



# Promoting Student Diversity in Schools

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SEGREGATION, DESEGREGATION,  
RESEGREGATION, DIVERSITY  
IN  
AMERICA'S PUBLIC SCHOOLS

National School Board Association  
Annual Conference  
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# DESEGREGATION/DIVERSITY PLANS

- Court Ordered
- Voluntary

# FROM DESEGREGATION TO DIVERSITY

- Historically, an issue of White and African-American students
- Today, diversity is multi-racial and inclusive of characteristics beyond race
- Broader definition reflects many communities
- Broader definition more compatible with legal standards

# ASSIGNMENT PLANS/PROGRAMS THAT INCREASE STUDENT DIVERSITY WITHIN A SCHOOL

- *Should you* do it?
- *Can you* legally do it?
- *How do you* do it?

# *SHOULD YOU* ADOPT STUDENT ASSIGNMENT POLICIES THAT INCREASE DIVERSITY?

## Educational Value

- Educational data often reflects lagging results by minorities, low-income students
- Preparing students for a multicultural society
- Supreme Court: there is a compelling educational interest in promoting diversity and removing racial isolation

# *SHOULD YOU* ADOPT STUDENT ASSIGNMENT POLICIES THAT INCREASE (CONT'D)

- Costs of Litigation
  - Expensive
  - Divisive
  - Consumes staff time
  - Detracts from core focus
  - Lengthy
  - Uncertain outcome
  - May cede control over major issues

# LITIGATION IN RESPONSE TO DISPARATE RESULTS

- Many districts defending lawsuits
- State of New Jersey sued in 2018
- State of Minnesota sued 2018 in  
*Cruz-Gusman v. State of Minnesota*



# *CRUZ-GUSMAN* ALLEGATIONS

- Minneapolis/St. Paul schools segregated compared to surrounding districts
- Those schools are separate and unequal
- Segregated schools have significantly worse outcomes
- State caused or permitted segregation
- Segregated schools violate Education Clause of State Constitution requiring a system of general, uniform, thorough, and efficient schools

# *CRUZ-GUSMAN* OPINION

Minnesota Supreme Court:

“It is self-evident that a segregated system of public schools is not ‘general,’ ‘uniform,’ thorough,’ or ‘efficient.’”

## Justice Breyer

“Primary and secondary schools are where the education of this Nation’s children begins, where each of us begins to absorb those values we carry with us to the end of our days. As Justice Marshall said (in 1974), ‘unless our children begin to learn together, there is little hope that our people will ever learn to live together.’”

# *CAN YOU* LEGALLY ADOPT STUDENT ASSIGNMENT PLANS TO INCREASE DIVERSITY?

- Yes
- Plans must satisfy the Equal Protection Clause of the U.S. Constitution (14<sup>th</sup> Amendment)
- No state shall “deny to any person within its jurisdiction the equal protection of the laws.”

# TWO EQUAL PROTECTION CLAUSE TESTS

- Strict Scrutiny Test
  - Policy must serve a compelling state interest
  - Policy must be narrowly tailored to the purpose
- Rational Basis Test
  - Policy must be reasonably related to a legitimate state interest

# WHICH TEST WILL BE APPLIED?

- Policies that use an individual student's race – strict scrutiny
- Policies that are race-neutral or use race as one factor – rational basis

# POVERTY REPLACING RACE AS FACTOR

- Race as factor receives heightened legal scrutiny
- Poverty legally less scrutinized and easier to justify
- Many school districts switched from using race to poverty indicators

STRICT SCRUTINY  
*PARENTS INVOLVED IN COMMUNITY SCHOOLS V.  
SEATTLE SCHOOL DISTRICT (S. CT. 2007)*

- School plans used individual student's race in school assignment
- Diversity is a compelling state interest (5 justices)
- Court majority: plans violate equal protection
  - 4 justices: Fails compelling interest prong
  - J. Kennedy: Fails narrowly tailored prong



# RATIONAL BASIS

*DOE V. LOWER MERION (3<sup>RD</sup> CIR. CT. APPEALS 2011,  
CERT. DENIED)*

- School board used race in setting attendance zones
- Race was one of several factors
- “The consideration or awareness of race while developing or selecting a policy, however, is not in and of itself a racial classification. Designing a policy ‘with racial factors in mind’ does not constitute a racial classification if the policy is facially neutral and is administered in a race-neutral fashion.”

