



institute on race & poverty

Research, Education and Advocacy

The Choice Is Ours: Expanding Educational Opportunity for all Twin Cities Children

Executive Summary

This report reveals the disturbing extent of school segregation in the Twin Cities region, and describes segregation's harms to children and the region. It is a wake-up call to all of us.

Most importantly, this report envisions a brighter future for the region, its children, and its families. The Institute on Race and Poverty describes how expanding an already successful school choice program, coordinated with appropriately focused affordable housing policies, can help lead to equal access to opportunity for the region's disadvantaged children and their families.

In this report

- Schools in the Twin Cities region, like many of the region's neighborhoods, are segregated. There are many severely segregated schools in the central cities, yet a growing number of suburban schools are, or quickly are becoming, segregated.
- Economically and racially segregated schools and their students face performance challenges largely *because of segregation*. Students from all socio-economic backgrounds perform worse in high-poverty schools, and better in low-poverty schools.
- Graduation rates hover around 55 percent in Minneapolis public schools, where three-quarters of the students are poor; much of the rest of the region enjoys graduation rates of 88-100 percent.
- Segregated schools, and neighborhoods, isolate children from the socio-economic diversity that fosters high expectations, and cultures that support them; they isolate children from the networks important for accessing, and learning to access, academic and life opportunities.
- Even among only the poor, isolation in poor schools and neighborhoods falls disproportionately on persons of color:
 - Poor Latino and African American families are two to three times more likely to be isolated in segregated neighborhoods than are *poor* white families. Racial and exclusionary zoning, racial steering in real estate markets, and housing discrimination are among the direct and structural forces shaping segregation.
 - Compared to *poor* white children, Latino and African American children are more than twice as likely to attend schools of concentrated poverty, an isolation reflecting residential segregation.
- Families who can, tend to choose schools that do not have excessive poverty enrollments. This quickly worsens school segregation, makes neighborhoods unstable, and worsens residential segregation.

- But when all of a region's schools provide equal access to educational opportunities, families can live anywhere, assured that their children can attend good public schools.
- School integration policies, applied at a metropolitan scale, can offer this assurance, thus improving outcomes for children and their schools, and stabilizing neighborhoods.
- Unfortunately, federal desegregation law does not enable integration plans that can operate at the geographic scale that corresponds with housing markets and patterns in metro regions. While significant school integration progress was made during the 1960s and 1970s, it slowed during the 1980s, and has quickly been reversing ever since.
- African American children today are, therefore, more likely to be isolated in segregated schools than they were in 1970.
- Since the 1990s, however, litigation in state courts has become a promising way for disadvantaged students to seek redress of their right to equal educational opportunity.
- State-court litigation against the State of Minnesota and City of Minneapolis during the 1990s led to a settlement creating a promising interdistrict school choice model, "Choice is Yours," that permits some students in segregated Minneapolis schools to attend nonsegregated schools in the western suburbs.
- Its first four years at a pilot scale were successful for all involved, and academic achievement was higher for participating Choice is Yours students than for eligible students who chose to remain in Minneapolis schools.
- Choice is Yours is a model that should be expanded to include more schools, and more districts, as part of a comprehensive approach to provide quality, integrated schools for all of the region's children.
- In contrast, charter schools are more segregated than traditional public schools, and their performance is unproven at best. Nor is simply spending more money for segregated schools producing results.
- School segregation reflects residential segregation, and for many poor persons is an outcome of a history and ongoing practice of government decisions to isolate affordable housing in areas of concentrated poverty and in segregated, or segregating, neighborhoods.
- Indeed, affordable housing in the Twin Cities region has been concentrated in poor and segregated neighborhoods.
- To help integrate schools, and ensure equal access to opportunity, affordable housing should not be concentrated in racially or economically segregated areas, and decisions to site units should be coordinated with an expanded school choice program so opportunities are available for families to live near their children's schools in places where job opportunities also are more abundant.

Introduction

Many Twin Cities schools are segregated. Segregated schools harm children, communities, and the metropolitan region. Segregated schools intensify the region's segregated residential patterns, concentrating poverty and magnifying its harms. This isolates the most disadvantaged children from educational and economic opportunity. Even worse, some schools are "hypersegregated,"¹ with enrollments that are nearly 90 percent black and poverty enrollments that are similarly concentrated.²

In significant part because of this racial and social segregation, only 52 percent of black children and 20 percent of Hispanic children in Minneapolis are expected to graduate.³ Those that do graduate or obtain an equivalency degree will likely have tremendous difficulty finding a path to college or a living-wage job with benefits.

The response to the problem of school segregation in Minnesota's metro regions has been "separate and much more than equal funding" of central-city schools.⁴ Minnesota increased funding to segregated schools when it was under the threat of a metropolitan desegregation lawsuit, both in the 1970s, based on the federal equal protection clause, and in the 1990s, based on the state constitution.⁵ Since 1995, state funding formulas have guaranteed that twice as much money is spent per pupil in the most segregated city schools than in the average suburban district.⁶

Part One **Segregation Hurts Everyone**

Segregated Schools Hurt Children

Research shows that more than three-quarters of the difference in academic achievement among students is explained by the socioeconomic status of their peers, rather than general differences in school facilities and programs.⁷ Not only do racially and economically segregated schools hurt all children, they harm disproportionate numbers of nonwhite children.

"The percentage of poor children in a school is an extremely strong predictor of inequality in educational outcomes"⁸ As fifty years of sociological data have made clear, "being born into a poor family places students at risk, but to be assigned then to a school with a high concentration of poverty poses a second, independent disadvantage that poor children attending middle-class schools do not face."⁹ The harms of economically segregated schools disproportionately fall on poor, nonwhite children. They are much more likely to live in poor neighborhoods and to be educated in schools with high proportions of poor students than their white counterparts.

A key difference between white poverty and black poverty is that few poor whites are segregated in areas of concentrated poverty.¹⁰ Only one-fourth of poor white families live in neighborhoods (census tracts) with poverty levels over 20 percent. Conversely, three-quarters of poor blacks and two-thirds of poor Latinos live in such high-poverty tracts.¹¹ As a result, poor Latino and black children are 2.3 times more likely than poor white students to attend schools of concentrated poverty, cut off from meaningful exposure to middle-class networks.¹²

Although poor students have lower math test scores, on average, than do non-poor students, all children do better in economically diverse schools, and all children do worse in schools of concentrated poverty¹³:

- Poor students attending low-poverty schools perform better than non-poor students attending high-poverty schools.
- Both non-poor and poor students have lower achievement in high-poverty schools.

Among the harms of attending poor schools is the risk of being poor as an adult. When studies control for individual achievement and family background, they still find that “attending a school with high concentrations of poverty increases the chances of adult poverty by a factor of between three and four compared with attending a low-poverty school.”¹⁴ Other harms of *economically* segregated schools (and neighborhoods) include the harms associated with *racially* segregated schools, as described below, and with dropping out of school.¹⁵ These harms include unemployment, imprisonment, and impoverishment.¹⁶

Schools of concentrated poverty offer fewer resources, weaker educational preparation, and “substantially lower achievement levels.”¹⁷ Compounded by racial isolation, segregated schools prevent access to the social contacts and cultural familiarity “necessary for career and educational advancement,” especially for black children.¹⁸ In short, students in segregated schools are “deprived of the most effective educational resources contained in the schools: those brought by other children as the result of their home environment.”¹⁹

Racially and economically segregated schools have significantly higher dropout rates than do nonsegregated schools.²⁰ On average, dropouts experience:²¹

- Higher unemployment
- Lower earnings
- Higher incarceration rates
- Unstable families
- Unstable social structures

Racially and economically segregated schools tend to be overcrowded, staffed by larger shares of uncertified teachers, have low expectations, and limited facilities.²²

In addition, nonwhite economically segregated schools “often transmit lower expectations to minority students and offer a narrower range of educational and job-related options.”²³ Thus, studies have found, for example, that the jobs that black students from racially segregated schools obtained were lower paying and more racially isolated than the jobs obtained by whites.²⁴ High-poverty, segregated schools too often do not encourage students “to develop the levels of self-esteem or the styles of presentation which employers perceive as evidence of capacity or ability.”²⁵

In schools with concentrated poverty enrollments, even the most motivated and gifted students are pulled down by peer groups who resent their success, as social scientists have shown.²⁶ John Ogbu and Sygnithia Fortman developed theory around what has become known as “oppositional culture.” Born out of an intense pressure not to give in to what is seen as a “white” educational and

social system, Ogbu and Forthman argue that impoverished black students are forced to embrace this oppositional culture, or be ostracized from their peer group for “acting white.”²⁷ Oppositional culture derides and punishes individuals seeking to succeed in the dominant culture.²⁸

Oppositional culture perpetuates segregation and its harms. Oppositional culture among black students discourages academic accomplishment “regardless of income level or class.”²⁹ Because this can perpetuate negative social networks,³⁰ integration is valuable in offering “social networks and interpersonal skills that in turn may provide access, information, contact, and sponsorship.”³¹ Indeed, even disadvantaged students who are committed to succeeding found they “lacked the knowledge or access necessary to implement a plan of action.”³² The racially integrated school environment offers these ingredients for success, and provides “alternative role models and opportunities as well as affection and validation.”³³

There is nothing short of integration to substitute for the benefits of integration. Even beyond the academic achievement and attainment benefits, “the networking effects of desegregation may be far more important than [even] the cognitive effects.”³⁴ For children to have a fair chance, these benefits must, as public schools were envisioned to do, offer these opportunities equally. Effectively desegregating schools is a “tide that can raise all boats,” narrowing gaps that weigh on a metro region’s vitality.³⁵

Twin Cities Schools Are Segregated By Race and Class

The Twin Cities region is severely segregated by class and race, and school districts such as Minneapolis are dangerously segregated as a result. The acutely segregated schools in Minneapolis are crushed by poverty enrollments exceeding 80 percent in many cases. This exposes students not to opportunity, but to a culture of intergenerational poverty and its attendant challenges.

