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THE SCHOOL SUPERINTENDENTS ASSOCIATION

# School Administrator

DECEMBER 2013

ESSENTIAL INSIGHTS AND COMMENTARY FOR SCHOOL SYSTEM LEADERS



## The Resegregation of Public Schools

*Superintendents' front-line battles for equity, diversity and community*

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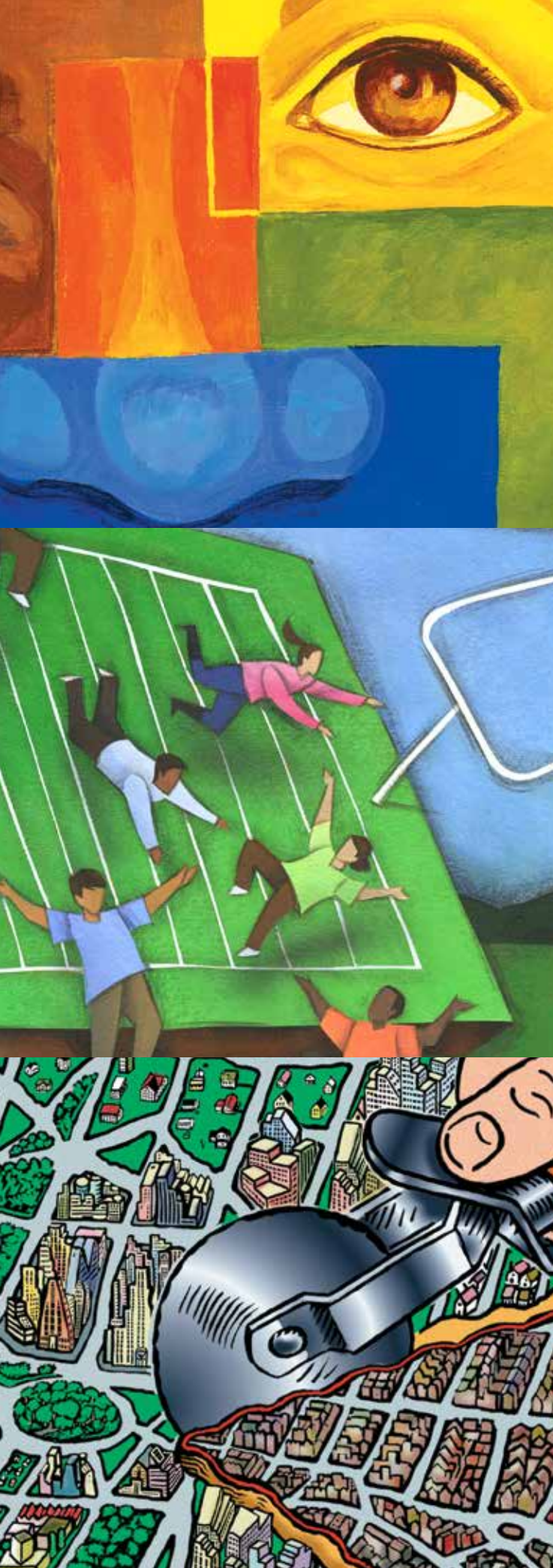
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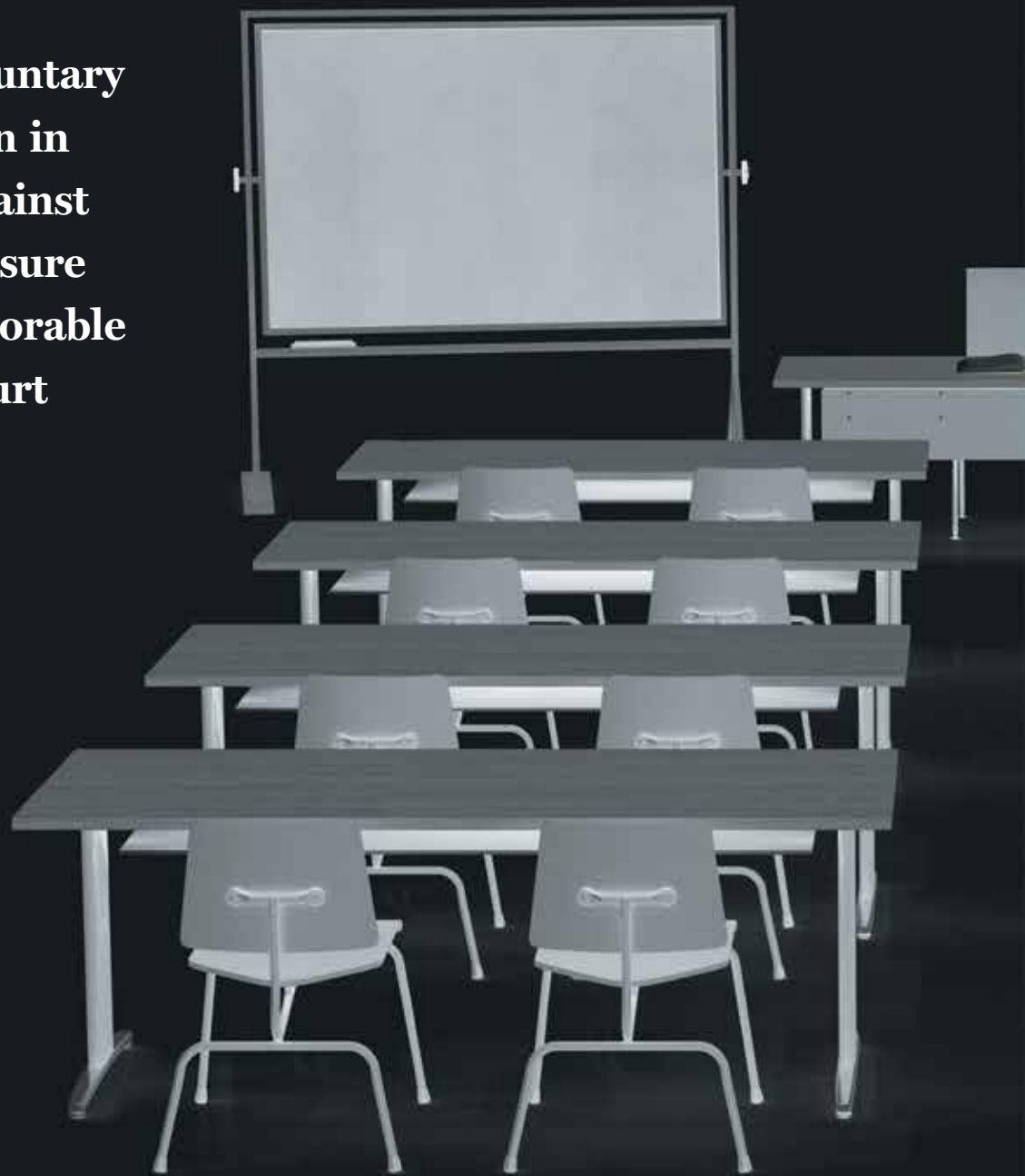
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The challenge of effectively educating children of color when fear and unconscious biases prevail in school communities.

