



## “Time for Sight”

### The Debate over Color Blindness and Race-Consciousness in School Integration Policy

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# UNDERSTANDING THE LANGUAGE OF SCHOOL INTEGRATION

When discussing racial equity in schools, there are several important and unique terms, such as integration and integration that may be unfamiliar or mean different things to different people. Because these terms are frequently used in such discussions, it is important to work from shared definitions. The following list includes these commonly used terms and their definitions, as defined by ADL.

## ***Desegregation***

Desegregation describes the efforts to eliminate *segregation* by removing laws or practices that require or encourage separation. *Desegregation* aims to reduce racial imbalances, usually by moving and mixing racial populations to end racial isolation. As it has played out in most U.S. educational settings, *desegregation* requires students of the non-dominant group (most often students of color) to assimilate into the school and culture of the dominant group (most often white) without changes in school structures to meet the needs of the new students. **NOTE:** It is important not to use the words *desegregation* and *integration* interchangeably, as the spirit of each term is markedly different.

## ***Equality***

Equality is the quality, fact, or state of being equal (not varying from one person or part to another).

## ***Equity***

Equity is the fairness or justice in dealings between persons.

## ***Integration***

Integration is the incorporation of individuals from different racial, ethnic, and socioeconomic groups as equals into a school. *Integration* moves beyond removing legal barriers and simply placing students of different backgrounds together. It addresses the racial hierarchies and prejudices that exist in school communities by reforming structures to be more inclusive and transforming the culture of the school. **NOTE:** It is important not to use the words *desegregation* and *integration* interchangeably, as the spirit of each term is markedly different.

## ***Segregation***

Segregation is the policy or practice of separating people of different race, class or ethnic group, as in separate educational facilities. *De facto* segregation occurs by fact, rather than by law; usually on the basis of socioeconomic factors, while *de jure* segregation occurs by law. **NOTE:** The term *segregation* should not be used to refer solely to the experiences of “minority” communities, as majority or dominant groups also bear the consequences of racial separation in U.S. society.

## ***Resegregation***

Resegregation traditionally refers to the growth of *segregation*, where schools have once experienced periods of *desegregation*. *Resegregation* can occur because of school districts abandoning or altering race conscious *desegregation* plans, either by choice or court order, as well as the result of segregated racial housing patterns or school district practices that reinforce *segregation*.

## QUOTES ABOUT SCHOOL INTEGRATION

“What was wrong in 1954 cannot be right today...Because ‘our Constitution is colorblind, and neither knows nor tolerates classes among citizens’\*...race-based decision making is unconstitutional.”  
—Supreme Court Justice Clarence Thomas, 2007

“The purpose of the Equal Protection Clause [of the U.S. Constitution] is to ensure that people are treated as individuals rather than based on the color of their skin.” — Supreme Court Chief Justice John Roberts, 2007

“There is no question but that the principle of *Brown* is that a child’s skin color should not determine what school he or she should be assigned to.” —Roger Clegg, President and General Counsel, Center for Equal Opportunity, 2007

“You just don’t sort kids by color and deny benefits to them because of the color of their skin.”  
—Chester Darling, Massachusetts Constitutional Lawyer, 2007

“Instead of spending zillions of dollars around the country to place a black child next to a white child, let’s reduce class size. All the schools are equal. We will no longer accept that an African-American majority within a school is unacceptable.” —Teddy Gordon, attorney from Louisville, KY, 2007

“Without meaningful social contact, talk of tolerance and cooperation is nothing but an abstraction.”  
—US Federal District Court Judge Nancy Gertner, 2007

“You don’t get rid of racism unless you deal with the issues of racial segregation and separation [in schools]...There’s no other way to do it.” —Jean McGuire, Executive Director, The Metco Program, Massachusetts, 2007

“Racially integrated schools prepare students to be effective citizens in our pluralistic society...reinforce democratic values...reduce prejudice, improve...academic achievement, and enhance life opportunities for students of all races.” —From Amicus Brief of 553 American Social Scientists in *Parents Involved in Community Schools v. Seattle School District* and *Meredith v. Jefferson County Board of Education*, 2006

“The notion that race-conscious efforts to address racial inequality are racially discriminatory is like telling a physician that she cannot make a diagnosis when treating a disease because the diagnosis equals the disease. There is no equivalency, moral or legal, between race-conscious attempts to address racial inequality on the one hand, and racial discrimination based in notions of superiority and inferiority on the other.” —Theodore Shaw, Director-Counsel of the NAACP Legal Defense Fund, 2007

“The work of racial justice does not require us to gouge out our eyes so that we cannot see race...The question is not whether we see race; the question is, having seen it, what is its significance? This is not a time for blindness. This is a time for sight.” —Theodore Shaw, Director-Counsel of the NAACP Legal Defense Fund, 2007

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\* The reference to a “colorblind” Constitution is from Supreme Court Justice John Marshall Harlan’s dissent in *Plessy v. Ferguson* in 1896, where the Court held that “separate but unequal” was constitutional.

