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The Importance of Diversity in Primary and Secondary School

The socioeconomic status (SES) of a student substantially influences the student's performance in school.¹ A North Carolina school district has convincingly demonstrated that economic diversity in primary and secondary school has a major impact on performance of low SES students.² Economic integration and the specific integration plan practiced by the district ingeniously and constitutionally make distinctions between students and assign them to schools based on their economic, rather than racial, status.³ However, the evidence of the benefits economic integration has on the test scores and performance of all students *should* yield an acceptance of diversity in primary and secondary schools as a compelling state interest.⁴

In an article in the *Future of Children* journal published by Princeton University, the highest SES quartile is shown to outperform the lowest in every statistic: standardized testing score percentile ranking, four years after eighth grade; percent never reporting being held back a grade, eighth grade and two to four years after eighth grade; percent reporting never dropped out of school, four years after eighth grade; and percent received high school diploma, six years after

¹ See Socioeconomic Status (Dec 2009), *available at* <http://www.education.com/reference/article/socioeconomic-status/>.

² See As Test Scores Jump, Raleigh Credits Integration by Income (Sept 2005), *available at* http://www.nytimes.com/2005/09/25/education/25raleigh.html?pagewanted=all&_r=1&.

³ *Id.*

⁴ *Id.*

eighth grade.⁵ The highest quartile outperforms the lowest by nearly twofold in standardized testing score percentiles.⁶

There are five factors used to measure SES: income, occupation, education, neighborhood, and political power.⁷ The SES of a child's family influences his or her cognitive development.⁸ Low SES families are much more likely to live in old homes with lead paint.⁹ There are more incidents of lead poisoning, fetal alcohol syndrome, and premature births among low SES families, which can cause neurological disorders, mental handicaps, language delays, attention problems, and learning disabilities.¹⁰ Low SES families tend to be more directive and less conversational in dealing with their children.¹¹ They expect unquestioning obedience, encourage less creativity, and influence their children to conform to societal expectations.¹² Low SES children typically do less reading, less skill building, and more television watching at home, but experiences at home can contribute up to half of the measured achievement in verbal skills, reading, and mathematics.¹³ Children living in low SES neighborhoods are more likely to experience distressing events such as physical punishment, domestic violence, and serious crimes which lead to higher rates of depression, lower self-esteem, and juvenile delinquency.¹⁴

Schools in low SES neighborhoods suffer from the neighborhood schooling and property-tax-funded systems of American education. They tend to have fewer resources, the teachers tend to receive less pay and less training, the students have low achievement rates, there are low

⁵ See U.S. Elementary and Secondary Schools: Equalizing Opportunity or Replicating the Status Quo? (2006), available at http://futureofchildren.org/publications/figures-tables/figure_show.xml?fid=140.

⁶ *Id.*

⁷ Socioeconomic Status, *supra*.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

graduation rates, and few students plan to attend college.¹⁵ In many mixed SES schools, children from low SES families are disproportionately placed in low-achieving classrooms and they experience the “self-fulfilling prophesy of failure.¹⁶” They are caught in a vicious cycle where they are tracked into low-achieving classrooms, are not expect to perform, and their families teach them to conform to societal expectations.¹⁷

The Wake County Public School System in Raleigh, North Carolina is in the middle of a social and educational experiment that is yielding fascinating results.¹⁸ In 2000, school officials began a concerted effort to integrate the schools economically.¹⁹ A child’s family income is one of the central, ruling factors in assigning the child to a school each year.²⁰ Each school has a maximum of forty percent economically disadvantaged students.²¹ Over a ten year period, the percentage of African-American students who scored on grade level on state tests has increased from forty to eighty percent.²² The percentage of Hispanic students who have scored on grade level has increased from seventy-nine to ninety-one percent.²³ Richard D. Kahlenberg, a senior fellow at the Century Foundation, explained, “Low-income students who have an opportunity to go to middle-class schools are surrounded by peers who have bigger dreams and who are more academically engaged...They are surrounded by parents who are more likely to be active in the school. And they are taught by teachers who more likely are highly qualified than the teachers in low-income schools.”²⁴

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ As Test Scores Jump, *supra*.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

To achieve the economic diversity in each school, several factors come into play. First, Wake County has placed its magnet schools in the city, which attracts high SES children from the suburbs.²⁵ Low SES children from the city are bused out to the suburbs to balance the middle-class schools.²⁶ Because the school district includes the entirety of Wake County, the school district serves a diverse body of students and can do a lot more to integrate the schools.²⁷

Despite such obvious success with the system, some parents of both high and low SES disagree with the methods used.²⁸ For a parent from the suburbs to drive their child into the city to a magnet school, the trip takes forty-five minutes each way.²⁹ A bus trip from in the city out to the suburbs takes nearly an hour each way.³⁰ The numbers from the district, on the other hand, reveal that the majority of students are not forced to attend schools far from their homes.³¹ Eighty-five percent of the district's 120,000 students attend a school within five miles of their home, and twelve percent voluntarily attend a magnet or year-round school.³² John H. Gilbert, a professor emeritus at North Carolina State University in Raleigh who served for 16 years on the county school board, commented, "There is a lot of evidence that it's just sound educational policy, sound public policy, to try to avoid concentrations of low-achieving students... They do much better and advantaged students are not hurt by it if you follow policies that avoid concentrating low-achievement students."