During the 1960s, the Minneapolis School District’s racially discriminatory decisions caused and contributed to racially segregated schools in violation of the Fourteenth Amendment to the United States Constitution.³⁶ The district was found, among other things, to have drawn its school boundaries in a discriminatory manner. The resulting 1972 federal school desegregation case produced a desegregation remedy that lasted only a few years and affected only schools within the city boundaries. At the time, Minneapolis schools overall were 14 percent nonwhite.³⁷

During the 1980s and 1990s, as the suburbs grew rapidly, schools closed in some districts while other districts on the edge of the region built new ones. During those decades, the region, especially its central cities, became more racially and ethnically diverse. Minneapolis gained increasingly higher shares of minority and poverty enrollments, the latter increasing from 43 to 66 percent between 1990 and 2000.³⁸ The middle class increasingly chose to locate away from high poverty schools further out into the suburbs, and the schools they left became severely racially and economically segregated.

By 2003, forty-six percent of reporting Minneapolis schools were hyper-segregated, with enrollments between 81-100 percent nonwhite.³⁹ Sixty-seven percent of Minneapolis students presently are on free or reduced-price lunch.⁴⁰ (Table 1-1) This concentration of poverty is extreme in the national context and is especially so within the Twin Cities regional context.

Table 1-1 Poverty Enrollments by School District, 2005	
Minneapolis	67%
Bloomington	27%
Hopkins	18%
Edina	6%
Minnetonka	3%

Source: Minnesota Department of Education⁴¹

The concentration of race and poverty in Twin Cities schools is revealed in the following maps of the region's elementary school enrollments. Figure 1-1 displays the racial distributions in Minneapolis schools for the 2004-2005 school year. With the exception of a cluster of schools in southwest Minneapolis and a few others in the city, the overwhelming majority of schools are racially identifiable by a minority group. Nearly all of the schools in north Minneapolis are majority black and many of the schools in central Minneapolis are majority Latino. The few stably integrated schools in southeast Minneapolis do not offset a clear pattern of segregation elsewhere in the city. (Figure 1-1.)

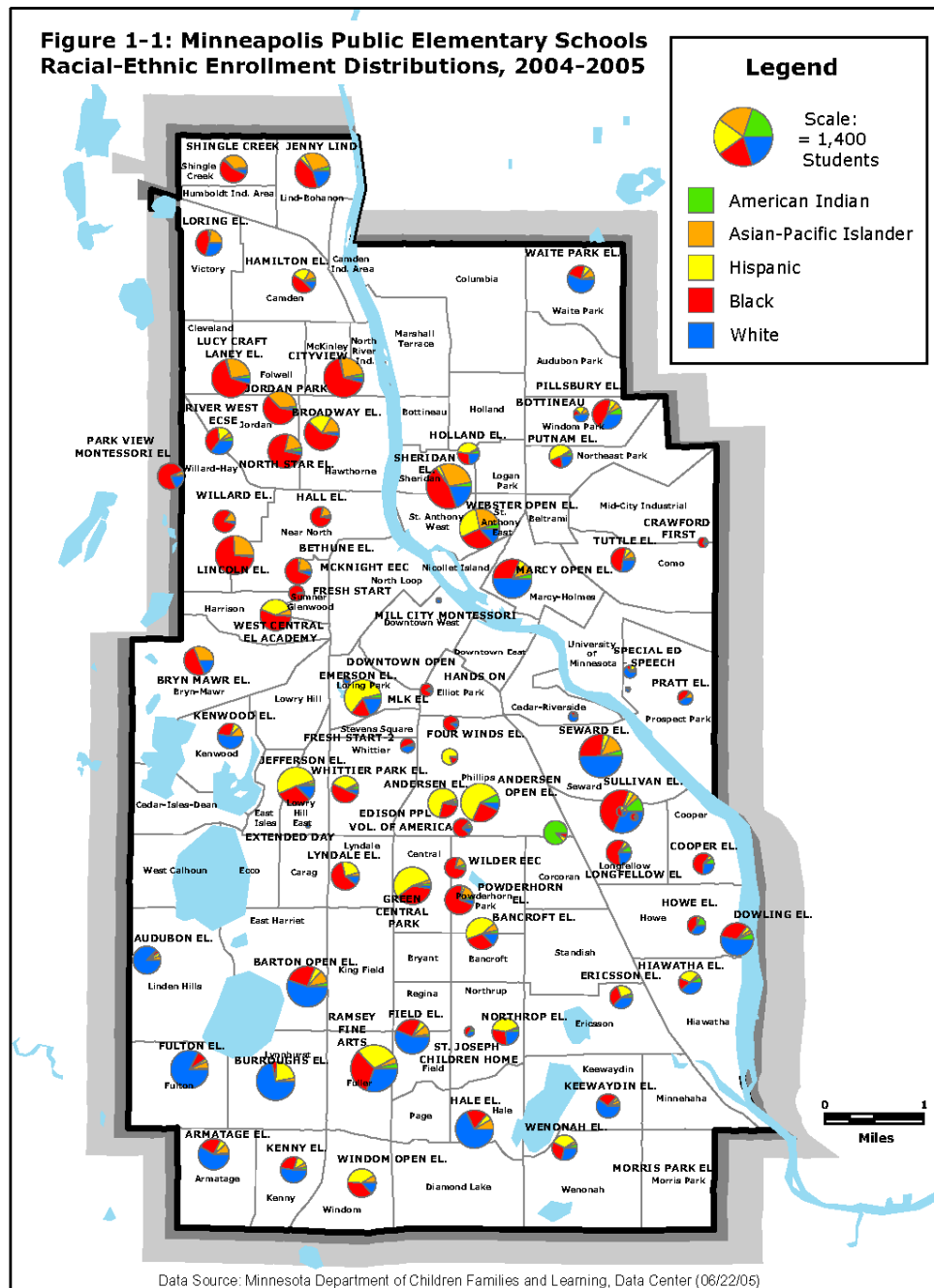
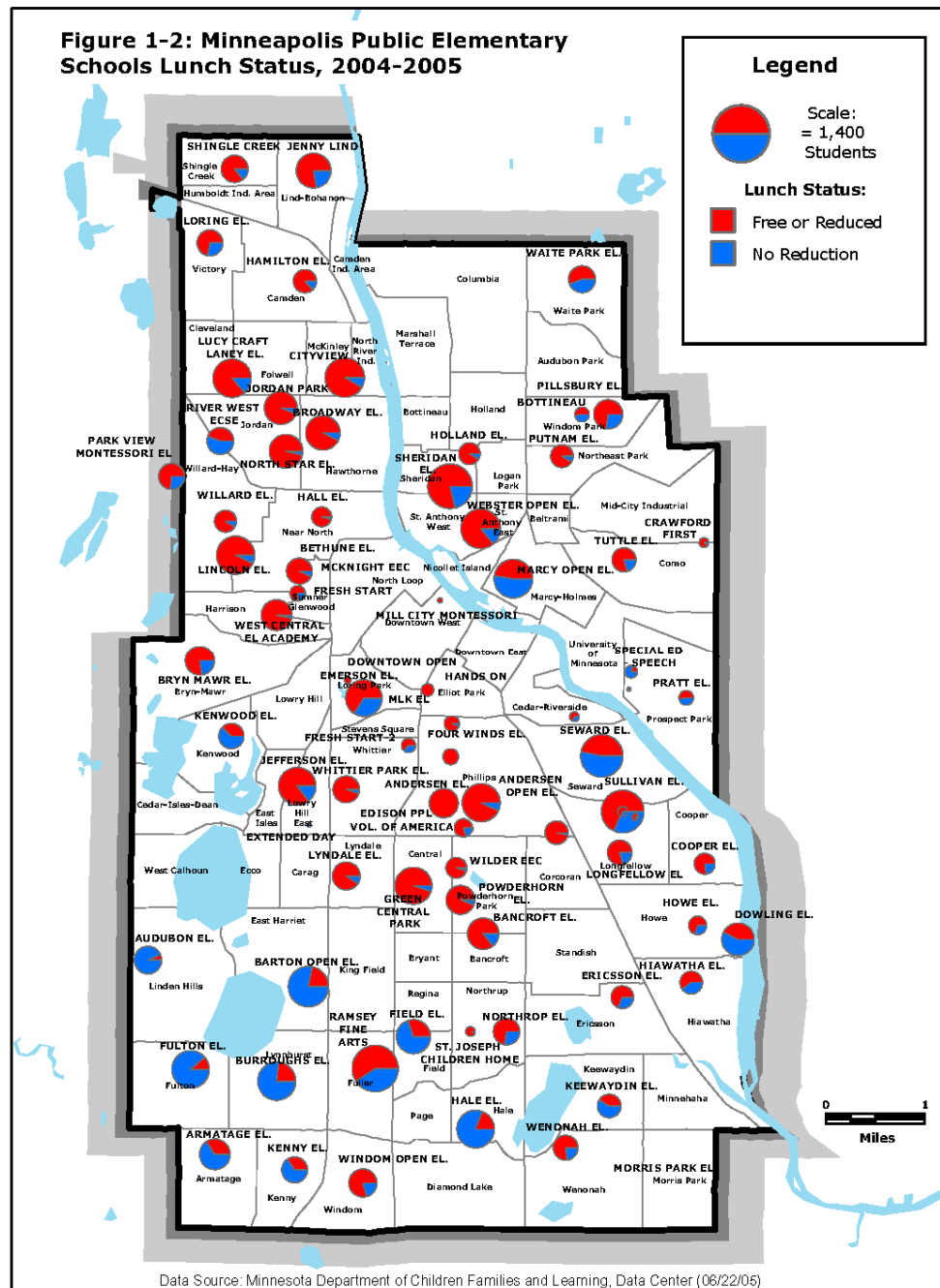