# The Resegregation

**A superintendent's  
struggle to  
maintain voluntary  
desegregation in  
Louisville against  
political pressure  
and an unfavorable  
Supreme Court  
decision**

BY SHELDON BERMAN



# of America's Public Schools



**A**s a social studies teacher in the 1970s and '80s, I was proud of our nation's progress on school integration in spite of protests and resistance to court-ordered mandates. Two decades later, newly appointed as superintendent of the Jefferson County Public Schools in Louisville, Ky., I inherited a U.S. Supreme Court decision that ruled unconstitutional the school district's student assignment plan for ensuring



**“Integrated schools matter. Their impact may be greatest on economically disadvantaged and minority students, but THEY IMPROVE THE ACADEMIC AND SOCIAL EXPERIENCE OF ALL STUDENTS. Integrated schools also matter to the future of our nation.”**

integrated schools.

How did our society make such a U-turn in its thinking? And what are the implications for today’s students and our nation’s future?

The issue of desegregation/integration is fraught with politics and emotion despite the extensive and powerful research on the benefits of integrated schools. Susan Eaton and Gina Chirichigno, in a 2010 research brief for the National Coalition on School Diversity, noted racial diversity in schools has long-term social benefits, including reduced segregation in neighborhoods, colleges and workplaces; increased social cohesion; and reduced likelihood of racial prejudice. Roslyn Mickelson, writing for the same organization a year later, observed that “students who attend racially and socioeconomically diverse schools are more likely to achieve higher test scores and better grades, to graduate from high school and to attend and graduate from college compared with their otherwise comparable counterparts who attend schools with high concentrations of low-income and/or disadvantaged minority youth.”

