At the more local level, school districts have the power to create attendance boundaries that could lead to more school-level integration. As de facto segregation continues to be pervasive across U.S. neighborhoods, which contributes to school

segregation, school districts can (re)draw their boundaries to intentionally create racially and economically diverse schools. And as districts expand or update, they can consider these boundaries as they place new schools to determine and assess their choice options. As demonstrated by Green (1968) the presence of school choice is not an effective integration tool. However, comprehensive school choice plans that prioritize integration can positively contribute to integration practices beyond initial busing efforts.

In a contemporary educational landscape that is experiencing a proliferation of school choice and persistent school segregation, staying the course in our long fight for desegregated schools is all the more critical. Collectively, we must harness efforts at the federal, state, and local levels to support school integration and pursue educational equity.

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[Watermark image description: Silhouette of adults holding foundation pieces as children walk up them.]

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

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