Figure 1-2 displays the school lunch status of children in Minneapolis Public elementary schools. It shows that the majority of Minneapolis elementary schools are majority poor. (The proportion of students receiving free or reduced-price lunch indicates the level of poverty within a particular school.) The concentration of poverty virtually mirrors the racial enrollment data of Figure 1-1.



The Minneapolis School District graduates only 55 percent of its students.⁴² Yet more than 91 percent of adults in the Twin Cities region have at least a high school diploma, and more than 33 percent have at least a college degree.⁴³ In contrast to the 55-percent graduation rate in Minneapolis, adjacent school districts graduate 88 to 100 percent of their students.⁴⁴ Some students of color in the city are even less likely to graduate: in 2005, about 51 percent of blacks and only 20 percent of Latinos graduated.⁴⁵ Even these statistics overstate graduation rates.⁴⁶ In a global

economy that no longer offers living-wage jobs for high school dropouts, what do we realistically expect will happen to these children, or to the vitality and livability of the Twin Cities region?

Academic attainment and achievement declined in the Minneapolis Public Schools as economic and racial segregation become more severe. As the poverty concentration in the district increased from 46 to 68 percent from 1992 to 2005, graduation rates dropped from 67 to 55 percent (Table 1-2).

Table 1-2 Minneapolis Public Schools Graduation Rates, Poverty Enrollment, and Nonwhite Enrollment			
		Percentage of Enrollment	
Year	Grad Rate	Poor	Nonwhite
1992	67	46	56
1997	58	59	69
2005	55	68	73

Source: Minnesota Department of Education⁴⁷

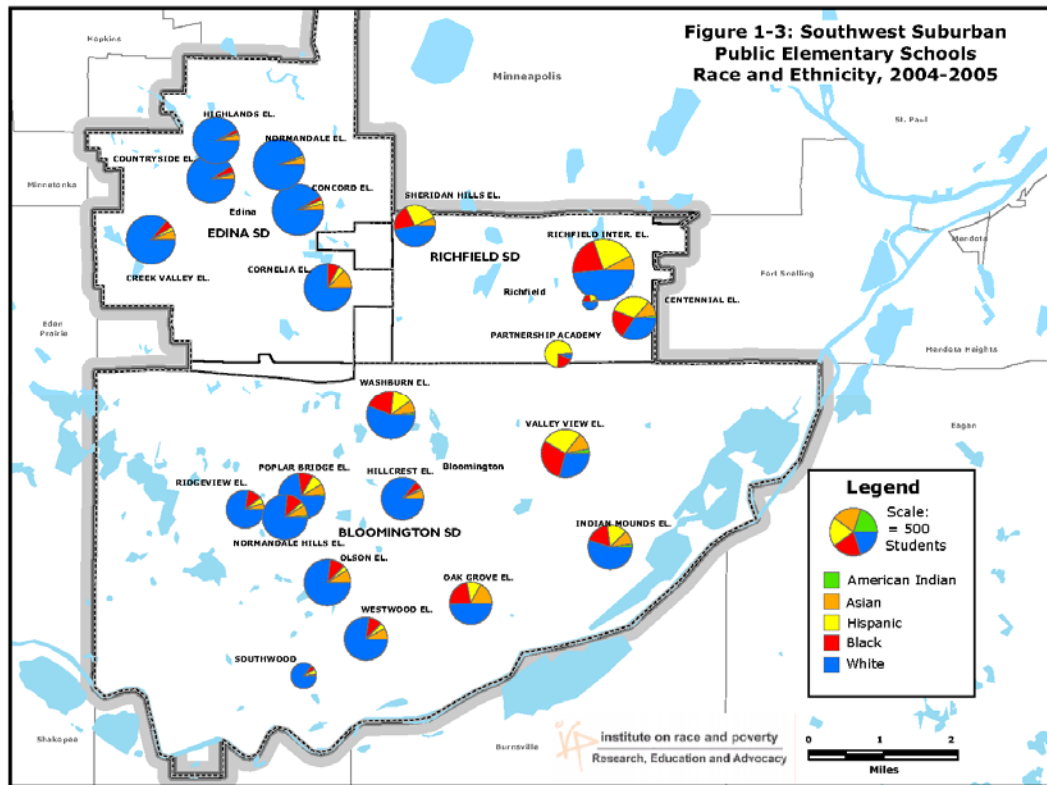
The city's 55-percent graduation rate compares poorly with rates of 88-100 percent in adjacent districts. The results for basic skills tests reflect these differences. As Table 1-3 reflects for a sample of districts contiguous to Minneapolis, the percent of students passing the February 2005 tests further illustrates how poor performance results correlate with a school district's level of poverty.

Table 1-3 Percentage of Students Passing 2005 Basic Skills Tests for Selected Minnesota Districts			
	% Poverty Enrollment	% Pass Reading	% Pass Math
Minneapolis	68	63.6	48.4
Richfield	47	75.3	63.5
Bloomington	27	87.5	74.4
Edina	6	94.9	91.7

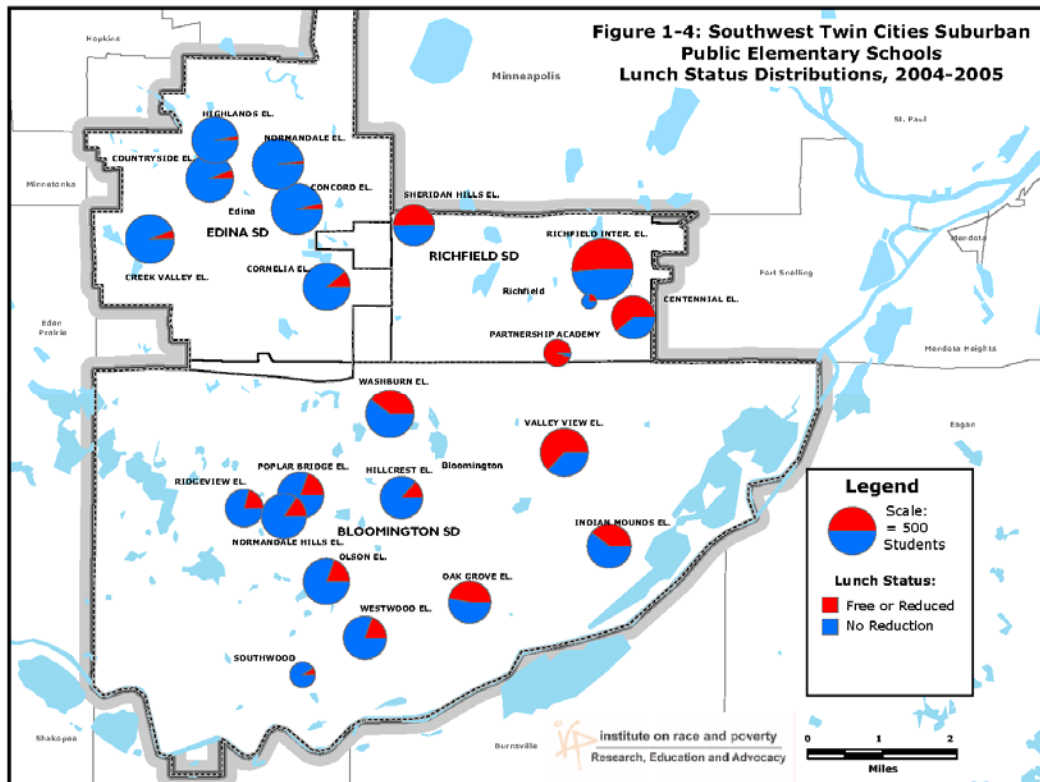
Source: Minnesota Department of Education⁴⁸

When families make these comparisons, those who can afford to will "vote with their feet," accelerating patterns of middle class flight.⁴⁹ Overall, Minneapolis enrollments have dropped sharply, declining 18 percent between 2000 and 2004, from 48,000 to 39,913 students.⁵⁰ In contrast, public school enrollments declined only 2.1 percent statewide during the same period.