A 2011 U.S. Departments of Education and Justice report, “Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools,” stated: “The academic achievement of students at racially isolated schools often

lags behind that of their peers at more diverse schools. Racially isolated schools often have fewer effective teachers, higher teacher turnover rates, less rigorous curricular resources (e.g., college preparatory courses), and inferior facilities and other educational resources.”

Integrated schools matter. Their impact may be greatest on economically disadvantaged and minority students, but they improve the academic and social experience of all students. Integrated schools also matter to the future of our nation. As the education and justice departments’ guidance proclaims, “Providing students with diverse, inclusive educational opportunities from an early age is crucial to achieving the nation’s educational and civic goals.”

However, given the contentious politics of desegregation, can we continue pursuing strategies to integrate our public schools?

### **Trending Nationally**

The glaring disparity between schools serving black students versus white students in the 1970s produced a federal, generally court-supervised effort to desegregate public schools. Faced with entrenched patterns of segregated housing, school districts used busing, redrawn school boundaries and magnet schools to integrate their schools.

Although early desegregation efforts were marked by protests, federal orders and court

## **Student Assignment Under Louisville’s 2008 Plan**

Daniel Kiel, a professor of law at University of Memphis with expertise on race and education, considered Jefferson County Public Schools’ adoption of a novel student assignment plan “a model for districts seeking to capture the educational benefits of diverse schools without running afoul of the U.S. Constitution.”

Writing in the *Fordham Law Review*, Kiel said the Kentucky district’s 2008 plan showed a resolve not to submit “to the fate of losing hard-gained student diversity.”

The plan built on Supreme Court Justice Anthony Kennedy’s challenge to use race-neutral and race-conscious strategies to maintain integrated schools. Guided by the principles of diversity, quality, choice, predictability, stability and equity, the district converted a race-

based plan to a geography-based plan that divided the district into six clusters of 12 to 15 elementary schools each, balanced by both socioeconomic and racial diversity.

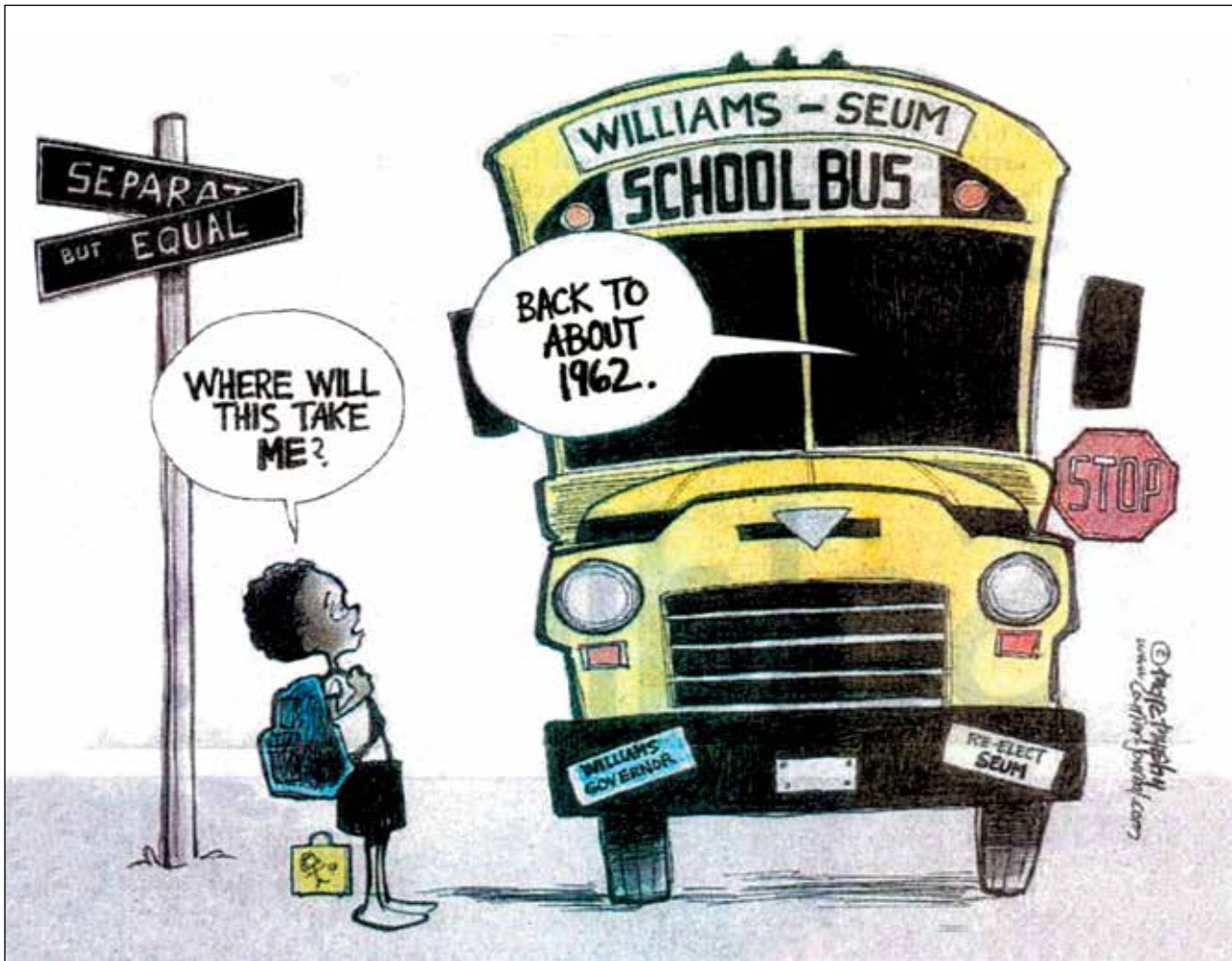
Each cluster included schools whose census tracts were characterized by lower-than-district-average median income and adult educational attainment and higher-than-average minority population (labeled area A schools), as well as schools that reflected the opposite demographics (area B schools). The same analysis was applied to the middle and high schools, to be phased in a year later.

