

PERSISTENT RACIAL SEGREGATION IN SCHOOLS: Policy Issues and Opportunities to Address Unequal Education Across New Jersey's Public Schools

Background

It is widely documented that New Jersey has one of the best public education systems in the country.¹ In addition, New Jersey is recognized for how its educational system serves low-income, African-American, and Latino students.² However, disparities persist and are correlated with segregation, both economic and racial. Only 81.7% of low-income students graduate in New Jersey, compared with 89.37% of students statewide (2015 data).³ Further, disparities in educational quality persist between New Jersey's suburban districts and its largely African-American and Latino, low-income urban districts. Jersey City, for instance, has a 73.7% graduation rate and Newark and Trenton graduation rates are at 69%. Nearly half of New Jersey's Abbott schools and districts have been identified as in need of improvement under state and federal accountability systems.⁴

It is also the case that New Jersey suffers from one of the most segregated public school systems in the nation. In fact, **only Illinois and Michigan have more segregated schools than the Garden State.** According to a study released by Professor Paul Tractenberg in 2013, the percentage of "intensely segregated" schools (90% to 100% minority students) in New Jersey has increased from 11.4% to 18.7% and the percentage of what he calls "apartheid schools" (99% to 100% minority students) in New Jersey has increased from 4.8% to 8% in the 20-year period studied (between 1989-1990 and 2010-2011).⁵ Today, NJ's "apartheid schools" educate 26% of the state's African-American students and almost 13% of the state's Latino students. Nationally, NJ ranks fifth in the percentage of African Americans and Latino students who are concentrated in intensely segregated schools.⁶ NJ also ranks third in the percentage of African

¹ [Quality Counts 2016, Education Week Research Center, 2016.](#)

² "NJ ranked sixth nationally in fourth grade reading scores among low-income students (Education Trust 2011 data). ... New Jersey's track record across grade levels and subjects for African-American students is significantly better than most other states (New Jersey ranked second on this measure); it drops to ninth for performance among Latino students." Education policy paper, September 2014.

³ Mooney and O'Dea, Statewide High-School Graduate Rate Increases to Nearly 90 Percent, NJ Spotlight, 2016.

⁴ Education policy paper, September 2014.

⁵ [Flaxman, Kuscera, Orfield, Ayscue and Siegel-Hawley, A Status Quo of Segregation: Racial and Economic Imbalance in New Jersey Schools, 1989-2010, 2013](#)

⁶ [Orfield and Frankenberg with Ee and Kuscera, Brown at 60: Great Progress, a Long Retreat and an Uncertain Future, 2014](#)

American students and fifth in the percentage of Latino students who are concentrated in apartheid schools.

Why Integration Matters for All Students, Privileged and Not

Segregation Hurts Poor and Non-White Students. It is difficult – if not impossible – to surgically excise racial segregation from economic segregation as they reflect and are shaped by school segregation. It is a fact of the American experience that poverty and racial isolation too frequently coincide (in the 2010-2011 school year, 78.5% of NJ students in intensely segregated schools were low-income, compared with 32.7% statewide), if not because of the enmity of individuals then as a consequence of social policies and practices that have shaped housing, employment, transportation, and, yes, education.⁷ But even if it were possible to disentangle those strands of demography, it might not shed more light on this complicated subject. At present, intergenerational social/economic mobility is sharply limited, and the three chief predictors are (1) residential segregation, (2) income inequality, and (3) school quality.⁸ This overlap is, unfortunately, mutually reinforcing. Phil Tegeler, civil rights lawyer and Executive Director of the Poverty & Race Research Action Council, notes that a public policy focus on racial integration will also achieve socioeconomic integration; however, a public policy focus on socioeconomic integration will not necessarily alleviate racial isolation, particularly in places where low socioeconomic status and non-white race are not closely correlated.^{9,10}

Research has demonstrated that segregation and concentrated poverty can have lasting, detrimental intergenerational consequences. For example, children whose families have lived in poor and segregated communities for two generations score, on average, eight points lower on problem-solving tests and seven points lower on reading tests than children whose families have lived in less disadvantaged neighborhoods, a gap that is the equivalent of missing two to four years of schooling.¹¹

According to Paul Tractenberg, “double segregation by race and poverty is systematically linked to unequal education opportunities and outcomes.” He associates racial isolation and concentrations of poverty with higher dropout rates, fewer students prepared for college success, more limited curriculum often taught at much lower levels, less prepared classmates,

⁷ [Flaxman et al., 2013, page 25](#)

⁸ [Chetty, Hendren, Kline, and Saez, Where is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States, 2014](#)

⁹ Conversation with Phil Tegeler, PRACC, 8/25/15

¹⁰ [Reardon and Rhodes, The Effects of Socioeconomic School Integration Policies on Racial School Desegregation, 2011](#)

¹¹ Patrick Sharkey, [Stuck in Place: Urban Neighborhoods and the End of Progress Toward Racial Equity](#), 2013 cited in [Rothstein: “The Urban Poor Shall Inherit Poverty,” The American Prospect January 7, 2014](#)

less experienced teachers, high turnover of both students and teachers, and higher levels of summer learning loss.¹²

Integration Benefits All Students. On the flip side, enrollment in integrated schools has strong positive impact on **all** children, with low-income disadvantaged minority youth benefiting the most.¹³ Studies have shown that low-income students in integrated schools have higher academic performance than students in high-poverty schools as well as improved life outcomes. **Students attending racially and socioeconomically diverse schools are more likely than peers who attend disadvantaged segregated schools to achieve higher test scores and better grades, graduate from high school, and attend and graduate from college.**¹⁴ Low-income fourth graders who attend economically integrated schools are as much as two years ahead of low-income students attending high-poverty schools.¹⁵ African-American youths who spent five years in desegregated schools earned 25% more than those who never had that opportunity.¹⁶ In a subsequent study, the same research team found that these benefits accrued to the next generation (children of parents who had attended integrated schools), including “increased math and reading test scores, reduced likelihood of grade repetition, increased likelihood of high school graduation and college attendance, improvements in college quality/selectivity, and increased racial diversity of student body at their selected college.”¹⁷ Other studies have shown similar results.¹⁸