An advocacy group called Assignment by Choice was formed to promote the idea of parents deciding where to send their children to school. Of the current Wake County system, the

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

president and co-founder of Assignment by Choice noted that the economic integration scheme is nothing more than a proxy for race.³³ On the other hand, parents who complain of the long bus or car ride for their children will also comment on the quality of the school and how much they like their child's school.³⁴

The question that parents, the Wake County school board, and educators around the country want to know is whether this scheme of economic integration is constitutional.³⁵ In the case *Parents Involved in Community Schools v. Seattle School District No. 1*, the Seattle and Jefferson county school districts classified and assigned students to schools based principally on race.³⁶ The Jefferson County school district had a history of segregation and was previously ordered to desegregate by the court.³⁷ In 2001, the court repealed the order after finding desegregation was complete.³⁸ However, the school district had experienced significant improvements in student achievement during the program and wished to voluntarily continue to take steps towards maintaining diverse school.³⁹ The Seattle school district did not have a history of segregation, but also felt that diversity was an essential factor of students' academic success.⁴⁰

The Supreme Court held that the school districts must show a compelling state interest and their actions must be narrowly tailored to achieving that interest.⁴¹ Race is a suspect classification, so assigning students to a school based on their race must qualify under strict

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ See *Parents Involved in community schools v. Seattle school district No. 1*, 551 U.S. 701, 702 (2007).

³⁷ *Id.* at 715-716.

³⁸ *Id.* at 716.

³⁹ *Id.*

⁴⁰ *Id.* at 764.

⁴¹ *Id.* at 702.

scrutiny.⁴² The only two compelling interests recognized by the Court when it comes to classifications based on race are: 1) to remedy past discrimination, and 2) to achieve diversity.⁴³

Neither Seattle nor Jefferson County had implemented the programs to remedy past diversity.⁴⁴ Seattle had never had an issue with segregation or a need to desegregate its schools.⁴⁵ Although Jefferson County did have a history of discrimination, the court already found that a concerted effort at desegregation was no longer necessary.⁴⁶ The first compelling interest accepted by the court was therefore not met.⁴⁷ The court found the second was not met either because diversity is not a compelling interest in *primary* or *secondary* schools.⁴⁸ The only level of school where the court believes diversity is a compelling state interest is at the university level.⁴⁹

The Wake County, North Carolina school district never used race as a distinguishing factor.⁵⁰ The fact that race is oftentimes associated with economic status is merely incidental.⁵¹ Twenty-seven percent of Wake County's students are low income, and fifteen percent of those students are Caucasian.⁵² More than forty percent of Wake County's African-American students are not low income students, but working and middle class.⁵³ These percentages do not support the activist group's claim that the economic integration is merely a proxy for race.

Unlike *Parents Involved in Community Schools*, Wake County uses economic class, not race, to classify students and assign schools. Racial classifications must stand under strict

⁴² *Id.* at 702.

⁴³ *Id.* at 720-722.

⁴⁴ *Id.* at 703.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* At 720-722.

⁴⁸ *Id.*

⁴⁹ *Id.* at 703.

⁵⁰ As Test Scores Jump, *supra*.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

scrutiny, but economic classifications do not. Economic classification is not an immutable characteristic or a suspect classification like race. Economic classifications by a state actor merely need to satisfy the rational basis test and be rationally related to a legitimate government interest.⁵⁴ Wake County's economic integration system should easily pass this lower level of scrutiny. Student achievement is a legitimate government interest which the Wake County Public School System has, in fact, been entrusted by North Carolina to produce.

Wake County could argue that economic diversity in itself is a legitimate government interest in producing students that are well-rounded, community-minded citizens. Based on the Court's denial of diversity in primary and secondary schools as a compelling state interest, this argument is less likely to be upheld as legitimate. The evidence of Wake County's past decade of success convincingly demonstrates the causal connection between economic diversity and student achievement. The program is therefore rationally related to the legitimate state interest in student academic success. Wake County's economic integration program would pass the rational basis test because it is rationally related to a legitimate state interest.

