



**TESTIMONY OF EDUCATION LAW CENTER ON
SCHOOL DESEGREGATION**

JOINT COMMITTEE ON THE PUBLIC SCHOOLS

March 23, 2022

Thank you, Assemblywoman Jasey and members of the Joint Committee, for the opportunity to testify on behalf of Education Law Center about the urgent need to desegregate New Jersey's intensely segregated public schools by both student race and socio-economic status.

The guarantee for all students of the right to a thorough and efficient education under the New Jersey Constitution rests on two distinct, but complementary, prongs: the right to adequate resources to meet state academic standards and the right to an education in a diverse learning environment.

Put simply, our Constitution obligates the State to ensure every child has the resources needed to succeed in their schools today, even if segregated. And the State is also obligated to break down the barriers to school segregation to afford students the opportunity to be educated among a diverse student body of their peers.

On the first prong, New Jersey, through interaction and cooperation of all three branches of state government spanning decades, has made great strides in providing the resources essential for students in racially isolated, high poverty districts to meet academic standards: from universal, high quality preschool to a K-12 weighted funding formula, and including rebuilding outmoded, unsafe school buildings.

Of course, like any historic project, much more must be done to fulfill the promise of "in-place equity." For example, while in 2008 we enacted a progressive school funding formula – the SFRA – it remains unfunded. And as a recent Education Law Center analysis found, the persistent state aid gaps in the SFRA disproportionately affect Black and Latino students. In fact, the amount currently spent to educate these students is far more likely to be well below adequacy, while white and Asian students typically attend schools that are at or above that level.

Yet, as we all know, work on effectuating the complementary right of students to be educated in a diverse learning environment has not just been abandoned by

successive governors and legislatures, it has never really started. And the absence of leadership and concerted action at the state level has, as the data starkly show, made our public schools even more segregated in recent decades.

The current state of affairs was succinctly summed up by Chief Justice Deborah Poritz in 2004, when commenting on New Jersey's consistent ranking among the most segregated states for Black students. She said: "We have paid lip service to the idea of diversity in our schools, but in the real world we have not succeeded."

Today, you'll hear from other speakers about the systemic and indefensible barriers that consign students to segregated schools, and the work underway by a broad coalition of advocates to dismantle those barriers. You will also hear about the statewide lawsuit challenging school segregation, *Latino Action Network vs. State of New Jersey*, whose attorneys, plaintiffs and supporters are seeking to enlist the judicial branch in a remedy to this unconscionable violation of our State Constitution.

But we would posit that the Legislature should not – and must not – wait for a court order to begin serious and sustained work on an issue so central to the right to education. Here are some immediate steps that the Legislature can take not only to prevent schools from becoming more segregated, but also to advance opportunities and options for students – Black, White, Latino and Asian – to enroll in and attend racially and socio-economically diverse schools:

1. School District Consolidation:

- The school district consolidation bill passed by the Legislature and signed by the Governor last year must be implemented to increase opportunities for school diversity, and not to create more segregated districts. Through the appropriate committees, the Legislature must undertake an active role in ensuring the Department of Education (DOE) fulfills its role under the law to staunchly defend against consolidations that exacerbate segregation to any degree and only support district mergers that contribute to a more diverse student enrollment.
- Existing law governing severance of send/receive relationships between districts needs to be revised to prohibit severance where it will in any way increase racial segregation, and only allow severance where it will advance diversity.
- Long overdue legislation is needed to move New Jersey's school system to consolidated K-12 districts, ending smaller K-6 and K-8 units of local school governance. These lower-grade-range districts are the product of a bygone era, no longer serving the educational and resource interests of students or the State in delivering education under uniform state standards. Consolidating these districts would have the added benefit of, in many cases, creating districts with a more diverse student enrollment.

2. State Leadership and Capacity:

Senator Cryan is sponsoring urgently needed legislation to establish a Division of School Desegregation in the DOE, expressly tasked with identifying the extent of racial and socioeconomic segregation of school districts as a means to promote diversity. We fully support the bill and have offered extensive amendments to strengthen the mission, responsibilities and budget of this new Division. These amendments are critical in light of our research documenting that the severe disinvestment and shortages in staff and other resources at the DOE has reached the crisis stage.

In the 1970s and 80s, the DOE had designated staff and experts working on racial and socioeconomic segregation and equity, publishing vital guidance, and offering technical assistance and support to districts and the Legislature on how to promote diversity within schools and at the district level. The DOE's Office of Equity also performed a crucial leadership role with lawmakers, parents and communities across the state to inform and engage the roots of the educational system in the difficult work of desegregation. That leadership, capacity and expertise is desperately needed now.

3. Retooling Existing Programs:

- Existing programs enacted by the Legislature in recent decades, including the interdistrict choice and charter school programs, as well as county vocational schools, provide a ready resource that can be deployed in the service of advancing school diversity. But, put bluntly, these programs do not operate to achieve this constitutional mandate. Rather, they perpetuate the same patterns of racial and socio-economic segregation in the districts they serve or draw students from. Statutory and regulatory changes are needed to utilize these programs to break down entrenched barriers to diversity. For just one example, we have long recommended that the charter school program law be amended to prioritize and incentivize the establishment of charter schools designed to serve multiple school districts with a racially and economically diverse student body.

Sixty-seven years ago, in a landmark desegregation case involving Plainfield's public schools, our Supreme Court made clear that, "in a society such as ours, it is not enough that the 3Rs are being taught properly. The children must learn to respect and live with one another in multi-racial and multi-cultural communities and the earlier they do the better. It is during their formative school years that firm foundations may be laid for good citizenship and broad participation in mainstream affairs."

Today, we are witnessing an unprecedented level of polarization, lack of discourse and community isolation that poses a grave threat to our very democracy. The Court's later admonition in 2004 that "students attending racially imbalanced schools are denied the benefits that come from learning and associating with students from different

backgrounds, races and cultures” is now a more compelling challenge than ever. Now, more than ever, our state needs to take up that challenge.

We know that diversity in our schools benefits all students – Black, White, Brown and Asian. They benefit from learning together, associating and interacting with one another, and learning the core human values of respect and tolerance for our differences. It is part and parcel of – not separate from – what a thorough and efficient education means in our great state.

It’s time for all of us to fully embrace this task. Today’s hearing must not be the end but rather the start of our collective efforts to fully effectuate the full entitlement of our students to a constitutional education. Let the journey begin.