Integrated schools also benefit white students. Benefits include more robust classroom discussions and the promotion of critical thinking and problem-solving skills. Overall, research studies demonstrate that “racially diverse schools are not linked to negative academic outcomes for white students.”¹⁹ There are also longer term life benefits: “Compared to racially isolated educational settings, racially integrated schools are associated with reduced prejudice among students of different racial and ethnic backgrounds, a diminished likelihood of stereotyping, more friendships across racial lines, and higher levels of cultural competence.”²⁰

¹² [Tractenberg and Orfield, New Jersey's Apartheid and Intensely Segregated Urban Schools: Powerful Evidence of an Inefficient and Unconstitutional State Education System, 2013](#)

¹³ [Mickelson, Research Brief 5: School Integration and K-12 Educational Outcomes: A Quick Synthesis of Social Science Evidence, National Coalition on School Diversity, 2015](#)

¹⁴ [Ibid.](#)

¹⁵ [Kahlenberg and Potter of the Century Foundation, The Original Charter School Vision, New York Times opinion, August 30, 2014 \(Data from the National Assessment of Educational Progress \(NAEP\) in mathematics\)](#)

¹⁶ [Johnson, Long-run Impacts of School Desegregation & School Quality on Adult Attainments, National Bureau of Economic Research, Working Paper 16664, 2011](#)

¹⁷ [Johnson, The Grandchildren to Brown: The Long Legacy of School Desegregation, 2012](#)

¹⁸ [Mickelson, Research Brief 5: School Integration and K-12 Educational Outcomes: A Quick Synthesis of Social Science Evidence, The National Coalition on School Diversity, 2015](#)

¹⁹ [Siegel-Hawley, Research Brief 8: How Non-Minority Students Also Benefit from Racially Diverse Schools, The National Coalition on School Diversity, October 2012](#)

²⁰ [Ibid.](#)

Federal Policy Framework

Since *Brown v Board of Education* found that “separate educational facilities are inherently unequal” and directing that segregation of schools proceed with “all deliberate speed”, federal education policy with regard to segregated schools has gone through many twists and turns. Subsequent historic events included passage of the Civil Rights Act of 1964 (Title IV prohibits discrimination on the basis of race, color, sex, religion or national origin by public K-12 schools and public institutions of higher learning²¹), ongoing struggles in the 1960s and 1970s to integrate schools (particularly large-scale successful school integration in the South), and adoption and subsequent abandonment of busing as an integration strategy.

In the 1980s the federal government largely turned away from integration efforts, leading to the advent of voluntary measures. Professor Gary Orfield, a UCLA professor and cofounder of the Civil Rights Project, describes the adoption at this time of a “second generation” of school desegregation plans. These plans included mixing mandatory and voluntary plans, magnet schools, and “controlled” choice programs (i.e., student choice of schools consistent with desegregation goals). They also included educational improvements such as pre-school programs, early grade reading programs, reduced class sizes, and counseling.

In 2007, the US Supreme Court in *Parents Involved In Community Schools v. Seattle School District No. 1* introduced a hurdle to school desegregation efforts when it ruled against desegregation plans in Louisville, Kentucky and Seattle, Washington. The NAACP Legal Defense Fund describes the ruling:

A majority of the Justices recognized the importance of diversity and avoiding racial isolation in K-12 public schools, but the Court struck down particular aspects of the Seattle and Louisville student assignment plans because they were not, in its view, sufficiently well designed to achieve those goals. Significantly, while the Court placed limits on the ability of school districts to take account of race, it did not—as some reported—rule out any and all consideration of race in student assignment. In fact, a majority of Justices explicitly left the window open for school districts to take race-conscious measures to promote diversity and avoid racial isolation in schools.²²

Since that time, the federal government has not moved energetically to advance school integration programs. President Obama’s Race to the Top program, for example, focused instead on expansion of charter schools, teacher and principal quality, and assessment tools. Diversity was mentioned, but not prioritized.²³ The federal government does provide approximately \$90 million annually to support magnet schools, however, and while these funds

²¹ [U.S. Department of Justice, Types of Educational Opportunities Discrimination, 2015](#)

²² [NAACP Legal Defense & Education Fund, K-12 Voluntary Integration](#)

²³ [The National Council for School Diversity, Issue Brief 4: Federal Support for School Integration, A Status Report, updated 2014](#)

pale in comparison to funds for charter schools and accountability/assessment measures (which each received approximately \$250M in FY2014), they are significant. Moreover, these magnet funds are directed to those school districts that have developed magnet schools to comply with court-ordered desegregation plans or federally approved voluntary desegregation plans (Wake County, NC, Hartford, CT, Houston, TX, etc.) for the express purpose of creating more diverse and equitable educational settings. Most recently, in the federal FY2017 budget, President Obama included a \$120 million request for “Stronger Together,” a new competitive funding program that would offer planning and implementation grants for voluntary, community-developed socioeconomic integration plans, including changes to attendance boundaries and student assignment policies; establishment of schools that attract students from diverse backgrounds; and activities designed to mitigate within-school segregation, among others.

Many school districts across the country, including many districts in the south (Tuscaloosa, AL, Charlotte, NC), have abandoned school integration efforts in recent decades, leading to the re-segregation of schools that had once been intentionally integrated through federal policy.^{24,25} Other districts, such as Louisville, KY and Berkeley, CA, have stayed the course despite challenges imposed by the 2007 *Parents Involved* ruling. At least one – Hartford, CT – has moved toward integrated schools as a result of civil rights litigation that built upon a strong state legal framework. These examples are explored in some detail below as potential lessons for New Jersey.