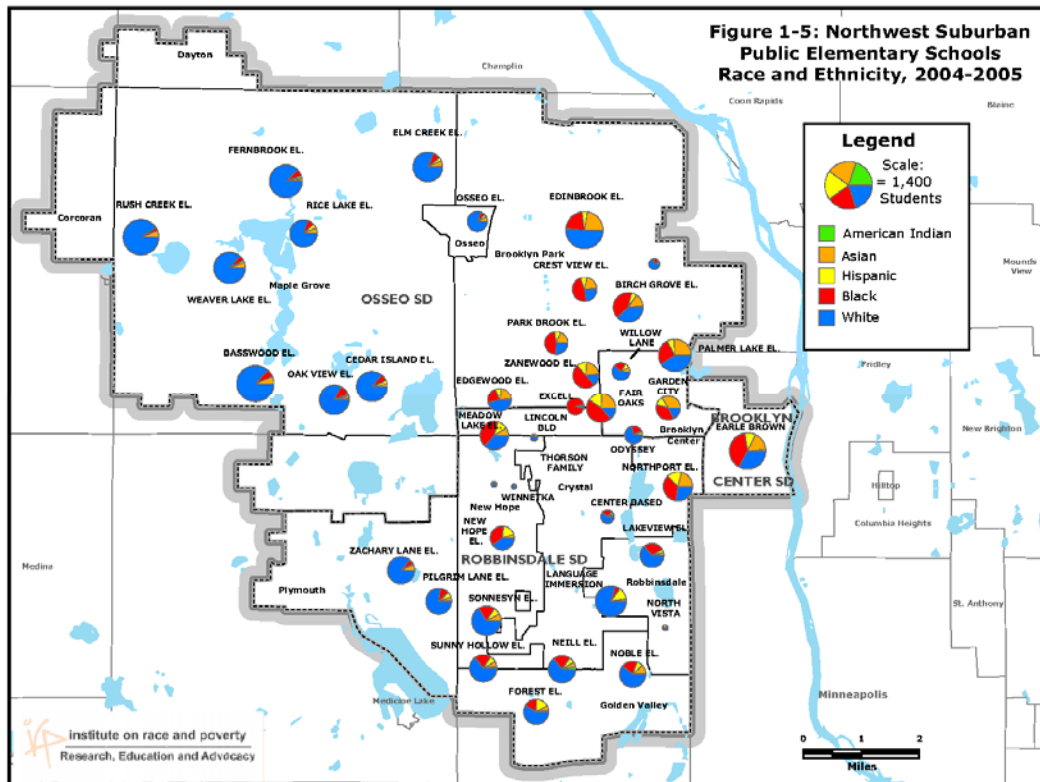
When poverty burdens become too large in a school, enrollments can change rapidly until concentrated poverty is extreme. Concentrated poverty in schools puts neighborhoods at risk of changing quickly as non-poor families go elsewhere in search of low-poverty "good" schools.⁵¹ Racial segregation in Twin Cities schools reflects a larger pattern of residential segregation in the Twin Cities region. As Figure 1-3 displays, patterns of segregation are emerging in the near-south suburbs of the Twin Cities. Schools such as Valley View Elementary and Partnership Academy have become clearly racially identifiable, while others such as Oak Grove Elementary and Washburn Elementary are quickly headed in that direction.

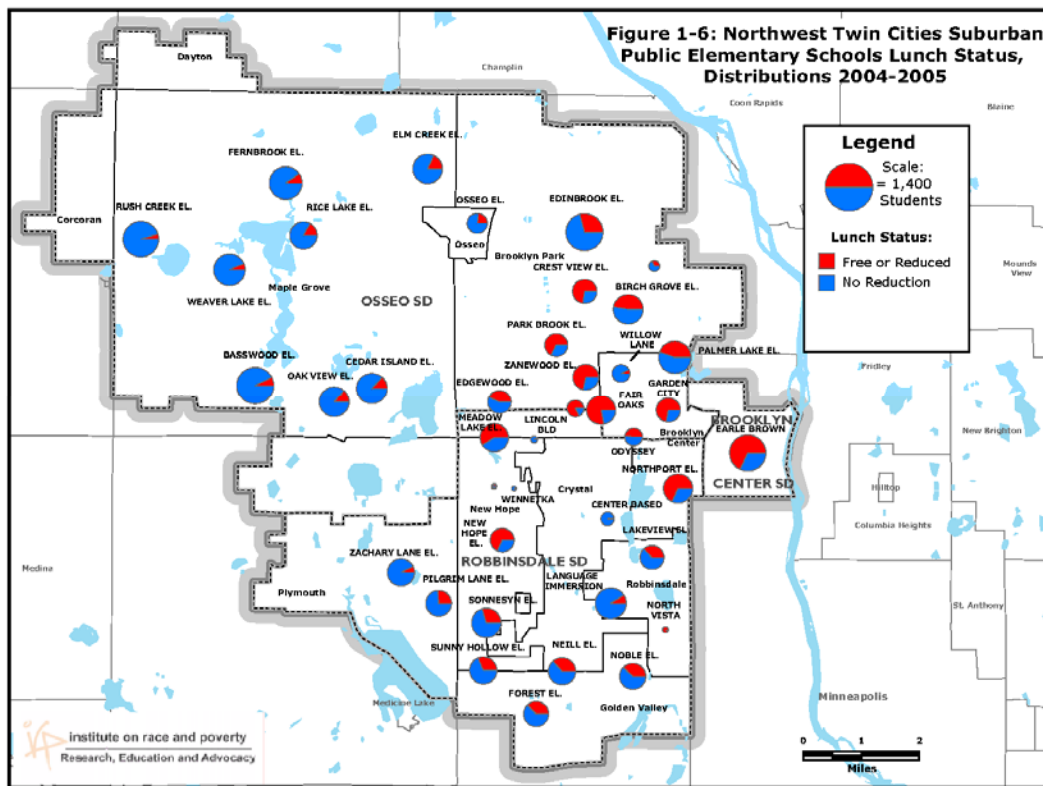


As with the Minneapolis public elementary schools, economic segregation is mirroring the racial segregation in southern suburbs. Some schools are already more than two-thirds poor. (Figure 1-4.)



The northwest suburbs of Minneapolis are facing even greater patterns of segregation than the southwest suburbs. More than half of the elementary schools in the Osseo school district are racially identifiable and majority poor. (Figures 1-5 and 1-6.)





More than 25 percent of the region's 373 elementary schools have enrollments that are greater than 50 percent nonwhite. This segregation affects more than 40,000 elementary school students. (Table 1-4.)

Table 1-4

Distribution of Schools and Students by Racial Composition of School in 2002, Twin Cities Metro Region

Schools' Percentage Students of Color:	Number of Schools	Percentage of Schools	Number of Students	Percentage of Students
0 to 10	103	27.6%	59,412	30.0%
10 to 25	113	30.3%	65,184	32.9%
25 to 50	60	16.1%	28,760	14.5%
50 to 75	39	10.5%	17,721	8.9%
75 or more	58	15.5%	26,993	13.6%
Grand Total	373	100.0%	198,070	100.0%

Source: Minnesota Department of Education

Housing Segregation Underlies School Segregation

Federal policy, along with public and private discrimination, enabled housing segregation to harm communities nationwide. Families living in concentrated poverty send their children to neighborhood schools, which then become schools of concentrated poverty. Economically

segregated housing and schools are also racially segregated. Housing segregation reinforces the harms of school segregation by limiting not only school networks, but community networks as well.

