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Introduction

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Symposium

Introduction

As we were approaching the 60th anniversary of the *Brown v. Board of Education* decision and the 50th anniversary of the Civil Rights Act—two milestones that remade education, particularly in the South—the College of Education, in collaboration with partners across Penn State, decided that it was important to take stock of where we were and what we could learn from the past decades to inform current and future strategies to improve educational access for all students, particularly from underserved backgrounds. Observing the deep connections between education and the law in the United States, and indeed the evolution of the educational system often as a function of legal struggle and scholarship, the *Penn State Law Review* recognized an opportunity to showcase a variety of insightful works on the subject

The articles in this issue reflect the broad, interdisciplinary thinking that is necessary to inform future efforts to realize *Brown's* promise.¹ Professor Daniel Kiel's article, *No Caste Here? Toward a Structural Critique of American Education*, helps to describe the current stratification existing in U.S. education. Although education has long been thought of as providing everyone the opportunity to achieve the American Dream via upward mobility, Kiel's article suggests that in fact

1. Additional papers from the conference will be published in a forthcoming book from Teachers College Press called *Advancing Integration for Equity Across the Educational Pipeline*.

the educational system is structured in such a way that it perpetuates a “caste” system and produces racial disparities instead of ameliorating them. His sobering analysis helps to illuminate the complex ways that schools sort students and the legal, political, and social barriers to challenging or remedying educational stratification and inequality.

Research has documented the rising racial segregation of K-12 schools in the U.S., segregation that often overlaps with segregation by economics and language as well.² The harms of such segregated schools led to the Supreme Court declaring that segregation was ‘inherently unequal’ in *Brown*.³ Both experiences in school districts and the consensus of research studies in the decades since *Brown* have confirmed the harms of racial isolation and the benefits of diverse schools. In the Supreme Court’s most recent school integration case, the Court confirmed that such goals were also permissible for districts to voluntarily pursue (in contrast to requiring districts to eliminate segregation in the aftermath of *Brown* because of the harms to black students).⁴ Jeanne Reid’s article, *The Racial and Ethnic Composition of Pre-Kindergarten Classrooms and Children’s Language Development*, is notable because she extends these findings (which have also been confirmed in the higher education context) to younger students. This is significant for several reasons. First, school desegregation research generally suggests that, for developmental reasons, more beneficial outcomes accrue when desegregation occurs for younger students, which Reid’s article suggests is *not* happening in pre-kindergarten classrooms. Secondly, she begins to document the racial and class segregation that is occurring among our youngest children in formal educational settings. Third, she suggests that student composition is an important metric of early childhood quality. At a time in which there is bipartisan support for expanding early childhood education, Reid’s article injects important considerations about how pre-K may help or hinder desegregation efforts.

The final two articles propose or analyze potential strategies for furthering integration. In the article by Sarah Diem et al., *Consolidation Versus Fragmentation: The Relationship Between School District Boundaries and Segregation in Three Southern Metropolitan Areas*, the authors assess the segregation in three southern metropolitan areas with

2. GARY ORFIELD & ERICA FRANKENBERG, *BROWN AT 60: GREAT PROGRESS, A LONG RETREAT AND AN UNCERTAIN FUTURE*, CIVIL RIGHTS PROJECT 2014.

3. *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

4. *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007).

different school district configurations. They find that of the three metros, the metropolitan area with the least fragmentation has the lowest segregation over time. As various communities propose “splintering” from larger districts, these findings should be a caution to educational and community leaders. Moreover, given these and other findings that areas of high fragmentation also have high segregation, this suggests the need for districts to consider various ways in which they might work together across boundary lines to further integration. As one of the metros in this study (Memphis, Tennessee) shows, however, there are political challenges of such collaboration, particularly when existing boundary lines reinforce class and/or racial differences.

Likewise, Christopher Suarez, in his article *Democratic School Desegregation: Lessons from Election Law*, also questions the current ways in which school district boundaries separate students of different backgrounds. Drawing upon electoral reapportionment precedent, he proposes a theory of demographic equalization which would have as a goal evaluating and potentially reassigning students every ten years as a means to reduce the concentration of low-income students in schools. He proposes a federal law or state laws to ensure that states revisit boundary lines every decade after the decennial Census. Although any boundary changes would undoubtedly encounter political resistance, he argues that, based on legal precedent and educational literature, such a proposal would result in legal and educational benefits for students and communities. Beyond this intriguing proposal, Suarez, like Diem et al., together suggest that boundary lines—which today cause the majority of segregation—should not be viewed as sacrosanct entities because of the implications these lines have for separating students and ultimately, educational opportunity.

The *Penn State Law Review* is privileged to have pulled together the research and insights of this remarkable group of scholars. The interdisciplinary nature of the articles within the issue, which focuses not only on legal scholarship but also on qualitative research, allows for a multifaceted view of the complex issues presented by the state of education today. Hopefully, by combining perspectives across disciplines, we will be able to come one step closer to providing equal, quality education to all students.

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