State Policy Framework

New Jersey, paradoxically, has at once one of the strongest legal and constitutional frameworks in the country supporting integration of public schools and one of the worst on-the-ground records of any state. In 1947, New Jersey was the first state in the nation to adopt constitutional wording that specifically prohibited segregation in public schools, and is still the only state in the nation with an explicit provision.²⁶ Subsequent NJ Supreme Court decisions in the 1960s and early 1970s established a strong legal framework for integration in public education. Flaxman, Tractenberg, and Orfield describe these decisions as follows:

In the 1965 *Booker* decision, the NJ Supreme Court “erased the distinction between de jure and de facto segregation, and stressed the importance of children learning to live together at as young an age as possible.”²⁷ In the 1971 *Jenkins* decision, the same court ruled that the state commissioner of education had the undeniable power to cross

²⁴ <https://www.americanprogress.org/issues/race/news/2015/09/02/120462/returning-home-to-an-odd-mixture-of-progress-and-retreat/>

²⁵ [Hannah-Jones, Segregation Now, The Atlantic, 2014](#)

²⁶ [New Jersey State Constitution, 1947](#)

²⁷ [Booker v. Board of Ed. of City of Plainfield, 45 N.J. 161, 212 A.2d 1 \(1965\)](#)

school district lines if, in his judgment, that was necessary to achieve racial balance in the schools.²⁸ The court found that power to be derived not only from the state constitution's anti-segregation provision but also from its education clause. Whenever it was feasible for racial balance to be achieved, said the court, the state had the power, and presumably duty, to order it. The result of that decision was the mandatory consolidation of the urban Morristown school district with the surrounding white suburban Morris Township school district in 1973.²⁹

Since that time, however, the cases before the NJ courts have tended to focus on funding rather than directly on race in education.

Fair School Funding. New Jersey has focused primarily upon addressing inequities in the financing of public education, with the goal of creating a quality educational system in the state's most disadvantaged school districts. Over a 40-plus-year history, including *Robinson v. Cahill* (1973-76) and through more than 20 NJ Supreme Court *Abbott* decisions, New Jersey has been at the vanguard nationally in fair school funding and providing the resources needed to improve student performance. The results are significant and, as noted in our September 2014 Education Policy Paper, have included a narrowing of the performance gap between Abbott students and other students in the state, substantial reform in school funding – particularly for at-risk students and high-need schools in New Jersey, establishment of high quality preschool for 51,000 three- and four-year-old children in urban communities (nearly 80% of eligible three- and four-year-old children in Abbott districts were enrolled in state-funded preschool programs in 2005-06); and introduction of a statewide school construction program to ensure that all New Jersey students attend school in facilities that are safe, educationally adequate, and not overcrowded, resulting in the construction of over 100 new and renovated schools. These incredibly significant accomplishments focused on an in-place strategy and, as a result, did not directly tackle the issue of persistent racial and accompanying socioeconomic segregation present across New Jersey's school districts, a condition that exists to this day.

The courts returned to the issue of school desegregation in the 1990s and 2000s in two noteworthy cases: North Haledon and Englewood. In the North Haledon case, the NJ Supreme Court considered if a town (mostly white and relatively affluent) could withdraw from a regional school district (increasingly non-white) if the result would increase segregation in the schools. The New Jersey Supreme Court found that the reduction of integration that would result from withdrawal would be harmful and prevented the town from withdrawing from the regional district. Chief Justice Poritz noted in that decision that NJ's schools were actually

²⁸ [Jenkins v. Morris Tp. School Dist., 58 N.J. 483, 279 A.2d 619 \(1971\)](#)

²⁹ [Flaxman, et al: 2013, page 11](#)

getting more segregated over time, and observed: “We have paid lip service to the idea of diversity in our schools, but in the real world we have not succeeded.”³⁰

The second case, *Board of Education of Englewood Cliffs v. Board of Education of Englewood*, began in 1985 when Englewood Cliffs tried to end its relationship with Englewood – home of the racially segregated Dwight Morrow High School – and send its high school students to primarily white Tenafly. Englewood proposed a regional district that would merge the three districts, but the other two districts vociferously fought regionalization. In 1993, the NJ Supreme Court rejected Englewood’s bid to merge but required Englewood Cliffs to keep its arrangement with Englewood’s Dwight Morrow. In a bizarre result, Dwight Morrow today remains segregated but Academies@Englewood, which opened in 2002 on the same campus, is an integrated school (with a near-equal mix of whites, Asians, blacks and Hispanics) that participates in the Interdistrict School Choice Program (receiving students from other districts).

HOW TO BRING ABOUT CHANGE

In New Jersey, litigation efforts and concomitant policy advocacy, public education, and organizing have largely focused on fair school funding, with Education Law Center (ELC) the long-time litigation and advocacy engine behind these efforts. Relatively little attention has been paid to date to litigation and advocacy around school integration, but the time may well be ripe for action on this issue.

A successful **public interest litigation and advocacy** effort could serve as the driver for movement on school integration, and in fact, may be the most likely way to achieve progress. New Jersey has a unique constitutional provision barring segregation in public schools. According to Paul Tractenberg, “New Jersey also was one of the first and only states, through statutes, constitutional provisions, and implementing judicial decisions, not only to bar segregation in the public schools, but also to affirmatively require racial balance wherever that was feasible.”³¹ Opportunities may exist to challenge New Jersey’s persistently segregated school districts as well as more modest-in-scope challenges to segregation within districts (e.g. Hamilton Township, Mercer County). Another opportunity for litigation may be to challenge the segregated environment created within the county public magnet schools, which admit very few African-American or Latino students and almost no Free and Reduced Lunch students, in contrast to magnet schools in other locales that consciously seek to achieve racial integration. Whatever the litigation strategy chosen, it is clear that it must be paired with a long-term public engagement and community mobilization strategy to be successful.