Housing Segregation Exists Nationwide

Residential racial segregation today does not merely reflect economic differences—race is the difference. For example, on average a black family in the U.S. that earns over \$60,000 per year “lives in a neighborhood with a higher poverty rate and lower educational attainment than the average white family earning less than \$30,000.”⁵² Compared to other groups of comparable economic status, segregation results in blacks living in neighborhoods that are 15-20 percent less affluent.⁵³ Indeed, “black homeowners reside in neighborhoods that are more segregated and less affluent than their renting counterparts.”⁵⁴

Residential racial segregation was shaped during the twentieth century by a combination of public and private discrimination.⁵⁵ Among the complicit institutions were “[t]he real estate industry, banks, appraisers, and insurance agents”; these “translated private prejudice into public action.”⁵⁶ Government policies sanctioned that public action with the discriminatory Federal Housing Administration (FHA) loan policies, and with the federal highway program.⁵⁷

When huge federal subsidies funded development of the interstate highway systems in metro regions in the mid-1900s, many minority urban neighborhoods were destroyed while white suburbanization increased rapidly. This occurred during the second major migration of black citizens to northern states,⁵⁸ while private racial discrimination in housing was legal. That discrimination, and the comparatively greater access that whites had (and have) to automobiles, shaped the suburbanizing landscapes of metro regions. Although the federal Fair Housing Act⁵⁹ outlawed housing discrimination in 1968, residential steering still manages to create neighborhood and regional segregation.

Steering in Real Estate Markets

Minorities and whites are consistently shown different segments of the housing market, thereby increasing residential segregation. John Yinger’s 1989 housing discrimination study found that perspective homebuyers of color were shown fewer homes, received less attention from brokers, and were more likely to see homes in racially integrated suburban neighborhoods than were whites.⁶⁰ For example, blacks were almost three times as likely as whites to not even be shown one home, and twenty-five percent more likely to be shown only one home. Because they are shown fewer homes, persons of color often must settle for less than an optimum purchase, resulting in higher housing costs.

The neighborhoods where black homeowners buy “tend to be less affluent, have poorer quality public services and schools, and experience more crime and social disorganization compared to the suburbs that comparable whites reside in.”⁶¹ Discrimination in housing and financing markets costs blacks and Hispanics, on average, more than \$3,000 per household whether or not they actually encounter discrimination.⁶² These costs are reflected in the length and breadth of housing searches that blacks and Hispanics must endure because of discrimination in the market. It does not include the social costs that minorities encounter through discrimination—loss of proximity to opportunity, benefits of diverse neighborhoods, and costs of racial isolation, among other things.

In April 2006, the National Fair Housing Alliance (NHFA) completed a three-year, twelve-city housing discrimination study.⁶³ Using 145 sales tests in three geographic regions across the country, the NHFA found three patterns of discrimination:⁶⁴

- outright denial of service to blacks and Latinos;
- significant financial incentives offered to whites but not to blacks or Latinos;
- steering of potential purchasers on the basis of race or national origin.

The NHFA tests revealed steering at a rate of 87 percent among testers who were given an opportunity to see homes.⁶⁵ Testers were generally steered to neighborhoods based on race or national origin, as well as religion and family status.⁶⁶ The NHFA also reports that schools are used as a proxy for racial or ethnic composition of neighborhoods and communities.⁶⁷ Rather than telling white testers to avoid certain neighborhoods because of racial or ethnic composition, many real estate agents would tell the tester to avoid certain schools—schools that were racially identifiable.⁶⁸

Exclusionary and Racial Zoning

Racial zoning policies and violence served to segregate the urban landscape in the early 1900s. Additionally, at the time of the first major migration of black citizens to jobs in northern industrial cities after WWI, law enforcement officials too often looked the other way while physical violence and intimidation were used to restrict nonwhites to certain overcrowded portions of northern cities.⁶⁹

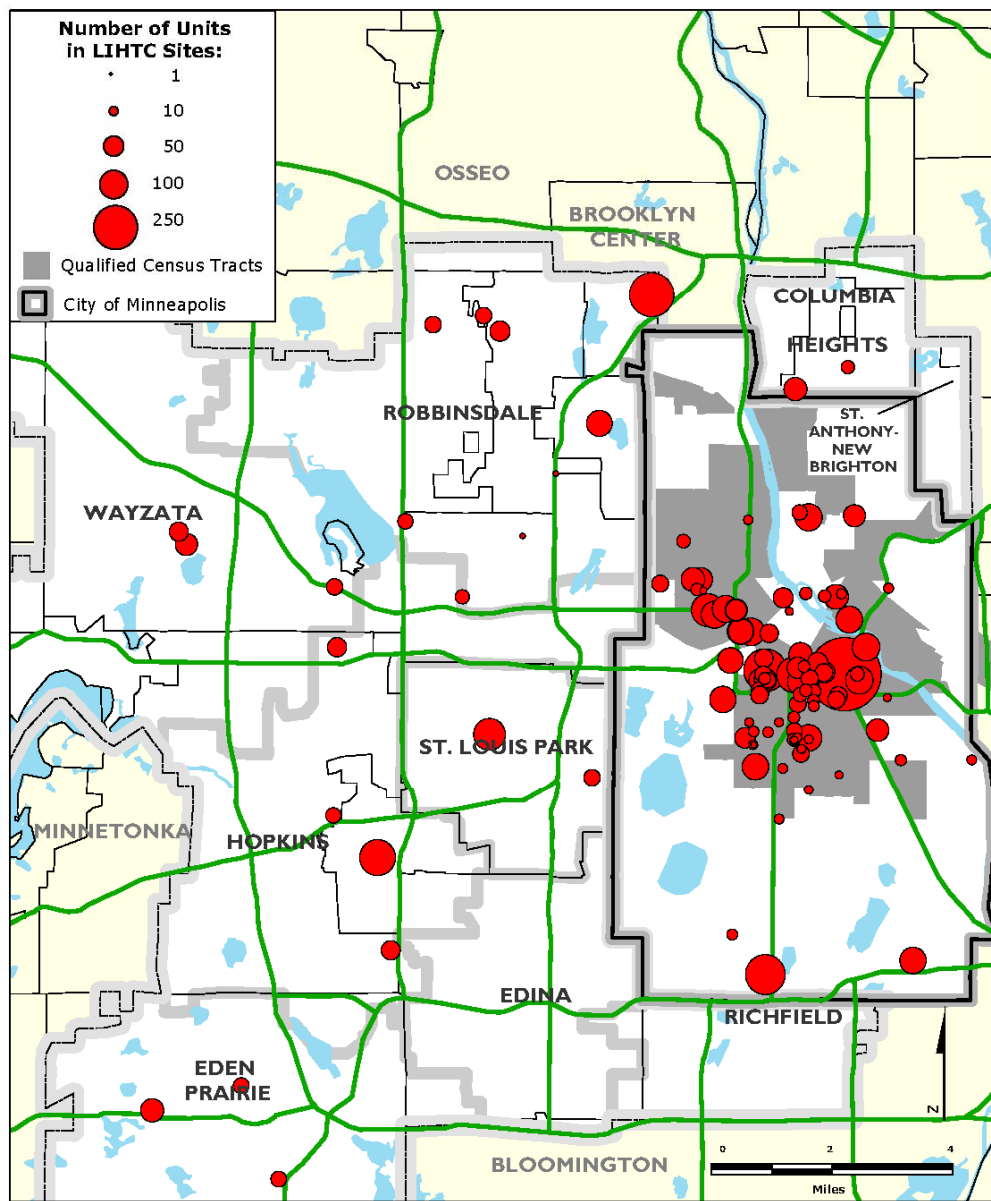
Segregated Affordable Housing

Housing and school segregation is also caused by the government placing disproportionate amounts of low-income family housing in poor, segregated neighborhoods. This became such a problem that the 1968 Fair Housing Act, and the regulations promulgated under it, order the Department of Housing and Urban Development (“HUD”) and all federal and state grantees of federal funds to affirmatively further fair housing.⁷⁰ Specifically, these regulations state that there is a presumption that building low income family housing in poor, segregated or racially resegregating violates the Fair Housing Act.

A federal court, in a case called *Shannon v. HUD*, stated that affirmatively furthering fair housing requires federal and state grantees of federal funds to take racial and socioeconomic data into consideration—a colorblind approach is “impermissible.”⁷¹ The court said that in placing affordable housing several factors should be taken into account. These include the racial composition of neighborhoods and their schools; the location of public, middle-class and luxury housing; the racial effect of local regulations; and past and current practices of local authorities. This command has often been ignored.

Despite the mandates in the Fair Housing Act, some public affordable housing programs continue to contribute to segregated housing patterns. For instance, units receiving support under the federal Low Income Housing Tax Credit (LIHTC) in the Twin Cities are disproportionately located in areas that already have greater than average shares of poverty and affordable housing—the central cities and certain inner-ring suburbs. The majority of LIHTC sites are clustered in qualified census tracts, which, as defined by HUD, are census tracts in which at least 50percent of households have an income that is below 60percent of the region’s adjusted gross median income. (Figure 1-7.)