The elementary school plan enabled parents to rank order their four top choices, two each from area A and area B. In the three following years, more than

80 percent of kindergarten and 1st-grade parents selecting their child’s school for the first time received their first or second choice of schools. The new plan set a goal that each school would enroll and maintain between 15 percent and 50 percent of its students from area A residences.

Building on the success of several existing magnet schools, the plan also converted a number of inner-city schools into new magnet schools to attract a broad range of students and promote diversity through choice. A magnet plan based on career clusters and partnerships with the business community was implemented in 15 of the district’s comprehensive high schools, with another high school adopting an early college program.

— SHELDON BERMAN



An editorial cartoon that ran in *The Courier-Journal*, Louisville's daily newspaper, during Sheldon Berman's tenure as superintendent, underscored the tensions over the Jefferson County, Ky., school district's voluntary student desegregation plan.

supervision ensured district leaders and school boards made progress. Yet, as districts achieved their desegregation goals and were declared unitary, forces began a concerted effort to turn back the clock toward more segregated neighborhood schools. At the height of the nation's desegregation efforts in 1988, nearly half of African Americans in the South attended integrated schools. Since then, schools have re-segregated to levels that existed in 1970.

For example, in 1969, U.S. District Court Judge James McMillan ordered North Carolina's Charlotte-Mecklenburg Schools to use "all known ways of desegregating, including busing." The U.S. Supreme Court upheld this decision in *Swann v. Charlotte-Mecklenburg Board of Education* (1971), making *Swann* a landmark case and setting the precedent for school desegregation cases across the nation.

Following a court challenge to the plan in 1999, Charlotte-Mecklenburg began a slow dis-

solution of its student assignment plan. By 2007, student assignment had given way to neighborhood schools, with some parental choice.

Seattle implemented a voluntary busing plan in the 1970s to promote integration. By the late 1980s, the plan was modified to allow families to rank their preferred schools. Mandatory busing was phased out in the late 1990s, and an integration-promoting, race-based tiebreaker was applied when a school had more applicants than openings.

However, after Parents Involved in Community Schools filed a lawsuit, a 2007 Supreme Court decision overturned the tiebreaker proposal. Seattle's 2009 student assignment plan redrew school boundaries to promote greater diversity, but also guaranteed that students could attend their neighborhood schools.

Given the declining support for race-based plans, Wake County, N.C., a national leader in desegregation efforts, adopted a socioeconomic

plan in 2000 requiring that no school's population exceed 40 percent economically disadvantaged students. However, the 2009 election of four school board members adamantly opposed to the student assignment plan resulted in abandonment of the plan, extensive political disruption and the superintendent's resignation. (See related story, page 30.)