³⁰ [In Re: the Petition for Authorization to Conduct a Referendum on the Withdrawal of North Haledon School District from the Passaic County Manchester Regional High School District, August 2004](#)

³¹ [Tractenberg and Orfield, *New Jersey’s Apartheid and Intensely Segregated Urban Schools: Powerful Evidence of an Inefficient and Unconstitutional State Education System*, 2013, page 3](#)

There are some promising approaches that have been used elsewhere to integrate public schools.³² Often these remedies are the outcome of multi-year litigation (Hartford, CT; Louisville, KY) or legislative actions (Omaha, NE), along with policy advocacy and organizing strategies. Less frequently, they represent voluntary measures put in place to integrate schools (Berkeley, CA). Approaches to foster school integration include:

- **magnet schools** (and to a much lesser degree, charter schools), which can incentivize transfer of students within and across districts, promoting diversity;
- modified **inter-district school transfer** plans (commonly referred to as school choice plans) that include criteria to promote racial and socioeconomic diversity; and
- school **district consolidation** of racially segregated school districts to advance civil rights and racial balance goals.

These approaches have been little tried in New Jersey, but there are examples from elsewhere that could be instructive.

Inter-District Magnet Schools

Magnet schools were developed during the 1970s to encourage voluntary desegregation. Whereas busing, the other major desegregation tool of the time, mandated that students attend specific schools in order to reduce racial isolation, magnet schools offered families choice. According to the U.S. Department of Education (USDOE), magnets were modeled after successful specialized high schools, with one key distinction—testing and other academic indicators were not used to determine admission.³³ Magnet schools have the ability to draw students across traditional school district boundaries, and usually have a thematic focus (science, mathematics, arts, etc.). As the USDOE notes, the theory behind magnet schools was to create schools with unique programming that was “magnetic” enough to attract diverse families despite location (urban or majority-minority areas) or a need for busing.

In 1976, the USDOE began its Magnet School Assistance program. The Magnet School Assistance program makes funding available to local education authorities that have magnet schools due to court-ordered desegregation plans or voluntary integration plans that are approved by the USDOE. In FY 2014, the funding available amounted to more than \$91 million. Though magnet schools were developed with the intention to be non-selective, diverse, and innovative, magnet schools have evolved over time to include selective, less diverse schools

³² Another more provocative proposal from Tractenberg: “induce state and local governments from building or subsidizing more low-income housing in areas where students must attend apartheid schools and live in apartheid neighborhoods”, an idea which has gained traction in the media of late, [Tractenberg, A Tale of Two Deeply Divided NJ Public School Systems, NJ Spotlight, December 2013](#)

³³ [U.S. Department of Education, Innovations in Education: Creating Successful Magnet School Programs, 2004](#)

(such as the Bergen County Academies) that are not unlike the specialized schools that magnets were initially modeled after (these types of magnet schools are not eligible for the federal Magnet School Assistance Program, but can be funded through federal, state, and county – in the case of county vocational and technology schools – dollars).

In 2008-2009, more than 2.5 million students across the country were enrolled in magnet schools, more than twice the number of students served by charter schools, another commonly used vehicle to provide families with school choice. Researchers have concluded that magnet schools are more likely to create racially and socioeconomically integrated settings than charter schools. Data show that magnets are slightly less likely to be intensely segregated schools or intensely segregated white schools (90-100% white students) than charters and that magnet schools have been better able to provide students with majority nonwhite (more diverse) settings than charter schools (40% and 23%, respectively). In intensely socioeconomically segregated schools (75% to 100% low-income), more kids in charter schools are black and Latino (about 90%) than in magnet schools (about 70%).³⁴ Though charters are evolving to become more intentionally diverse as education reformers recognize the racial disparities that exist within many charter schools (see section on charter schools below), historically, magnet schools have made more significant strides in achieving racial and socioeconomic diversity.

Magnet School Case Study: Hartford, Connecticut

Connecticut regularly ranks among the top three states in the country in the quality of its K-12 public education system.³⁵ Like New Jersey, Connecticut is a small, wealthy, and highly educated state that boasts some of the best and worst schools in the country—its excellent schools are mostly in affluent suburban districts, while its lowest performing schools are concentrated in its low-income and majority-minority urban centers.

In 1989, 11 families in the Hartford public school district sued the State of Connecticut for its failure to provide students in the urban Hartford district with the same quality of education as students in the wealthy suburbs surrounding the city. In 1996, the Connecticut Supreme Court established in *Sheff v. O'Neill* that the students of Hartford had a right to an equal education after noting that the state Constitution's segregation provision (that no one shall be discriminated against on the basis of race) informed the education provision (a guarantee for free and public schools). The Court recognized that while the State had not deliberately created segregated schools, the creation of local school districts in a state where communities were segregated had created *de facto* segregated schools (in 1991, 94.2% of the Hartford school district was made up of minority students, compared with 25.7% statewide).

³⁴ [Siegel-Hawley and Frankenberg, Research Brief 6: Magnet School Student Outcome: What the Research Says, The National Coalition on School Diversity, 2011](#)

³⁵ [Wallace, The States with the Best Schools, 2015](#)

The Court directed the Legislature and Governor to pursue school integration in Hartford and its neighboring municipalities. Since then, the plaintiffs, the City of Hartford and its school district, and the state have worked to desegregate Hartford schools through 45 host (City of Hartford) and regional (operated by the Capital Regional Education Council) inter-district pre-K-12 magnet schools that attract affluent suburban students to the city through: thematic focus – STEM, liberal arts, career readiness, etc.; unique resources, including state-of-the-art facilities (media labs, butterfly habitats, aquatics), tuition-free college courses, internships; free preschool; and the Open Choice program that provides Hartford students with access to suburban schools within the 22-district *Sheff* region.

Research has shown that Connecticut’s inter-district magnet schools have improved educational outcomes for Hartford students and social cohesion for all students. Evaluations found that the magnet system reduced student absenteeism and increased peer support for academic achievement and support for college attainment for the low-income minority students who previously attended segregated Hartford schools. White magnet school students were more likely to have minority friends than white non-magnet suburban students and all students were more likely than their non-magnet school counterparts to express that their school experience had helped them to better understand people from other groups.³⁶

The original agreement between the plaintiffs and the state was signed in 2003 and established Phase I of the agreement to create “voluntary inter-district opportunities to lessen racial, ethnic, and economic isolation.” The agreement has since been renegotiated three times (creating Phase II, Phase III, and a Phase III extension) to spur progress, and the new goal is to have at least 47.5% of Hartford students in integrated schools (defined as $\leq 75\%$ minority students) by June 30, 2016.