# *HOW TO DIVERSIFY* - STRATEGIES

- Controlled Choice – parents' choices matched with diversity goals
- Magnet Schools – school with specialized program that attracts students of different races or incomes
- Redistricting – drawing attendance zones to achieve diversity

# *HOW TO* DIVERSIFY – DISTRICT EXAMPLES

## 1. Cambridge, Mass. 1980

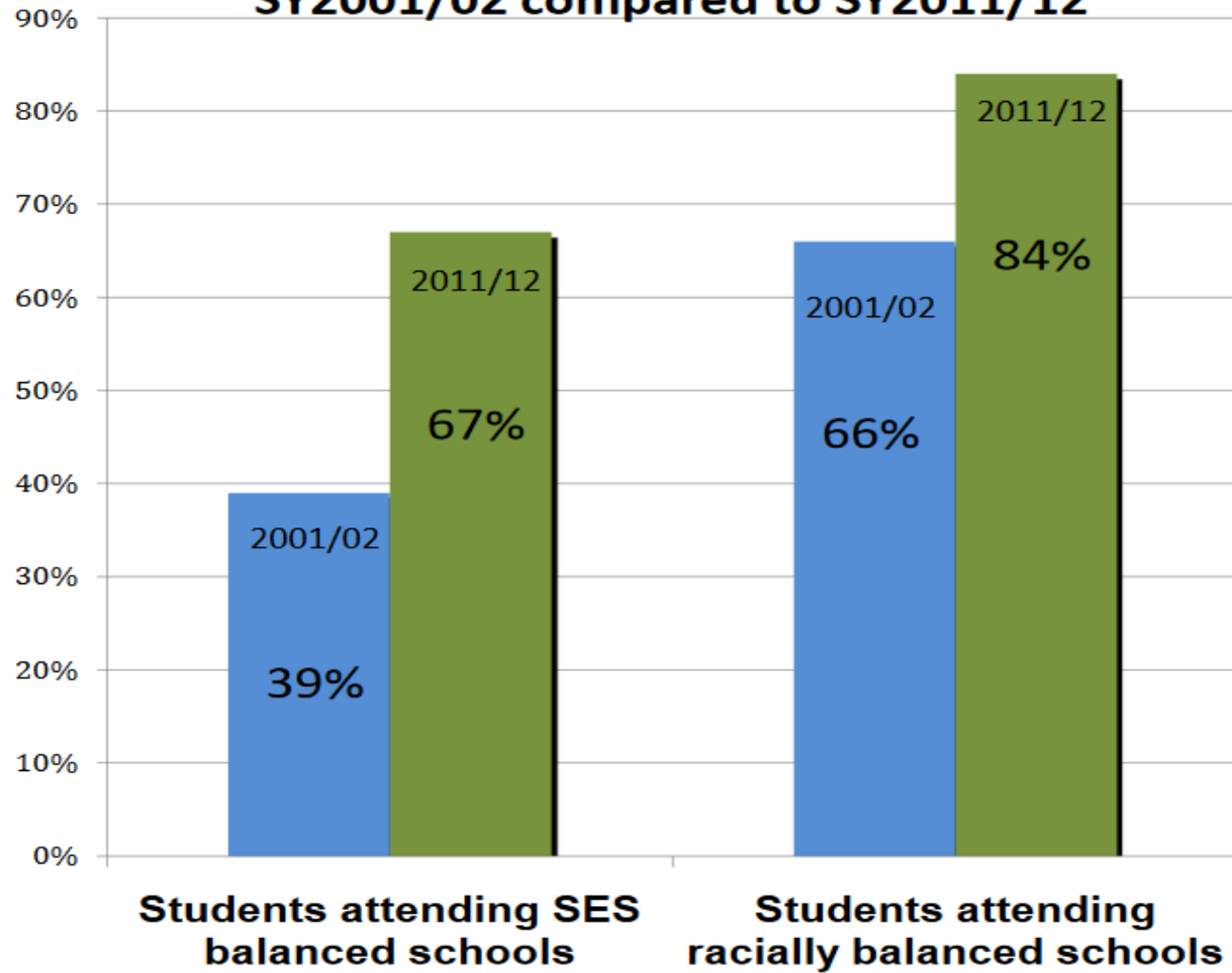
- Parental choice program
- School board moved away from neighborhood school model
- Nationwide model
- Initially used race, switched to SES

# *HOW TO* DIVERSIFY – DISTRICT EXAMPLES

## 1. Cambridge, Mass (cont'd)

- Parents select 3 choices
- District assigns based on choice, SES, diversity goals
- Switch to SES supported racial integration

**Percentages of the JK - 8th grade Students  
in Schools Balanced  
by Race and SES  
SY2001/02 compared to SY2011/12**



■ SY2001-02 the last year using race as the primary desegregation factor  
■ SY2011-12 the tenth year using SES as the primary desegregation factor

# *HOW TO DIVERSIFY*– DISTRICT EXAMPLES

## 2. Jefferson County, Kentucky

- Controlled choice using 3 factors: race, income, parents' educational attainment
- Every census block rated by average of 3 criteria
- Elementary schools arranged in 13 clusters of 5-8 schools

# *HOW TO DIVERSIFY*– DISTRICT EXAMPLES

2. Jefferson County, Kentucky (cont'd)
  - Parents identify preferences within their cluster
  - District assigns students to achieve balance of 3 criteria
  - Middle/high school attendance zones drawn to achieve diversity