### Louisville's Story

Jefferson County Public Schools took a vastly different stance. In 1975, the predominantly white Jefferson County system and the predominantly black Louisville, Ky., Public Schools were ordered to consolidate and simultaneously desegregate. That decree was followed by repeated court-approved adjustments in the student assignment plan to keep the county-wide schools racially balanced in the midst of white flight and intracounty population shifts.

In 2000, a lawsuit filed on behalf of several African-American students who wanted to attend the community's historically black high school, without regard for racial balance, prompted a federal judge to lift the desegregation order and declare the district unitary.

However, 25 years of school integration had exposed community leaders to the benefits of

districtwide diversity for a city with an increasingly multicultural population, and the elected school board voted to continue voluntary integration through a managed choice plan. More legal challenges ensued, this time from white suburban parents. Yet Louisville's longtime mayor, Jerry Abramson, and the Chamber of Commerce took a bold public stand in support of the student assignment plan, agreeing with social scientists who defended the value of integrated schools.

In 2007, to the dismay of many community and education leaders, the U.S. Supreme Court overturned Jefferson County's student assignment plan in the *Parents Involved* case. In a 4-1-4 opinion, the court struck down the use of individually based racial classification for assigning students to schools, but they acknowledged that districts retain a compelling interest in seeking diversity and avoiding racial isolation through both race-neutral and race-conscious means.

In response to the 2007 U.S. Supreme Court decision, the district issued an impassioned document, "No Retreat: The JCPS Commitment to School Integration," vowing to find another path that would continue the rich history and success of desegregation in Louisville's schools.

## Additional Resources

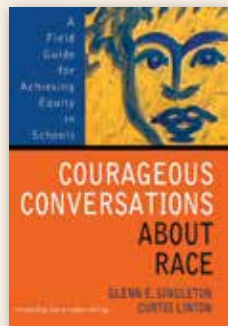
The contributors to this issue suggested these informational materials and references relating to equity, poverty and resegregation in public schooling. A more comprehensive list, including a half dozen suggested articles and reports, appears on the magazine's website at [www.asa.org/SAEquityResources.aspx](http://www.asa.org/SAEquityResources.aspx).

### Books

- ▶ *All Together Now: Creating Middle-Class Schools through Public School Choice* by Richard Kahlenberg (Brookings Institution, 2001)
- ▶ *Can We Talk about Race? And Other Conversations in an Era of School Resegregation* by Beverly Daniel Tatum (Beacon Press, 2007)
- ▶ *The Children in Room E4: American Education on Trial* by Susan Eaton (Algonquin Books, 2006)
- ▶ *Class and Schools: Using Social, Eco-*

*nomic, and Educational Reform to Close the Black-White Achievement Gap* by Richard Rothstein (Teachers College Press, 2004)

▶ *Courageous Conversations About Race: A Field Guide for Achieving Equity in Schools* by Glenn E. Singleton and Curtis Linton (Corwin, 2006)



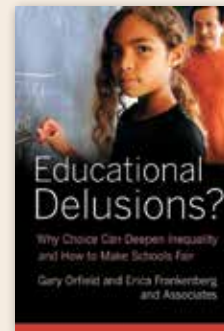
▶ *The Dream Long Deferred: The Landmark Struggle for Desegregation in Charlotte, North Carolina*, by Frye Gaillard (Univer-

sity of South Carolina Press, 2006)

▶ *Educating Students in Poverty: Effective Practices for Leadership and Teaching* by Mark Y. Lineburg and Rex Gearheart (Eye on Education, 2013)

▶ *Educational Delusions? Why Choice Can Deepen Inequality and How To Make Schools Fair* by Gary Orfield and Erica Frankenberg (University of California Press, 2013)

▶ *Five Miles Away, A World Apart: One City, Two Schools, and the Story of Educational*



*Opportunity in Modern America* by James E. Ryan (Oxford University Press, 2010)

▶ *Integrating Suburban Schools: How to Benefit from Growing Diversity and Avoid Segregation* by Adai Tefera,

Erica Frankenberg and others (Civil Rights Project/Proyecto Derechos Civiles, 2011)

▶ *Lessons in Integration: Realizing the Promise of Racial Diversity in American Schools*, edited by Erica Frankenberg and Gary Orfield (University of Virginia Press, 2007)



“The rise of the tea party and the highly publicized abandonment of voluntary integration by other school districts placed increasing pressure on school board members, with some facing opposition in their election races. **A CHORUS OF VOICES DEMANDED A RETURN TO NEIGHBORHOOD SCHOOLS**, even though that inevitably would resegregate schools and reconcentrate poverty in the schools located in the city’s core.”