Data released in November 2014 show that the June 2016 goal will be met as 47.5% of Hartford students already attend integrated schools (prior to the *Sheff* litigation, only 11% of Hartford students attended integrated schools). In 2014, 9,558 of Hartford’s 21,458 minority students were able to attend schools with reduced racial isolation due the expansion of existing and creation of new magnet schools and the addition of more seats in the Open Choice program. Today, more than 17,000 students in the Hartford region attend the Hartford and regional magnet schools and approximately 2,000 city students participate in the Open Choice program. The latest Phase III extension expands the magnet schools and Open Choice program and mandates that inter-district magnet schools that do not ensure that at least half of each school’s incoming class is made up of Hartford residents will receive reduced funding.

It is important to note that although the *Sheff* region has made strides to reduce racial isolation in Hartford and its surrounding school districts, 19 years after the *Sheff* decision, only 47.5% of

³⁶ [Siegel-Hawley and Frankenberg, Research Brief 6: Magnet School Student Outcome: What the Research Says, The National Coalition on School Diversity, 2011](#)

Hartford students have access to integrated educational settings. The more than 50% of students who do not attend inter-district magnets or take part on the Open Choice program continue to attend segregated district and charter schools within Hartford through the Hartford Public Schools Choice Program that allows families to prioritize schools based on their own preferences (location, specific programs, etc.).

As a recent *This American Life* episode noted, the voluntary nature of the *Sheff* plan, though vital to its success and public acceptance, has consequences for school desegregation—until more suburban students enroll in Hartford-based inter-district magnet schools and more suburban districts expand the number of seats available to Hartford students (all with the help of necessary state funding), many urban students will continue to experience unequal educational opportunities.³⁷

Magnet Schools: The New Jersey Experience

New Jersey has a number of highly distinguished magnet schools that are considered to be among the state’s best performing schools—seven of NJ’s top ten schools are magnet schools.³⁸ Largely technology academies, the genesis of which was allowed by the county vocational school framework, these are high-powered academic institutions that attract the highest performing students county-wide. However, while these schools provide excellent educational opportunities and produce high test scores, admission to these schools is based on test scores and grade point average, effectively shutting out students who have attended under-resourced K-8 schools or who do not have the means to afford costly test preparation classes for magnet school exams.

The selective, but racially imbalanced magnet schools are a good example of how magnet schools can entice families to cross district lines—every year students vie to get into these schools and busing has not served as a deterrent. But they remain predominantly White and Asian, with extremely low levels of students qualifying for free and reduced lunch, which highlights the need for less-selective (or differently selective) and more intentionally integrated magnet schools.

Some county magnet schools are both high-performing and intensely racially and socioeconomically segregated (e.g. Bloomfield Tech in Bloomfield, NJ, which is part of the Essex County system, is predominantly African-American, Hispanic, and low-income), but these schools are the exception rather than the norm.

Variation on a Theme: Intra-District Magnets and School Assignment in New Jersey

³⁷ [This American Life, The Problem We All Live With, Part II, August 2015](#). Part II highlights the *Sheff* case and the progress being made in Hartford, CT to reduce racial isolation. [The Problem We All Live With, Part I](#) explores St. Louis, MO, and its return to segregated schools in the years after its court-ordered desegregation mandate was lifted.

³⁸ [U.S. News, Best High Schools in New Jersey, 2015](#)

There are a few selective magnet schools in New Jersey that have diverse student populations. The Ronald E. McNair Academic High School in Jersey City, one of the top five schools in the state, considers race in admissions (it has a quota in place for 25% White, 25% African-American, 25% Latino, and 25% Other, though the actual demographics are 20% White, 17% African-American, 22% Latino, 41% Other (mostly Asian)) along with more traditional factors such as test scores, grades, teacher recommendations, and extracurricular activities. The school also has a high percentage of students enrolled in the free- and reduced-lunch program (47%). Yet McNair, like some of the high-performing, but segregated inter-district county magnet schools, is an exception rather than the rule. Though McNair students have access to increased opportunities, other Jersey City students continue to attend poor performing schools.

A local suburban example of the use of magnet schools to create intentionally integrated learning environments can be found in Montclair.³⁹ As a result of a 1968 court order, Montclair created two magnet schools that voluntarily drew white students to the primarily African-American school and African-American students to the primarily white school. The two schools successfully desegregated, and today, all of Montclair's elementary and middle schools are integrated magnet schools (Montclair's comprehensive high school is 47% white, 38% African American, 10% Hispanic, 5% Asian, 2.5% Multiracial, and 0.2% American Indian. All the district's elementary and middle schools follow those demographic patterns within 10 percentage points, with the exception of two schools that follow the white and African American enrollment patterns within 18 percentage points). These Montclair schools are non-selective; instead, families are assigned to one of three zones based on household income, eligibility for free and reduced lunch, and other census data. Families then prioritize the themed magnet schools (STEM, global studies, visual and performing arts, etc.) and the district assigns students based on family preference and with the goal of achieving racial diversity across all the schools. Montclair is an example of how magnets can work within a diverse district to create schools that each reflect the make-up of the municipality and provide students with the educational and social benefits of integration.

Other districts have adopted similar policies to ensure that all the schools within the district racially and economically reflect the population of the school district. The Princeton Public School District purposefully assigns school zones to foster integration. Students living in Princeton Housing Authority downtown units are assigned and bused to a school in the most affluent section of Princeton, which has resulted in the first majority-minority school in the district. Other students who live in University-affiliated housing are bused across town,

³⁹ Historically, Montclair's African American residents have been concentrated in the less affluent southern section of Montclair. Today, the highest concentration of African American residents (31.3% of the population) is in the southeast section; this area of town is also home to the neighborhood with the highest number of residents living under the federal poverty level (24.5% compared with 5.6% Montclair-wide and 8.5% statewide) [City-Data, Montclair, NJ](#)

breaking up a concentration of privilege. In this way, the public school district is able to mitigate the effects of residential segregation within the municipality.