**Figure 1-7: MINNEAPOLIS - SUBURBAN REGION
LIHTC Housing Sites in Minneapolis
and Surrounding Suburban Schools, 2005**



Data Sources:
2005 HousingLink Inventory of Assisted Rental Housing

How households are distributed within existing LIHTC units also tends to maintain or even intensify racial segregation in the housing market and schools. Figures 1-8a and Figure 1-8b demonstrate this. Areas with the highest concentrations of LIHTC units occupied by people of color closely parallel the distribution of elementary schools with very high percentages of students

of color. The distribution of LIHTC units occupied by people of color appears to be pro-integrative in only a very few places in the suburbs.

Overall, these patterns mean that affordable housing provided under the LIHTC not only tends to concentrate low-income households in areas already experiencing significant poverty, but also nonwhite households in racially segregated neighborhoods, creating more racially identifiable schools with staggering poverty enrollments.

Figure 1-8a: Percentage Population in Surveyed Twin Cities LIHTC Households Headed by Person of Color by Elementary School Zones, 2002

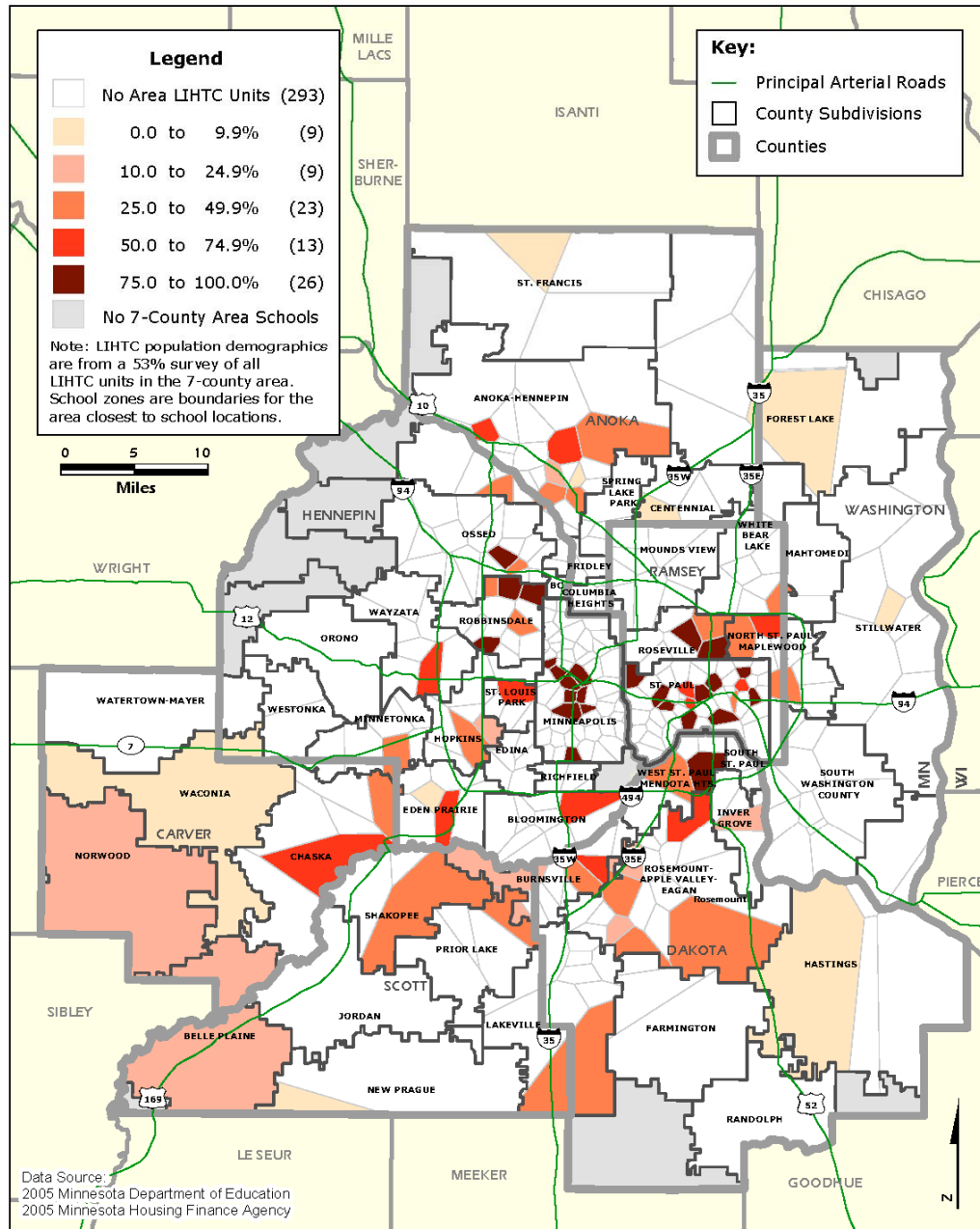
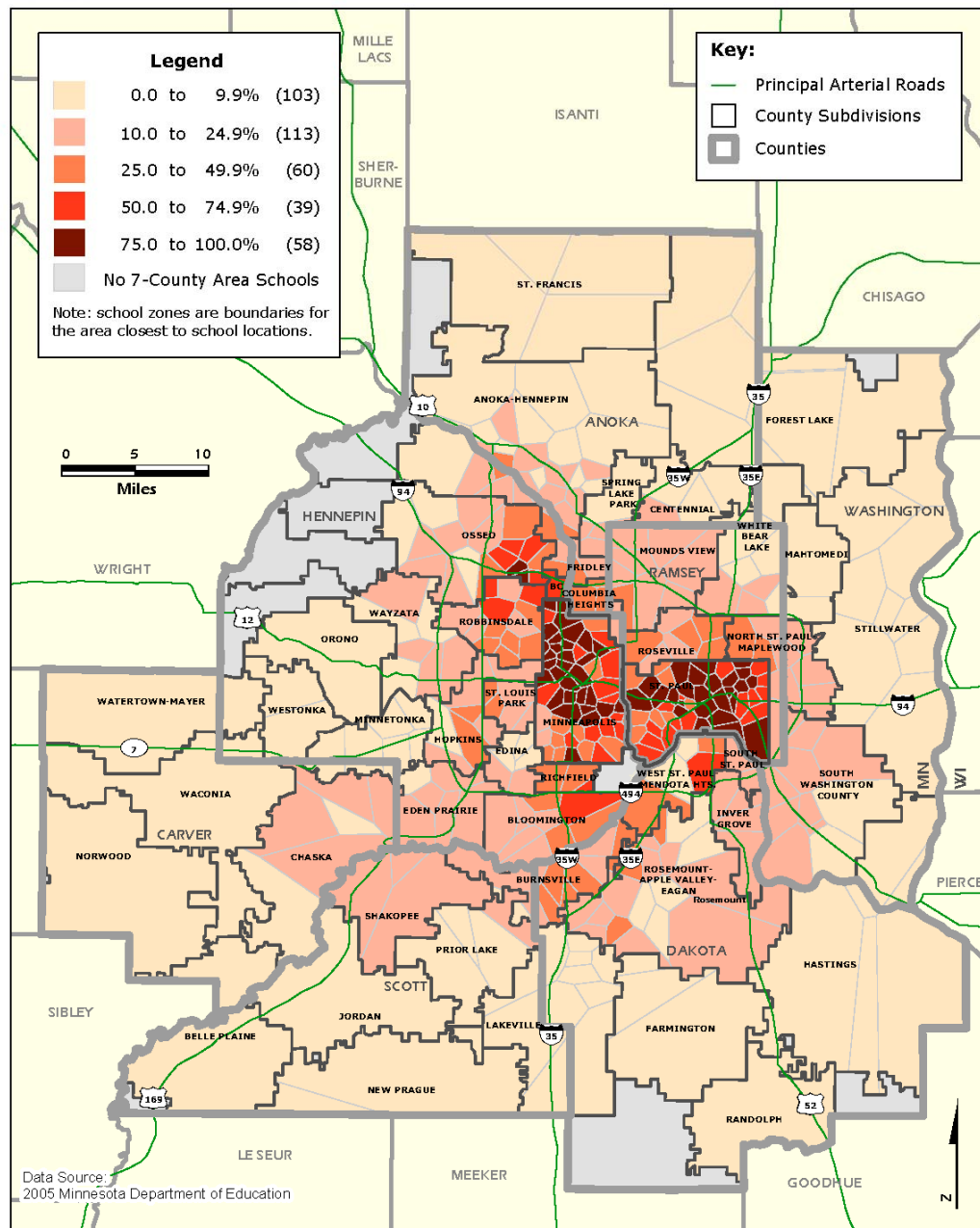


Figure 1-8b: Percentage Students of Color in Twin Cities Elementary School Zones, 2002



These patterns have affected suburbs as well as the central cities. During the 1980s and 1990s when the Twin Cities' share of nonwhite residents increased from 5 to 15 percent, the region lacked school and housing policies to inspire development in ways that did not confine its small share of impoverished residents to a few neighborhoods of concentrated poverty. Thus, as segregation's patterns carve deeper into the landscape of the central cities, they also are being etched onto suburban school districts and neighborhoods.