### Political Pressure

Undaunted in its determination to preserve what it had fought for through so many years, the district crafted a new student assignment plan based on the socioeconomics of entire neighborhoods, considering such factors that affect student success in school as family income level and adults’ level of education, in addition to minority status.

The initial results were positive. Not only did the vast majority of elementary school parents receive their first- or second-choice school, 59 percent of elementary schools were within the plan’s diversity guidelines, another 34 percent were making progress toward that goal, and 76 percent of middle and high schools met the guidelines. In addition, the proportion of the community’s school-aged children attend-

ing the county’s public schools continued to climb, exceeding 80 percent.

In 2009, data from the National Assessment of Educational Progress’ Trial Urban District Assessment showed Louisville had the smallest proportion of highly segregated schools among urban districts in the nation. Fewer than 5 percent of the county’s schools had student populations that were more than four-fifths minority or more than four-fifths white, while the comparison cities generally had more than 75 percent of their schools operating at those extremes.

Despite this success, another lawsuit was filed by parents trying to overturn the new student assignment plan. The busing issue dominated the local media, which focused on the vocal naysayers who no longer believed

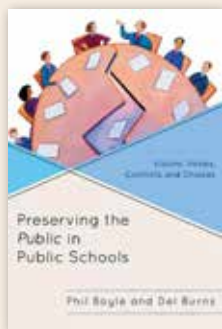
► *More Courageous Conversations About Race* by Glenn E. Singleton (Corwin, 2013)

► *Preserving the Public in Public Schools: Visions, Values, Conflicts, and Choices* by Del Burns and Phil Boyle (R&L Education, 2012)

► *The Resegregation of Suburban Schools: A Hidden Crisis in American Education*, edited by Erica Frankenberg and Gary Orfield (Harvard Education Press, 2012)

► *The Shame of the Nation: The Restoration of Apartheid Schooling in America* by Jonathan Kozol (Crown Publishing, 2005)

► *Stepping Over the Color Line: African-American Students in*



*White Suburban Schools* by Amy Stuart Wells and Robert L. Crain (Yale University Press, 1999)

► *Toward Excellence with Equity: An Emerging Vision for Closing the Achievement Gap*, by Ronald F. Ferguson (Harvard Education Press, 2008)

### Resource Organizations

► Civil Rights Project, UCLA (<http://civilrightsproject.ucla.edu>) provides research on equal opportunity for racial and ethnic groups.

► Economic Policy Institute ([www.epi.org](http://www.epi.org)) focuses on economic policies affecting interests of low- and middle-income workers.

► Haas Institute for a Fair and Inclusive Society, UC Berkeley (<http://diversity.berkeley.edu/haas-institute>), has collected informational resources.

► Institute on Metropolitan Opportunity, University of Minnesota Law School ([www.law.umn.edu/metro](http://www.law.umn.edu/metro)), investigates how laws, policies and practices affect social and economic disparities in metropolitan areas.

► Kirwan Institute for the Study of Race and Ethnicity, Ohio State University (<http://kirwaninstitute.osu.edu>), addresses how marginalized communities can expand opportunities in education and other areas.

► National Coalition on School Diversity ([www.school-diversity.org](http://www.school-diversity.org)) has collected research briefs promoting the role of school integration in K-12 policy.

► National Urban Alliance ([www.nuaac.org](http://www.nuaac.org))

[www.nuatc.org](http://www.nuatc.org)) works with districts to raise student achievement through professional development.

► One Nation Indivisible ([www.onenationindivisible.org](http://www.onenationindivisible.org)) supports improvements to racially, culturally, economically and linguistically diverse schools.

► Pacific Educational Group ([www.pacificeducationalgroup.com](http://www.pacificeducationalgroup.com)) provides guidance to school districts on addressing educational inequity, especially the needs of underserved students of color.

► Poverty & Race Research Action Council ([www.prrac.org](http://www.prrac.org)) connects advocates with social scientists on race and poverty issues.

► U.S. Department of Education Office for Civil Rights ([www2.ed.gov/about/offices/list/ocr/](http://www2.ed.gov/about/offices/list/ocr/)) lists federal resources on equity assistance.