New Jersey's large number of school districts and intense levels of segregation between school districts means that the greatest potential to create integrated educational experiences in New Jersey is likely through school district consolidation and inter-district magnet schools.

Nonetheless, there are significant steps that can be taken within districts that are racially and socioeconomically diverse to mitigate residential segregation.

The Potential for Charter Schools to Foster Diversity

Charter schools were originally created to be laboratories for innovation, in which new and non-traditional strategies could be employed to improve educational outcomes. But Kahlenberg and Potter argue in *A Smarter Charter: Finding What Works for Charter School and Public Education*⁴⁰ that charter schools, as they are currently structured, can have a more segregating effect than traditional district schools (a 2010 Civil Rights Project study⁴¹ demonstrates that nationally 36% of all students in charter schools attend intensely segregated schools, while only 15% of students in district schools attend similar schools).

Some states, in an effort to focus on the most disadvantaged students, have adopted statutory and regulatory barriers to increasing diversity in charter schools, such as by limiting enrollment to the district in which the charter school is located.⁴² In other instances, however, such segregation is more a matter of individual school practice. Charters can take steps to reverse these trends and deliberately address school segregation by including demographics among admissions criteria. In response to increased attention to this issue, it appears that some in the charter school movement are beginning to talk more about the need to increase the diversity of charter schools. In 2014, a new membership organization was formed, The National Coalition of Diverse Charter Schools, which explicitly seeks to achieve diversity in charter schools.⁴³

Charter Schools: The New Jersey Experience

In New Jersey, charter schools have been criticized for enrolling students who are demographically different than their district peers. A 2014 study by Mark Weber and Julia Rubin examined seven urban districts and found that the charter populations were less economically disadvantaged, less likely to have special educational needs including limited English proficiency, and were less likely to be Latino while more likely to be African-American. The authors found that these disparities resulted in intensifying concentrations within the district

⁴⁰ Kahlenberg and Potter, *A Smarter Charter: Finding What Works for Charter Schools and Public Education*, 2014

⁴¹ [Frakenberg, Siegel-Hawley, and Wang, *Choice Without Equity: Charter School Segregation and the Need for Civil Rights Standards*, 2010](#)

⁴² [Potter, *Is there Political Support for Integrated Charter Schools?*, The Century Foundation, 2015](#)

⁴³ [National Coalition of Diverse Charter Schools](#)

schools of poor children and those with learning challenges.⁴⁴ Their findings suggest that urban charters in NJ, as currently structured, do not ameliorate segregation and do in fact concentrate students with special needs within traditional public schools.

Inter-District School Transfer

Inter-district school transfer (more commonly referred to as school choice) allows students to attend schools beyond the boundaries of their home school district, giving families the ability to choose where their children go to school and challenging the notion that housing and education have to go hand in hand. Inter-district school transfer programs typically allow students to enroll in a receiving district with the cost of the school transfer being incurred by the state (for tuition) and by the sending district (transportation, though in some cases parents are responsible for transportation). A number of states around the country have inter-district school transfer programs, though not all programs are created equal: in Wisconsin and Oregon, parents are responsible for paying for transportation (though low-income families in Wisconsin can apply for reimbursement); in Missouri, the sending district is responsible for both tuition and transportation; in California, only students from the 1,000 “low-achieving” schools that have been designated as “open enrollment “ schools can apply to transfer to higher-performing schools; and in Massachusetts, the METCO program (created to integrate students in racially isolated education settings in Boston and Springfield and separate from its statewide transfer program that is more like Oregon’s), is funded by the state. The USDOE has a Voluntary Public School Choice program that supports inter-district or intra-district open choice (through transfers, magnets schools, etc.) with an emphasis on creating opportunities for students in low-performing schools to attend high-performing schools (in FY 2011, it received \$25 million in funding).

Advocates for utilizing inter-district school transfers for the purpose of reducing racial isolation encourage the use of controlled choice instead of open choice. Whereas open choice allows families to rank schools based on preference with no consideration of how that might affect diversity within schools, controlled choice provides for both parental choice and racial integration by taking preferences into account as it assigns students to schools in order to create racial balance (though racial balance is the goal, many controlled choice programs have shifted to use racial and socioeconomic status indicators instead of just race in order to comply with the *Parent Involved* Supreme Court ruling). This system is used in inter-district and intra-district arrangements around the country (it was first used in Cambridge, MA in 1981), including the Omaha Learning Community (an inter-county program), St. Louis and Kansas City (as a result of court-ordered desegregation), and Montclair, NJ, and Berkeley, CA (intra-district).

School Transfer Case Study: Omaha, Nebraska

⁴⁴ [Weber and Rubin, New Jersey Charter Schools: A Data Driven View, Part 1, 2014](#)

Like many other areas around the country, the Omaha metropolitan area slowly evolved into a city with a predominantly low-income and minority population and surrounding suburbs with an affluent and predominantly white population. Yet while most cities have little recourse in the face of white flight, a statute dating back to the 1800s gave Omaha the ability to annex surrounding areas as the city expanded and to combine the annexed areas into the Omaha Public Schools (OPS). This statute had been used often to expand the city, but countervailing laws had also been put in place to maintain white, affluent districts (Westside, the independent district formed by white parents as Omaha's demographics changed, was protected by state law from annexation in 1947). Though the statute to expand the city limits continued to be used through the 1960s and 1970s, Omaha no longer folded school districts into the OPS because of increasing tensions around race and class.⁴⁵ However, as OPS students continued to attend under-resourced schools due to inadequate state aid and students in surrounding areas continued to attend well-resourced schools in property-rich districts, Omaha officials responded with a proposal to create one city with one school district (as the statute had intended). The proposal set off an uproar in the suburban districts. To forestall the district merger, superintendents in the suburban districts devised an alternative inter-district, inter-county program that would serve the Omaha metropolitan area while maintaining school district boundaries.