## KEY QUESTIONS

### *Parents Involved in Community Schools v. Seattle School District and Meredith v. Jefferson County Board of Education*

1. What does *Parents Involved* have to do with Little Rock, *Brown v. Board of Education* and past efforts to desegregate schools?
2. Since forced and legally sanctioned segregation has been eliminated, do we still need to be concerned about *de facto* segregation in schools? Why or why not? [*De facto* refers to separation that happens as a matter of fact, usually because of housing patterns, but that is not required by law, referred to as *de jure*].
3. Is there value in promoting racial integration and diversity in schools? Why or why not? Are there positive educational benefits to students? If so, what are they?
4. Is diversity in schools a “compelling governmental interest,” something crucial for the government to address rather than something merely preferable? Why or why not? If it is a compelling interest, how should it be achieved? Should other factors in addition to race be considered?
5. Are voluntary integration plans a form of racism or discrimination? Do you think that considering race in school admissions—even if it’s one of many factors used—violates the constitution or promotes inequality?

## CASE STUDY: VOLUNTARY SCHOOL INTEGRATION

Greenfield is a suburb of a large East Coast city. During the 1800s and early 1900s, Greenfield was a prosperous farming community, but decreasing agricultural opportunities left the town depressed after World War II. From the 1970s to the 1990s, Greenfield's white population dropped from 90% to 60% and a new population of predominantly working class black and Latino/a people moved in to escape rising housing costs in the neighboring city, where many of them work in service industries, including hotels and restaurants.

By 2000 Greenfield's neighborhoods were significantly segregated and eight of the town's twenty-two schools had a greater than 90% white enrollment. In response to the population change and increasing racial conflict, the Greenfield School District implemented a "voluntary school choice plan" with the goals of both desegregation and diversity in Greenfield schools.

Today the 13,000-student Greenfield School District has fourteen elementary schools, five middle schools, and three high schools. Roughly 45% of the district's students are white, 23% are African American, 26% are Latina/o, 4% are Asian, and the remaining 2% are multiracial or Native American.

For the purposes of the school choice plan, the Greenfield School District defined a public school as "racially balanced" if it was composed of between 40% and 70% students of color, keeping it within 15% of the people of color population in the general community. Schools with student of color populations above this range were defined as "racially imbalanced" while those below were defined as "racially isolated."

According to the school choice plan, students are initially assigned to schools in their neighborhoods, and race becomes a factor only when they (or their parents) request a transfer from the students' area school. All students are allowed to transfer as they like between "racially balanced" schools, and they can transfer to and from "racially imbalanced" or "racially isolated" schools when the transfer will help to promote racial balance. However, a transfer is not permitted if it would further segregate the "racially imbalanced" or "racially isolated" schools.

Through this method, approximately 5,500 Greenfield students (42% of the total student body) are assigned to non-neighborhood schools each year. About 200 transfer requests are denied—to both white students and students of color—in order to maintain racially balanced schools.

Since implementation of the school choice plan, race relations have improved, graduation rates are up and Greenfield's schools have performed better academically across the board. Despite these gains, a growing number of parents have complained that the plan is unfair and violates the Equal Protection Clause of the U.S. Constitution by discriminating against students based on their race.

Following the U.S. Supreme Court decision in *Parents Involved in Community Schools v. Seattle School District* and *Meredith v. Jefferson County Board of Education*, a school board meeting was scheduled to discuss the benefits and shortcomings of the school choice plan, and to evaluate its validity in light of the Court's ruling.

# SCHOOL BOARD MEETING: VOLUNTARY SCHOOL CHOICE PLAN

## Questions for Consideration

1. What value, if any, do you place on going to a racially diverse school? What sacrifices are you willing to make to help ensure integrated schools?
2. Is there an important reason for the school district to deal with the issue of racial segregation or is this not a problem that schools are responsible for addressing?
3. In what ways does the school choice plan both benefit and limit students? Do the positives outweigh the negatives or vice versa?
4. Does the plan violate the rights of some students? If so, does it need to be eliminated or are there ways to change it to be more fair and in line with the law?
5. Are there ways to achieve diversity without categorizing students by race? Are there other aspects of diversity that need to be taken into account by the plan?

## Speaking Legalese

*The following are some of the issues that the courts take into account when considering cases that involve voluntary school integration plans.*

Both the Equal Protection Clause of the 14<sup>th</sup> Amendment\* of the U.S. Constitution and Title VI of the Civil Rights Act of 1964\*\* require that policies involving race be subject to “**strict scrutiny**,” which is a test used by the courts to examine both the goals of a disputed policy and the way in which those goals are achieved. This standard is used to consider policies that discriminate against racial minorities as well as those designed to benefit them. To pass strict scrutiny, a law or policy must satisfy the following conditions:

- **Compelling Governmental Interest:** The policy must be justified by a “compelling governmental interest”—something necessary or crucial, as opposed to something merely preferred. “Governmental interests” include both attempts to deal with the effects of past discrimination as well as more forward-looking efforts to promote diversity. In either case, there must be a “strong basis in evidence” to prove a compelling interest, such as statistics, scientific reports or testimony from experts who can support the need for the policy.
- **Narrowly Tailored:** The policy must demonstrate a careful fit between the policy and the policy’s goal. It should not cover too much or fail to address enough. If there other ways to achieve the goal that do not involve categorizing people by race or that are “less restrictive,” then a policy is likely to be struck down as not being “narrowly tailored.”

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\* The Equal Protection Clause of the 14th Amendment of the U.S. Constitution prohibits states from denying any person the equal protection of the laws and says that a state must treat an individual in the same manner as others in similar conditions and circumstances.

\*\* Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving funds from the federal government.