

Reaffirming the Role of School Integration in K-12 Education Policy

A Conversation Among Policymakers, Advocates and Educators

Post-Conference Statement: An Urgent Need for Federal Support

The November 13 Conference of the National Coalition on School Diversity brought together more than 300 people from across the nation. This included parents, teachers, school administrators, local and state elected leaders, long time civil rights advocates, community organizers, and government officials. We engaged in a substantive, compelling dialogue with representatives from the U.S. Department of Education (USDOE), the Justice Department, the Department of Housing & Urban Development (HUD), Congressional staff, and the White House Domestic Policy Council. We expressed our collective concerns about the slow pace of support for voluntary school integration in the new Administration. We feel that our concerns were heard. Now, we must work together to ensure that the new leadership at USDOE goes beyond a mere rejection of the prior administration's hostile approach toward racial and economic integration, affirmatively expanding support for policies that directly ensure that educational and social benefits reach all racial groups.

This Statement summarizes the most important steps we believe the federal government must take in the next two years to support voluntary school integration in American public schools. It is not intended as an exhaustive recap of all the research and policy proposals presented.

1. Rescind the August 2008 Guidance Issued by the Previous Administration

The goals of promoting integration and avoiding racial isolation were recently reaffirmed as compelling government interests by five Justices of the U.S. Supreme Court in *Parents Involved in Community Schools v. Seattle School District #1*.¹ The decision did strike down specific elements of voluntary plans in Seattle and Louisville. However, a majority of the Court indicated support for a wide range of race-conscious measures to promote school integration that do not assign individual students based on their race.

In August 2008, the USDOE issued a misleading "Guidance" to local districts suggesting that race-conscious plans were no longer permissible, and advising districts to adopt

¹ 551 U.S. 701 (2007). The No Child Left Behind Act also emphasizes the importance of "support of... local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education." 20 U.S.C. § 7231(a)(4). Racial integration and deconcentration of poverty are also built in to the USDOE's mandate to ensure equal access to educational opportunities pursuant to 20 USC § 1228 (a), and its broader responsibilities under Title VI of the Civil Rights Act of 1964.

“race-neutral” policies.² Needless to say, the Department’s 2008 Guidance caused confusion among school administrators. We urge the USDOE, in consultation with the Department of Justice, to rescind the 2008 Guidance and replace it with an affirmative statement that accurately reflects the law.

2. Expand Funding for the Magnet Schools Assistance Act

The Magnet Schools Assistance Program (MSAP) is the primary source of federal funding for innovative school integration programs. As set out in the No Child Left Behind Act, “[i]t is in the best interests of the United States....to continue to desegregate and diversify schools by supporting magnet schools, recognizing that segregation exists between minority and non-minority students as well as among students of different minority groups.” 20 U.S.C. § 7231(a)(4). However, as we heard at the conference, the president’s FY 2010 budget for MSAP has been flat funded since FY08, and the number of school districts served has steadily decreased. The current budget level funds the program at \$104.83 million, supporting approximately 41 MSAP grantees in 17 states. Without funding increases or adjustments for inflation, MSAP is unable to meet the demand for more magnet school programs.³ We urge the USDOE to double funding for the MSAP to at least \$210 million in 2011-12, and to include much stronger integration goals in the funding application process, along with other equity measures (including protection against within-school segregation and tracking).

3. Provide Support for Interdistrict Transfer Programs

Some of the most successful school integration programs now operating involve the voluntary transfer of students in high poverty urban districts across district lines to attend higher performing (and racially integrated) suburban public schools. These programs have been studied exhaustively, and it is clear that they provide important benefits to both city and suburban students. They need the full support of the federal government, and could serve as models for other highly segregated metropolitan areas. This should include support for parent education and organizing, and transportation costs, as well as staff development and training to ensure that incoming students receive the best possible education when they arrive. Additional efforts should be made to avoid in-school segregation and address the needs of low income Latino students, students with disabilities, and students with limited English proficiency.

4. Open up the New Stimulus Education Funds to Voluntary School Integration Programs

The “Race to the Top Fund” and the “Investing in Innovation Fund,” adopted pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), both have the potential

² www.ed.gov/about/offices/list/ocr/letters/raceassignmentese.html

³ We are grateful to the Magnet Schools of America, a presenter at the November 13 Conference, for this helpful budget analysis. More budget information is available at www.magnet.edu. Magnet Schools of America has requested an increase of \$100 million in the MSAP budget to fund an additional 40 districts (average grant award is \$2.5 million per year).

to expand quality, integrated educational options for low income children in low performing schools. We again urge the USDOE to consider its mandate to promote racial and economic integration in its administration of these funds.⁴

5. Promote School Integration in the Reauthorization of the Elementary and Secondary Education Act (ESEA)

The upcoming reauthorization of the ESEA (which includes most of the current elements of “No Child Left Behind”) is an important opportunity to restructure the delivery of Title I funding to states and local district in a way that incentivizes integration. Specifically, the USDOE should consider strong incentives to states to require cross-district transfers to permit low income students to move from high poverty schools to lower poverty schools, with funds appropriately following the students to their new districts. The USDOE should also support revisions in the basic Title I funding formula to more strongly encourage racial and economic integration, expansion of funding for parent involvement, and inclusion of a “private right of action” to permit parents to enforce their children’s rights under the Act.