In 2007, Nebraska's governor signed into law a regional agreement to create an 11-district, bi-county "cooperative learning community," for the purpose of reducing racial and economic inequality in the city of Omaha and its suburbs (the Learning Community includes both open enrollment across districts and place-based early childhood education in Omaha). In addition to forming a regional coalition, the law also merged the 11 school districts into a combined metropolitan tax base to fund the schools within the coalition and created a regional governing body (with a mix of elected and appointed members) to implement and oversee the agreement.⁴⁶ A 2014 report by the superintendents concluded that though the inter-district model had resulted in increased socio-economic diversity, the gains were relatively small. The majority of the superintendents' report was focused on the finances of the Learning Community—primarily the common levy created in 2007 that merged the school district tax base and reallocated funds based on the needs of students in each district (special education, limited English proficiency, etc.). The allocation of funds from the common levy has met with criticism as some districts have received less money than they might have through a local school district levy, causing the superintendents to recommend that the common levy be dissolved in favor of separate levies for each district. This debate is ongoing.

⁴⁵ [Holme, Diem, and Mansfield, Using Regional Coalitions to Address Socioeconomic Isolation: A Case Study of the Omaha Metropolitan Agreement, 2009](#)

⁴⁶ [Ibid.](#)

Dr. Jennifer Jellison Holme has followed the Omaha Learning Community since its inception and notes that this conclusion drawn by the superintendents' report regarding small socio-economic diversity gains may be a result of poor data and information sharing on socioeconomic diversity across districts.⁴⁷ She also notes that Omaha's unclear diversity outcomes can partially be attributed to a failure to establish diversity goals/benchmarks at the outset.⁴⁸ While the results of the Omaha Learning Community model are unclear in part because of a failure to establish diversity goals from the outset and in part because of poor data collection, the concept of a regional compact with regional taxation powers is an interesting model for New Jersey to consider.

Inter-District Transfer: The New Jersey Experience

In 2010, NJ established a permanent school choice program (an earlier pilot was created by a 1999 law). The inter-district school choice program is intended to allow students and their families greater school choice. Since 2010, the program has met with success, growing to serve approximately 5,000 students and 132 school districts. However, in response to the increasing costs associated with the program's growth (in 2014, it cost about \$50 million), the State placed a cap on the number of seats each district can offer students for the 2015-2016 school year, thereby limiting the program's growth even though there are students on the wait list.

This program does have the potential to provide more students with an integrated education—both Trenton and Jersey City are two of the program's largest sending districts—by giving students in majority-minority districts the opportunity to attend more integrated schools. However, it negatively impacts sending districts' budgets as they lose per-pupil state formula aid (sent instead to the receiving district) after the first year of participation. Moreover, the program as currently structured is an open choice, not a controlled choice program, which has been demonstrated to increase rather than decrease segregation in national studies. The specifics of the NJ program have not been studied (see discussion below).

School District Consolidation

New Jersey is among those mostly Northeastern states whose school districts are generally coincident with municipal boundaries (with some regional districts, usually at the high school level). Connecticut, which abolished its county system of government in 1960, is another such example. Most other states outside of the Northeast have county or regional school districts, which makes it easier, at least from an organizational perspective, to foster integrated school districts, even when children are racially segregated by neighborhoods or municipalities within the district.

⁴⁷ Conversation with Jennifer Jellison Holme, Ph.D., University of Texas, Austin, September 4, 2015

⁴⁸ [Holme and Diem, Regional Governance in Education: A Case Study of the Metro Area Learning Community in Omaha, Nebraska, 2015](#)

Many of these districts around the country were consolidated in the 1960s and early 1970s as part of federal school desegregation mandates. In the aftermath of *Brown v. Board of Education* (1954), court-ordered desegregation plans went into effect in many communities that had long been resistant to change. The Supreme Court ordered the merger of districts in order to reduce racial isolation and provide equal opportunity to all students, and bolstered the *Brown v. Board of Education* ruling with additional decisions through the early 1970s (i.e. *Swann v. Charlotte-Mecklenberg Board of Education* that reaffirmed the use of busing). The US Supreme Court, however, grew increasingly conservative, and in *Milliken v. Bradley* (1974) it ruled that districts were not responsible for *de facto* segregation or inter-district segregation unless they had engaged in policies that had created the segregation. This put an increased burden on civil rights lawyers seeking to address deep racial inequities (especially in metropolitan regions with affluent, white suburbs, and poor, majority-minority cities), but a few court-ordered district consolidations did move forward after the ruling (Louisville, KY, Indianapolis, IN, Wilmington, DE, etc.). The following arguments formed the basis of these court-ordered consolidations: 1) policies in one school district had created segregation in another district, 2) the state had violated the 14th Amendment by drawing arbitrary district lines that had reinforced school segregation, and 3) public officials had used housing zones and other such measures (redlining) to create and reinforce residential segregation.⁴⁹ Today, many districts formerly operating under court-ordered desegregation plans have had those orders lifted. In districts that have chosen to revert to neighborhood schools without creating controls to maintain integration, schools have re-segregated. One school district that has stayed the course (despite the lifted court order) is Louisville, Kentucky. According to Dr. Siegel-Hawley, **school district consolidation has the potential to be more effective than inter-district school choice** (magnets, school transfers, etc.) because while it can be politically difficult to consolidate a district, there are no inter-district politics to deal with post-merger in that the governing bodies of the individual school districts have been dissolved. In consolidating a number of segregated school districts and redrawing school attendance boundaries to take diversity into account, a district can desegregate schools without having to contend with financial accounting between districts or conflicting cross-district policies.