# *HOW TO DIVERSIFY*– DISTRICT EXAMPLES

## 3. Eden Prairie, Minnesota

- 2010 school board revised attendance zones to increase economic and racial diversity
- Plan significantly decreased wide variation in economic and racial composition of schools
- Reassigned 1000 students out of 9000



# *HOW TO DIVERSIFY*– DISTRICT EXAMPLES

## 4. Hartford, Connecticut

- City of Hartford high poverty, high minority rates
- Worked with 30 surrounding districts
- Adopted inter-district enrollment plan
- Uses choice policies and magnet school offerings

## *HOW TO DIVERSIFY*– TIPS

1. Publicly discuss how promoting diversity and avoiding racial or economic isolation supports the school system's mission.
2. Use diversity experts and research
3. Consider using socio-economic indicators instead of race.
4. Choice plans and magnet school initiatives can be less contentious than redistricting plans.

## *HOW TO DIVERSIFY*– TIPS

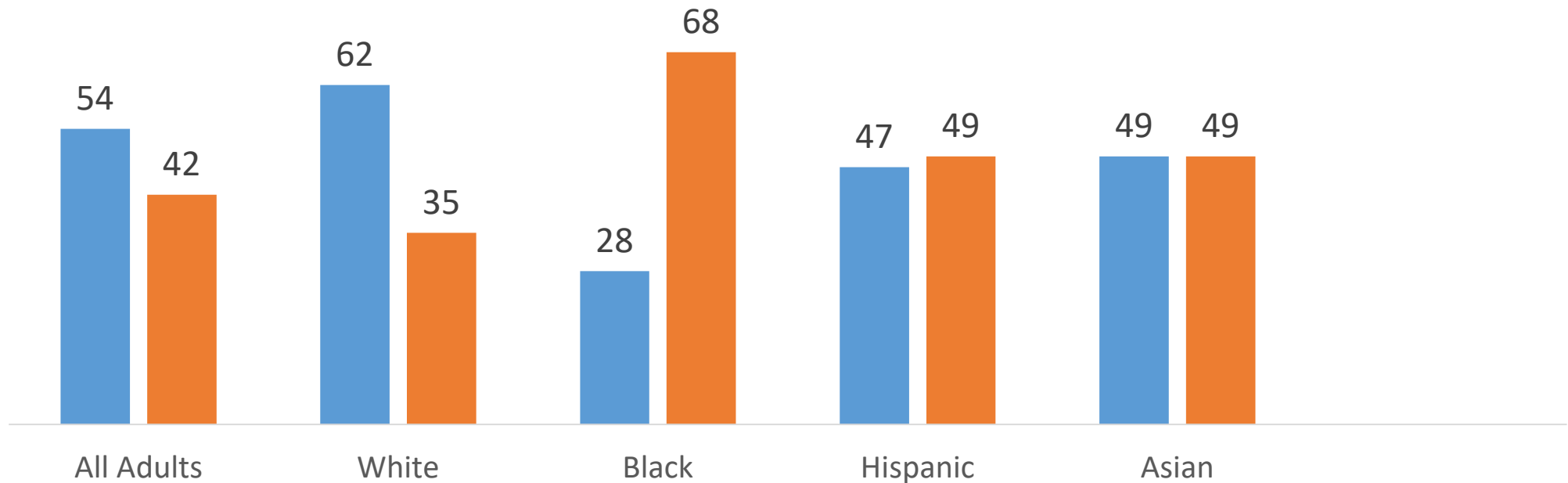
5. If redistricting is used, develop plans using race-neutral criteria, and select a plan that best achieves diversity.
6. Consider the impact on all races and not just on White or African-American students.
7. Diversity should be defined broadly.

## SHOULD YOU ADOPT STUDENT ASSIGNMENT POLICIES THAT INCREASE DIVERSITY?

- Controversial, contentious, burdensome
- Choice Programs – Increased student transfers, transportation costs/travel time, loss of neighborhood school, loss of parental control
- Eden Prairie, Minnesota
  - Extremely contentious
  - 4-3 board vote
  - Board, Superintendent, staff out

# PEW RESEARCH CENTER SURVEY

## Community Schools v. Student Diversity



Students should go to:

- = their community school even if it means most schools are not diverse
- = schools that are diverse even if it means some students do not go to their community school

# SUMMARY

- Variety of successful plans in use in many districts
- Consider using poverty instead of race
- Do not use individual use of race
- Resources on school system diversity initiatives abound
- Many options exist and more can be created

# CONCLUSION

- Develop diversity mindset in your community
- Diversity not about getting students of different races in close proximity to each other
- Diversity is a mindset that respects all diverse groups and values their differences

## Justice Kennedy

“The decision today should not prevent school districts from continuing the important work of bringing together students of different racial, ethnic, and economic backgrounds . . . . Those entrusted with directing our public schools can bring to bear the creativity of experts, parents, administrators, and other concerned citizens to find a way to achieve the compelling interests they face . . . .”