“Although there remain some bright spots of innovation in socioeconomic-based integration, housing policy and collective community efforts, most trends are regressive and **THE DISSOLUTION OF VOLUNTARY PLANS HAS ERODED THE GAINS OF THE 1980s.** The charter school movement, with its tendency to enroll a less-diverse student body, has further accelerated resegregation.”

diversity was worth the inconvenience of busing, despite the significant decreases in student transportation times. The rise of the tea party and the highly publicized abandonment of voluntary integration by other school districts placed increasing pressure on school board members, with some facing strident opposition in their election races. A chorus of voices demanded a return to neighborhood schools, even though that inevitably would resegregate schools and reconcentrate poverty in the schools located in the city’s core.

Student assignment became an issue in the mayoral and gubernatorial elections. Although Louisville’s mayor has no jurisdiction over the public schools, one candidate aired commercials vowing to correct the “failed student assignment plan.” The president of the Kentucky Senate, a candidate for governor, sponsored a state bill to give all students the right to attend the school closest to their residence. This attempt to use a highly emotional educational issue as leverage for political advantage further inflamed the electorate, making it even more difficult to promote the benefits of diverse schools and seek adjustments to the plan that would meet the needs of more families.

#### Continual Modifications

Buffeted from all sides, the Jefferson County Public Schools requested support from the U.S. Department of Education. The two-page guidance issued by the department in 2008 essentially affirmed Justice Roberts’ opinion in *Parents Involved* that “strongly encourages the use of race-neutral methods for assigning students.” The NAACP’s Legal Defense Fund attacked the guidance as inaccurate, stating “there is no requirement in *Parents Involved* that school districts only use race-neutral means to promote the compelling interests in diversity and avoiding racial isolation in their schools.”

In December 2011, too late to influence the battle in Louisville over busing, the U.S. Department of Education retracted this guidance and issued a lengthy one outlining both race-neutral and race-conscious strategies. However, the department offered little monitoring or advocacy to support districts’ struggles to maintain voluntary integration.

By then, the pressure on the Jefferson County school board induced it to adjust the plan. In my last year as Louisville’s superintendent, I reconvened the team that developed the initial plan to pursue modifications that would decrease the public controversy.

We sought to reduce the number of bused

students by identifying within a school’s geographic boundaries any sub-areas whose demographics were in contrast to its majority demographics. Including those sub-areas would, in our analysis, enable us to increase the number of students who could remain in their neighborhood schools without compromising efforts to maintain our diversity guideline.

However, by 2012, the school board chose to abandon the intent of the 2008 plan, adopting instead a plan that uses the sub-area concept but expands the acceptable range of diversity within a school and divides clusters in a way that will gradually resegregate the district. In 2008’s six-cluster plan, the proportion of minority students in each cluster varied between 45 percent and 50 percent. Under the 13-cluster plan implemented in 2013-14, the proportion varies between 24 percent and 64 percent.