Several school districts adjacent to Minneapolis now have concentrated poverty enrollments ranging from 47 to 66 percent, with some districts experiencing jumps as high as 23 percentage points in only four years (Table 1-5).⁷²

Table 1-5 Increase in School District Poverty Enrollments, 2001-2005			
District*	%-Point Change 2001-05	Percent 2001	Percent 2005
<i>Minnesota</i>	+4	26	30
Minneapolis	+2	66	68
Columbia Heights	+23	33	56
Richfield	+20	27	47
Brooklyn Center	+17	49	66
Robbinsdale	+10	22	32
St. Louis Park	+9	17	26
Bloomington	+7	20	27
Hopkins	+7	11	18
Eden Prairie	+4	5	9
Edina	+3	3	6
Minnetonka	0	3	3

Source: Minnesota Department of Education⁷³

Yet there is time and the means to intercept these patterns in suburban districts, and to begin erasing their imprints in the central cities. The sample of school districts adjacent to Minneapolis begins to illustrate relevant cautions and possibilities (Table 1-5):⁷⁴

1. There are untenable concentrations of poverty of half to nearly three-quarters of students not only in the region's central city schools, but also in several suburban districts (as, above, Columbia Heights, Richfield, and Brooklyn Center).
2. Some districts are already racially integrated and provide educational opportunity to a fair share of disadvantaged students. The region should concentrate on maintaining stable integration in these places and guarding against the possibility of resegregation in these communities (such as Bloomington, St. Louis Park, and Robbinsdale).
3. Most districts in the Twin Cities can provide educational opportunity to many more disadvantaged students. Some districts (Edina and Eden Prairie), have been accepting students from poor backgrounds; many more are in a position to offer hope to more children and a stronger future to the Twin Cities.

Because residential racial segregation in the Twin Cities is being replicated in the suburbs, some suburban school districts are becoming racially segregated as a result, including Brooklyn Center and Richfield (Table 1-6).

Table 1-6 Change in School District White Student Enrollments, 2001-2005			
District*	%-Point Change 2001-05	Percent 2001	Percent 2005
<i>Minnesota</i>	-4	83	79
Minneapolis	0	27	27
Columbia Heights	-20	75	55
Richfield	-17	65	48
Brooklyn Center	-16	50	34
Robbinsdale	-11	75	64
St. Louis Park	-13	83	70
Bloomington	-8	78	70
Hopkins	-8	86	78
Eden Prairie	-6	90	84
Edina	-5	93	88
Minnetonka	0	94	92

Source: Minnesota Department of Education⁷⁵

Although many nonwhite residents are finding homes in the region's suburbs, many are likely steered toward, or unwittingly locate in, economically stressed suburbs. For example, although the proportion of black residents living in Twin Cities suburbs grew from 16 in 1990, to 36 percent in 2000,⁷⁶ most black suburbanites live in the region's most economically at-risk suburbs.⁷⁷ Without affordable housing choices throughout the Twin Cities, especially where jobs and opportunity are expanding, segregating schools and neighborhoods could be reseggregated by rapidly increasing concentrations of poverty.

During the 1980s, "the Twin Cities became the nation's fourth fastest ghettoizing region" as the number of its concentrated poverty (greater than 40 percent) neighborhoods tripled.⁷⁸ The region now is as racially segregated as many major metro regions with significantly larger nonwhite populations. Although the region became more racially and ethnically diverse between 1980 and 2000, 86 percent of Twin Cities residents still lived in racially segregated neighborhoods when the new millennium began.⁷⁹

Part Two **Integration Helps Everyone**

Students benefit from economically and racially integrated schools. And so do neighborhoods and metro regions. Anything short of racial and social integration does not compensate for what's missing in segregated schools: a large share of students who bring to school the high expectations and aspirations, as well as the access to opportunity networks that is associated with living in middle-class families.

Integrated Schools Help Students

Since James Coleman's seminal 1966 report, empirical research has continued to show "that a student's achievement is highly related to characteristics of other students in the school."⁸⁰ As the Supreme Court confirmed in 2003, "numerous studies show that student body diversity promotes learning outcomes, and better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals."⁸¹ The reasons for this phenomenon range from the effects of a student's peers on aspirations and attitudes toward education, to the attention policymakers give to middle- and upper-class parents and schools.

Social and Opportunity Benefits

For both white and black students, interracial contact in primary and secondary school makes it more likely that they will live, work, and attend college in more integrated settings.⁸² For black students, the interracial contact helps reverse perpetual segregation, in part because desegregated schools permit "access to high-status institutions and the powerful social networks within them."⁸³

For both black and, especially, white students, integrated classrooms improve the stability of interracial friendships,⁸⁴ and make adult interracial friendships more likely.⁸⁵ Desegregated schools decrease racial prejudice among students and increase comfort around people with different backgrounds.⁸⁶ These outcomes flow from the interactions between the races that, consistent with the widely accepted⁸⁷ inter-group contact theory, enhance understanding and empathy and reduce stereotyping.

Integrated schools are important settings for inter-group contact because students in that setting are accorded equal status; there are authorities to facilitate the contact; students are engaged in common activities and goals; and personal contacts displace stereotyping.⁸⁸ A similar process can occur when parents from diverse backgrounds work together on behalf of their children's schools. These are important aspects of promoting democratic values and bringing members of our society together.

Indeed, the United States Supreme Court recently noted the many times that it has, in discussing equal educational opportunity, "acknowledged the overriding importance of education in preparing students for work and citizenship, describing education as pivotal to 'sustaining our political and cultural heritage' with a fundamental role in maintaining the fabric of society."⁸⁹ Student diversity "promotes 'cross-racial understanding,' helps to break down racial stereotypes, and 'enables [students] to better understand persons of different races.'"⁹⁰

The most recent research confirms that both white and black children who attend desegregated schools are "less likely to express negative views about members of the other race," and black

graduates are “less likely than graduates of segregated schools to believe that anti-black discrimination is wide-spread.”⁹¹ In addition, many studies already had confirmed that these students were “more likely to attend integrated colleges, live in integrated neighborhoods as adults, and send their children to integrated schools.”⁹²

Academic Achievement and Attainment

Integrated schools improve outcomes for poor children and nonwhite children without reducing the academic results for white children.⁹³ Among the important reasons are that social networks and connections increase hope and possibility. When children see, connect with, and understand real models and paths to success, they become more motivated and clearer about what is necessary in the larger economy and society. When they do not see others succeed, and when they have no connection with success in the larger society, it become harder for them to imagine, much less achieve, a path upward. The evidence is clear that achievement greatly increases when disadvantaged children attend school with economically diverse enrollments.⁹⁴

Achievement “[M]inority students who attend more racially integrated schools show increased academic achievement and progress, which are typically measured by scores on achievement tests.”⁹⁵ For black students, the achievement gains are especially consistent when their desegregated school experience began in the primary grades.⁹⁶ Test scores for Latino students also are higher on average when they attend desegregated schools.⁹⁷

In addition, studies consistently find achievement gains for students attending economically diverse schools, as contrasted with those attending schools of concentrated poverty.⁹⁸ Overall, as the Supreme Court has summarized, “numerous studies show that student body diversity promotes learning outcomes, and ‘better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals.’”⁹⁹

Attainment Black students who attend racially¹⁰⁰ integrated and economically¹⁰¹ integrated schools complete more years of schooling than those who attend segregated schools. This is true for post-secondary education attainment, as well. College attendance rates are higher among black students attending racially integrated schools, and especially for blacks in northern states, than for students attending segregated schools.¹⁰² For example, research on desegregation achieved by school choice in St. Louis found that attending a racially integrated school resulted in twice the rate of college enrollment compared with those among the 12,000 students studied who attended segregated schools.¹⁰³

Aspirations and Occupational Attainment

By attending socially and economically integrated schools, poor and nonwhite students obtain equal access to networks of high educational and occupational expectations that often are taken for granted by the middle and upper classes. Socially and economically integrated schools also permit access to the social networks associated with opportunity. The schools with the ingredients for pursuing “the American dream” are those where most students come from homes providing these experiences and connections—homes from communities that are economically diverse.¹⁰⁴

As the Supreme Court has found, the benefits of diversity “are not theoretical but real, as major American businesses have made clear that the skills needed in today’s increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and

viewpoints.”¹⁰⁵ For black students, examples of the occupational benefits of attending non-segregated schools include:¹⁰⁶

- Higher occupational aspirations.
- Career planning consistent with the aspirations.
- Modest earnings increases.
- Increased likelihood of working in professions in which blacks historically were underrepresented.