School District Consolidation Case Study: Louisville, Kentucky

In 1974, the 6th U.S. Court of Appeals ordered Louisville and the surrounding Jefferson County school systems to desegregate, causing the two school districts to merge together. The newly created Jefferson County School District, now the 26th largest school district in the nation, used busing to integrate the predominately white Jefferson County students with the predominantly African-American Louisville students, and continues to do so today despite the court order being lifted. In 2000, the average black student in Louisville attended a school that was half

⁴⁹ Conversation with Genevieve Siegel-Hawley, Ph.D., Virginia Commonwealth University, August 28, 2015

white, and in 2010, Louisville had the eleventh most racially integrated schools of the nation's fiftieth largest regions.⁵⁰

Jefferson County once used race as the primary means to assign students to schools, but was forced to come up with a new system after the Supreme Court struck down its school assignment plan in *Parents Involved in Community Schools v. Seattle School District No. 1* (the Jefferson County-specific case, *Meredith v. Jefferson County Board of Education*, was merged with the *Parents Involved* case when it went to the US Supreme Court). The new assignment plan ranks Census blocks by categories, including the percentage of minority residents, educational attainment for adults, and household income. It then mixes diverse neighborhoods into one cluster, and students are assigned to a school within the cluster. While parents are able to list their preferences for schools, students are ultimately assigned to reach certain diversity goals within each school.⁵¹

Geographically, Jefferson County is approximately three times the size of Essex County, and 1.2 times the size of Middlesex County. Because NJ's most intensely segregated school districts (districts where all the schools are intensely segregated) are concentrated in the urbanized and geographically-smaller counties,⁵² the Jefferson County model could be replicated in New Jersey on a county or regional level to create integrated schools. Jefferson County, like other districts that use extensive busing in order to integrate schools, uses transportation consultants to map out school routes and determine reasonable travel times (in 2011, the average travel time for an elementary school student was 29.3 minutes, and less than 4% of elementary school students spent more than one hour being bused to school).

A 2013 study conducted by Professor Genevieve Siegel-Hawley on metropolitan school desegregation has shown that the integration of the Jefferson County School District has positively affected housing segregation within the city—between 1990 and 2010, housing segregation in Louisville fell by 20%, in sharp contrast to cities like Richmond, Virginia, where re-segregation occurred after the court order to integrate the schools was lifted. Siegel-Hawley contends that unlike traditional school districts that align with municipal boundaries to reinforce neighborhood lines and segregation, city-suburban regional districts lower the incentive for more affluent families to choose wealthier (and less diverse) neighborhoods in order to access better quality schools and no longer bar lower-income (and predominantly minority) families from access to better-resourced schools. She notes that, “in some ways, school policy can become housing policy.”⁵³ Additional research by Myron Orfield that

⁵⁰ Orfield, Miliken, Meredith, and Metropolitan Segregation, 2015

⁵¹ [Semuels, The City That Believed in Desegregation, The Atlantic, 2015](#)

⁵² [Tractenberg and Orfield, New Jersey's Apartheid and Intensely Segregated Urban Schools: Powerful Evidence of an Inefficient and Unconstitutional State Education System, 2013](#)

⁵³ [Siegel-Hawley, City Lines, County Lines, Color Lines: The Relationship Between School and Housing Segregation in Four Southern Metro Areas, 2011](#)

examines the divergent residential segregation patterns of Louisville, KY (where both schools and neighborhoods have become more integrated as a result of metropolitan-area school desegregation) and Detroit, MI (where schools and neighborhoods have become increasingly segregated after the Supreme Court overturned a proposed metropolitan-area desegregation plan) indicates that metropolitan-area school desegregation plans can help to reduce white flight and increase neighborhood stability.⁵⁴

Siegel-Hawley also notes that while there are numerous short-term benefits to integrated schools for all children (greater academic achievement, improved critical thinking skills, reduced acceptance of stereotypes, greater social cohesion, etc.), it is the long-term, intergenerational benefits of integration that will be most transformational for students and their communities. Students who have experienced integrated schooling are more likely to seek out integrated higher education and integrated communities when they are adults, thereby creating more diverse communities and extending the benefits of integrated education to the next generation.⁵⁵

School District Consolidation: The New Jersey Experience

New Jersey has more school districts than municipalities, with 591 separate school districts serving just 565 municipalities. Because of New Jersey's significant residential segregation, school districts themselves are strikingly homogenous. Although integration could most certainly be advanced through district consolidation, in the New Jersey context such changes have been discussed almost entirely in fiscal and economic-efficiency terms.

In order to spur consolidation of these districts (which in 2006 numbered 615) and to save money, Governor Corzine signed the CORE Act in 2007, creating the role of Executive County Superintendent charged to develop district regionalization plans for each county. The new Executive County Superintendent was to submit a report detailing the elimination of non-K-12 or non-county school districts through consolidation to the Commissioner of the NJ Department of Education by March 2010 so that the NJDOE could review the plans and make recommendations for consolidation. In practice, though, the reports merely described the sending relationships that already existed among school districts because no funding was allotted to conduct robust feasibility studies otherwise estimated to cost in excess of \$10,000. The failure of these incomplete reports was compounded by Governor Christie's disinterest in the issue of consolidation when he came into office. As a result, the CORE Act did little more than close non-operating school districts.

While the 2007 CORE Act can be used to spur new efforts to consolidate districts, it is clear that it needs to be amended to create stronger incentives for school district consolidation (such as

⁵⁴ [Orfield, Myron, Meredith, Miliken, and Metropolitan Segregation, 2015](#)

⁵⁵ [Tegeler, Mickelson, and Bottia, Research Brief No. 4, What we know about school integration, college attendance, and the reduction of poverty, The National Council on School Diversity, 2011](#)

providing financial support to help equalize tax rates between communities undertaking consolidation), provide funds for feasibility studies, and to intentionally promote school district consolidation for the purposes of integration and improving educational outcomes. A bill (S2727) is currently pending in the NJ Senate that proposes to set up a task force to make recommendations about eliminating impediments to, and identifying incentives for, school district regionalization.

New Jersey does have at least one successful example of a school district that consolidated across racial and socioeconomic lines to form a racially and socioeconomically balanced and excellent quality public school district. Paul Tractenberg has extensively studied the Morris School District, which was created in 1973 out of the adjacent Morristown and Morris Township districts, the former increasingly black and lower-income, the latter primarily white and middle to upper income. It was created to achieve racial balance and improve educational outcomes and resulted from the above-referenced *Jenkins* NJ Supreme Court decision. Today, the district remains racially and socioeconomically integrated and 93% of its students go on to higher education. Creation of a quality public education system in Morristown has also been a significant contributing factor to Morristown's revitalization.