6. Incorporate Civil Rights Requirements in the Charter School System

The growing charter school system should not be exempt from the obligation to promote racial and economic integration. These schools have great potential for diversity, because they are usually not restricted by school district boundaries. Yet in practice these schools tend to be more segregated than nearby conventional public schools. The USDOE should require all charter schools receiving federal funding to take affirmative steps to promote racial and economic integration – including active recruitment of children of color, lower-income families, English language learners and students with disabilities under the IDEA, as well as other appropriate pro-integration measures consistent with the *Parents Involved* decision. Similarly, consistent with Title VI, the Department should also refrain from funding *new* racially isolated schools unless such funding is necessary to prevent imminent educational harm.

7. Better Coordinate Housing and School Policy in Support of School Integration

HUD and the U.S. Department of Treasury, through their extensive low income housing programs, exert significant control over where low income families are permitted to live. However, in spite of a clear mandate to promote integration,⁵ these agencies have generally not considered the educational impacts of their policies – often steering children of low income families and children of color into high poverty, segregated schools. It is time for the USDOE to work collaboratively with HUD and Treasury to better link federal housing and school policy, including civil rights siting requirements

⁴ Members of the Coalition have submitted formal comments on the proposed guidelines for both of these ARRA education funds. See www.prrac.org/projects/schooldiversity.php.

⁵ The Fair Housing Act, 42 U.S.C. §3608, requires both agencies to “affirmatively further fair housing” in all of their housing and urban development activities – including an obligation to avoid segregation and promote residential integration.

for the Low Income Housing Tax Credit Program, strong affirmative marketing of all federally-funded housing assets in high performing school districts, and expansion of mobility counseling in the portable Housing Choice Voucher Program to allow families with young children to move into higher performing schools.

8. Support Strong Civil Rights Related Research at the Department of Education

The federal government should engage in and fund research designed to assist racially integrated schools both to improve and sustain their diversity. Similarly, studies of successful, integrated schools need to be disseminated and understood. For example, teachers in diverse and racially changing schools could benefit from research on strategies that confront and resolve racial tension, teaching strategies that include and affirm children from a variety of cultural backgrounds and strategies that help educators devise effective and fair alternatives to “tracking” systems that often disproportionately place students of color in lower-level classes. The USDOE should also explore joint research efforts with HUD on combined housing and education strategies to reduce school segregation.

9. Increase Civil Rights Monitoring and Enforcement

The USDOE through the Office of Civil Rights should visibly increase its monitoring and enforcement of civil rights laws, including such issues as parental concerns of racially segregated students in re-established school boundaries and “neighborhood” schools, unnecessary clustering of English language learner students, access to special programs such as gifted and talented programs, and ongoing active review of existing enforcement agreements.

10. Use the Secretary’s National Leadership Role to Endorse Racial Integration in Schools and Inspire Integration Efforts

In speeches and other public comments, the Secretary of Education could emphasize that integrated public schools are important training grounds as our nation becomes more diverse. Such schools, the Secretary should emphasize, are critical elements in the health of our democracy. Visits to racially integrated magnet schools, that are also high-performing, for example, would provide public examples of such models and further endorse the goal of racial integration in public schools. Officials can stress that pro-diversity efforts are voluntary measures that provide families expanded educational choices.

ENDORSERS

John Payton
NAACP Legal Defense Fund
New York, NY

Veronica Rivera
Mexican American Legal Defense and Educational Fund
Washington, DC

Michael W. Macleod-Ball
ACLU Washington Legislative Office
Washington, DC

Philip Tegeler
Poverty & Race Research Action Council
Washington, DC

William Taylor
Citizens' Commission on Civil Rights
Washington, DC

Tanya Clay House and Tricia Jefferson
Lawyers' Committee for Civil Rights Under Law
Washington, DC

Susan Eaton
Charles Hamilton Houston Institute for Race and Justice
Harvard Law School
Cambridge, MA

Professor Gary Orfield and Professor Patricia Gandara
Civil Rights Project/Proyecto *Derechos Civiles*
UCLA
Los Angeles, CA

Professor Julius L. Chambers
University of North Carolina Center for Civil Rights
University of North Carolina School of Law
Chapel Hill, NC

Professor John Powell
Kirwan Institute for the Study of Race and Ethnicity
The Ohio State University
Columbus, OH

Professor Derek Black
Education Rights Center
Howard University School of Law
Washington, D.C.

Myron Orfield
Institute on Race and Poverty
University on Minnesota
Minneapolis, MN

Professor Kevin Welner
University of Colorado
Boulder, Colorado
(affiliation listed for identification purposes only)

Professor John C. Brittain
University of the District of Columbia
David A. Clarke School of Law
Washington, DC
(affiliation listed for identification purposes only)