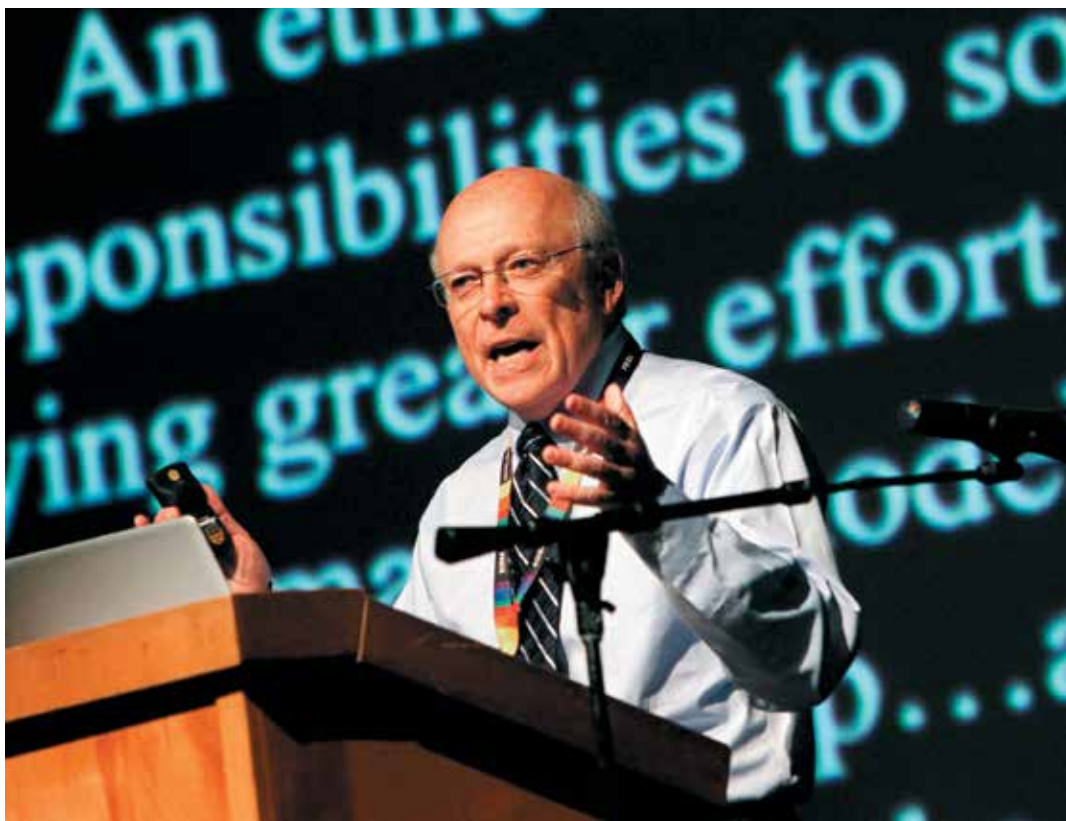
In addition, the schools in the wealthier suburban areas have minimal student exchange with the largely black and poor inner-city areas. Although this approach ostensibly reduces ride time on buses, it also resegregates the district and reconcentrates poverty, with eight of the 13 clusters having at least 70 percent of their students on free or reduced-price lunch.

In spite of two unanimous board votes approving a student assignment plan that would have maintained the district’s rich history of integration, the social and political pressures on the Jefferson County board and administration created waves that are adding Louisville to the long list of districts that have established plans essentially capitulating to the districts’ resegregation.

#### Lessons Learned

Voluntary desegregation has been the last line of defense in retaining integrated schools. As Daniel Kiel found in his *Fordham Law Review* study of Jefferson County’s 2008 plan, “JCPS has helped define the future of integration for any district seeking to pursue it.” However, the experiences of Jefferson County and other districts reveal how difficult it is to maintain voluntary desegregation in the face of local political resistance and lack of federal support.

Although there remain some bright spots of innovation in socioeconomic-based integration, housing policy and collective community efforts, most trends are regressive and the dissolution of voluntary plans has eroded the gains of the 1980s. The charter school movement, with its tendency to enroll a less-diverse student body, has further accelerated resegregation.



**Sheldon Berman delivers a speech to teachers and administrators on his first day at the helm of Eugene School District 4J in Eugene, Ore., which he joined in July 2011.**

The hard-learned lesson of the past decade is that without strong community support or federal mandate, school districts and committed superintendents and school boards cannot survive the political turmoil created by busing and other race-conscious means of desegregation.

If our nation is to thrive, we must revive a national conversation about the growing racial and ethnic segregation in our schools. We need to engender support from key community leaders, including local government and faith-based organizations, for an approach to student assignment that fosters and sustains school diversity. These leaders can broadly frame the diversity dialogue around such advantages as revitalizing the community, enhancing economic opportunity, strengthening educational opportunity and preparing students to participate in a democracy.

The Department of Education needs to sponsor similar discussions at the federal level and to demonstrate strong leadership in monitoring, reporting and holding districts accountable for the level of segregation in their schools. USDOE could incentivize desegregation efforts through funding for intra- and inter-district

transfer programs and magnet schools and could include “promoting diversity” as an absolute or competitive priority in such grant programs as Race to the Top and Investing in Innovation. For long-term impact, USDOE could facilitate collaboration between housing and student assignment strategies and promote grant opportunities that support the meshing of these strategies.

The vestiges of racism and *de jure* segregation linger. We are slipping back into a “separate but equal” philosophy that didn’t work in the pre-1970s era and won’t work now to close the achievement and opportunity gaps. As educators, it is our moral and civic obligation to prevent complacency from undermining the dream of equitable access to quality education and an integrated civil society.

Leadership doesn’t mean doing what’s easy or what’s popular. It means doing what is right for children and for the future of our nation over the long term. ■

**SHELDON BERMAN** is superintendent of the Eugene School District 4J in Eugene, Ore. E-mail: shelberman@comcast.net