If Wake County was taken to court, the plaintiff would likely argue that economic integration is not rationally related to student achievement, that Wake County is discriminating based on race, and that the integration results in long commutes that place an undue hardship on students. To the first argument, the dramatically improving test scores are convincing evidence that the central element of the school assignments (economic class) is rationally related to the corresponding student success. Secondly, the racial makeup of the low and middle classes convincingly reveal that race is not directly correlated to the economic classifications of the students. Finally, the district superintendent disclosed that only about 2.5 percent of Wake County's students are assigned to schools for economic balance or to fill new schools. That

⁵⁴ See *Idaho Department of Employment v. Smith*, 434 U.S. 100, 101 (1977).

means that at max, 2.5 percent of the students are involuntarily busing across town to attend their assigned school.⁵⁵ The large majority of students are attending schools within five miles of their homes or voluntarily attending a magnet or year-round school.⁵⁶

There are a few factors that have made Wake County's economic integration program a success that are not present in many school districts across the United States. First, the county has a long history being required to bus students for racial integration of students, so many children are used to long bus rides to school outside of their neighborhood.⁵⁷ Second, the local economy is booming, and the district is growing quickly.⁵⁸ Third, local corporate leaders and newspapers are huge supporters of the economic diversity plan.⁵⁹ Finally, and most importantly, the district is countywide.⁶⁰ This makes it possible to combine students from the suburbs with students from the city and students from poorer areas with students from richer areas.⁶¹ The county is also very diverse economically and racially.⁶²

Many school districts in the United States would not be able to put in place such a economic integration because they lack these four characteristics of Wake County. In districts where students have always been accustomed to neighborhood schools and very minimum busing, such an economic integration plan would result in a sizable additional cost to the school district and a significant burden on the students to travel perhaps pretty far distances to their assigned schools. Busing students and building magnet schools requires resources, and without a

⁵⁵ As Test Scores Jump, *supra*.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

good economy and a growing district with taxpayer support, this program would also not be successful.

When a school district is not as diverse as Wake County or its bounds are completely within a city or within the suburbs, it would be much more difficult for a school district to have economically integrated schools. To have an economically diverse school, both high and low economic class families must live in the same school district and close enough together that students may reasonably be bused to other areas for school. In large cities in particular, the city itself has its own school district(s) and the suburbs have their own school districts. Often, school districts are as segregated as neighborhoods and it is not possible to have economically integrated schools.

Placement of schools is also important. Wake County had its magnet schools within the city. Swift Creek Elementary School was right on the city line so it could draw students from both the city and the suburbs, all within two miles of the school. For many districts this would require building new schools, renovating old ones, and a lot of funding that they do not have.

The success of the Wake County Public School System demonstrates how important diversity is in primary and secondary schools. However, the factors present that make it possible for Wake County to have a functioning, constitutional system based on economic integration are not present for every school district. Therefore, the Supreme Court should recognize that diversity in primary and secondary schools *is* a compelling government interest and overrule *Parents in Community Schools*.

Several districts around the country have adopted economic integration plans and are seeing the effect it has on test scores and student achievement.⁶³ These include La Crosse, Wisconsin; St. Lucie County, Florida; San Francisco; Cambridge, Massachusetts; and Charlotte-

⁶³ As Test Scores Jump, *supra*.

Mecklenburg, North Carolina.⁶⁴ Wake County's integration plan is the most ambitious and the most successful.⁶⁵ The compounding evidence of success that economically diverse schools are experiencing demonstrates that diversity in primary and secondary schools is just as important as diversity in universities. In *Regents of the University of California v. Bakke*, Justice Powell said, "[I]t is not too much to say that the 'nation's future depends upon leaders trained through wide exposure' to the ideas and mores of students as diverse as this Nation of many peoples."⁶⁶

Diversity is arguably more important in primary and secondary school because it is such a foundational time for students and not everyone attends college. Primary and secondary school is where we learn citizenship, how to listen to others, and how to respect others. America is a very diverse nation with people from nearly every race and culture. Equality among all people is a core ideal in this country. Having more diverse primary and secondary schools will help teach citizenship and respect towards others from every race and culture. More diverse schools will lead to greater equality among different socioeconomic groups as student achievement increases for all children.

Socioeconomic status has a significant impact on a child's performance in school. Innovative economic integration plans by the Wake County Public School District and others provide strong evidence that diversity in primary and secondary schools can drastically improve the achievement of low SES students and benefit all students regardless of their SES. Diversity in primary and secondary schools is equally as important as in universities for student success by exposing students to numerous ideas and backgrounds different than their own. For these reasons, the Supreme Court should recognize diversity as a compelling state interest and overrule *Parents in Community Schools*.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ See *Regents of University of California v. Bakke*, 438 U.S. 265, 312 (1978).