In addition, *both* white and black students tend to have higher educational aspirations if they have cross-race friendships, as contrasted with students who had only same-race friendships.¹⁰⁷ Finally, as to the overall benefits of middle-class schools, they “will raise the achievement and improve the life chances of the poor without reducing the achievement of the middle class . . . further[ing] the secondary goal of promoting a vibrant democracy and unity amid diversity.”¹⁰⁸

Integrated Schools Help Communities

If school integration involves all of a region’s socioeconomic groups, the benefits to all students and neighborhoods are significant. Students experience greater performance gains when desegregation plans extend beyond a region’s central city to include its middle and upper-class students.¹⁰⁹ Communities and the region benefit because metro-wide desegregation plans help stabilize integrated neighborhoods. Moreover, by ensuring that all students may choose to attend socially and economically integrated schools, it becomes easier to intercept patterns of resegregation and neighborhood decline, and their costs; maintain vibrant cities; develop a skilled work force; and better prepare new generations to be effective in a diverse democracy.

Neighborhood Integration and Stability

When school integration is “*fully implemented*” on a metro-wide scale, it “can indeed lead to more integrated residential patterns.”¹¹⁰ Between 1970-90, for example, it appears that regions with metro-wide desegregation plans had residential segregation decreases twice the national average.¹¹¹ In addition, metro-wide plans enhance neighborhood stability.

Metro-wide plans prevent two problems that can make small-area plans counter-productive. First, metro-wide plans reach beyond areas of residential segregation to include enough schools and students to ensure that all schools can be effective middle-class schools. Second, they prevent the destructive consequence of concentrating desegregation efforts in only a few less-affluent white neighborhoods that often already are struggling to maintain racial balance and stable integration. By asking every school to educate a small share of less fortunate children, a region prevents further concentration of poor children and eliminates the need for families to flee untenable poverty enrollments.

In contrast, desegregation plans affecting only a small portion of a metro region, typically a central city, trigger greater residential segregation and worsen school segregation. Desegregation plans covering small geographic areas enable racially identifiable schools¹¹² to persist, and real estate practices and preferences become school-identified and race-based.¹¹³ Because an Upper Midwest metro region like the Twin Cities is fragmented into hundreds of local jurisdictions, the dynamics

that fuel rapid neighborhood decline and segregation tend to be worse because a single-district desegregation effort “isolates schools with a majority of low-income and minority students.”¹¹⁴

Indeed, the results of 2005 research by the Institute on Race and Poverty [IRP]¹¹⁵ further confirm the importance of having a sufficient scope for desegregation. IRP’s analyses suggest that white families are less likely to leave integrated neighborhoods if they have confidence that their children’s schools will remain integrated, regardless of the racial mix of the neighborhood.

Specifically, the research found that metro-scale school desegregation has stabilizing effects on integrated urban neighborhoods.¹¹⁶ IRP studied neighborhood change in the 100 largest U.S. metro regions between 1980 and 2000 (the Twin Cities rank in the top 15). IRP asked: At what racial mix in 1980 does it become more likely than not that an integrated neighborhood will have resegregated by 2000?¹¹⁷ For black-white integrated neighborhoods in 1980, that number averaged 36 percent or more black in 1980 for the 100 metro regions.¹¹⁸ In other words, if a neighborhood was 36-49 percent black in 1980, it was more likely to resegregate by 2000 than to still be integrated in 2000.

In contrast, the fifteen metro areas¹¹⁹ among the 100 that had metro-wide desegregation programs during the same period had a very different, and encouraging, outcome. In those metropolitan areas, an integrated neighborhood was more likely to remain integrated than to resegregate, *regardless of the percentage of residents who were black in 1980*. In other words, regardless of whether an integrated neighborhood was 11 percent black in 1980 or 49 percent black, it was more likely to still be integrated in 2000 than it was to be segregated. This suggests that metro-wide desegregation helps remove fuel for “white flight”: rapidly racially segregating schools amid a context lacking regional policy assurance that the schools will not become sites of concentrated poverty. With metro-wide integration, parents throughout a metro region have assurance that all schools in a region offer good environments for learning.¹²⁰

The Twin Cities are among the highly fragmented metro regions in IRP’s study that either had no current desegregation plan or had small-area plans (for example, a single school district within a multi-district metro region). These cities, mostly in northern states, experienced less stability among their integrated neighborhoods during the 1980s and 1990s. In contrast, when the boundaries of school districts include racially and economically diverse families, they foster shared interest in schools by a range of citizens in schools. This is a logical outcome when all “sectors of the community” depend on the same school system, and “all races and classes have a vital interest in its success.”¹²¹

In short, in fragmented metro regions like the Twin Cities, educational outcomes can be improved, and neighborhood stability enhanced, by paying attention to the geographic scale at which desegregation efforts are designed. In addition, the damage from many generations of discrimination and segregation cannot be reversed without long-term commitment to desegregation. The benefits of that commitment flow not only to children, but to the entire region.

Community and Regional Vitality

Because schools that become segregated are a significant factor in destabilizing neighborhoods, ensuring that all Twin Cities schools are middle-class schools not only benefits students but helps

intercept patterns of resegregation and the huge costs of resegregation. The region's future is helped in other ways, too. Giving all children a fair start with the choice to attend opportunity-rich middle-class schools helps create the skilled workforce the region needs to replace impending baby-boom retirements. During a period of skilled labor shortages nationwide,¹²² the region's children will replace these retirees. The retirees will be 90 percent white; the Twin Cities' next generation of workers will be 75 percent white.¹²³ Segregated schools and a wide gap between white and nonwhite graduation rates will not yield the skilled workers needed for the region's economy.¹²⁴ Even if not morally moved by fairness to offer genuine educational opportunity to all children, the region cannot ignore the costs of failing to educate all of its children.

Nor can the region afford to slip from its place in the increasingly competitive global economy. To retain its stature amid the nation's metro regions, the Twin Cities region must foster the vitality both of the suburbs—old and new—and central cities. This is extremely important because a significant shift is happening that cannot be ignored: metro areas that respond to the challenges of concentrated poverty and segregation by pulling away from their core cities are, despite extensive suburbanization, the places increasingly losing population and economic growth to less fractured metro regions.¹²⁵

By permitting segregation to hurt schools and neighborhoods in its central cities and adjacent suburbs, a metro region jeopardizes its competitive edge and long-term quality of life. Empirical research confirms that the success of a region's central cities and suburbs tends to move together,¹²⁶ and shows that vibrant central cities can be engines of growth for metro regions.¹²⁷ Not only are population growth and economic growth correlated for both cities and regions,¹²⁸ but economic growth in a large central city can have positive spillover effects of one to two percent on its suburbs for every one percent increase in the central city.¹²⁹

Part Three

Federal and State Legal Issues in Education: "Separate but equal educational facilities are inherently unequal."

Segregated schooling is not equal educational opportunity. This is what *Brown v. Board of Education*¹³⁰ declared in 1954. Federal court intervention during the 1970s and 1980s brought considerable integration and educational opportunity by attacking obviously intentional discrimination. But progress peaked in the late 1980s, and was followed by the Supreme Court's doctrinal retreat from *Brown's* promise. Since the early 1990s, the Supreme Court has permitted schools in many metro regions to resegregate rapidly.

If federal desegregation lawsuits were the vehicle for bringing obviously intentional segregation to a halt, then state constitutional remedies are the leading edge of *Brown* and the desegregation movement today, promising to end the harms of structural, and less-obviously intentional, segregation. While federal courts must tread carefully in state and local affairs because of federalism concerns, those federalism concerns are absent when state courts enforce state constitutional rights—and those state constitutional rights are more expansive. A hopeful consequence is that not only can liability be found, but solutions can transcend the limitations of federal desegregation remedies. Places like the Twin Cities need not be constrained by the

geographically and temporally limited approaches of federal law and can, instead, pursue effective, long-term integration solutions.

This section first discusses the highlights and current status, of federal desegregation case law. Then, it explains how disadvantaged students are avoiding the federal courts and enforcing their state fundamental education rights in order to do away with *de facto* segregation in our nation's schools. In Minnesota, the result of state court litigation has been CIY, a promising school choice program, which Part Four goes on to argue should become part of a more comprehensive regional school integration plan.

***Brown's* Promise, and How Federal School Desegregation Fell Short**

The Supreme Court's decree that "separate but equal"¹³¹ schools violate the Equal Protection Clause of the federal constitution¹³² was met by inaction for over a decade. Federal court intervention was required to force local and state officials to cease operating racially separate schools. Yet, even while much progress was made during the 1970s and 1980s, the Court's geographic limitations on desegregation remedies ensured that they could not succeed in many metro regions, especially in the North. And now, ever since the Court declared in the 1990s that it permitted only short-term remedies to an inequity over a century old, federal remedies are even less likely to effect *Brown's* promise.

This section surveys the following three aspects of federal school desegregation doctrine:

First. What it takes to prove unconstitutional segregation. This highlights how suburban, not just central-city, school districts can violate students' constitutional rights to equal educational opportunity with their decisions about matters such as drawing attendance zones.

Second. How the Supreme Court's geographic limit on federal desegregation remedies can render them ineffective in many places. The lesson is to avoid school integration plans that cover too small a geographic area relative to a metro region's housing market, which is the scale where segregation dynamics play out.

Third. How the Supreme Court's temporal limit on federal desegregation remedies is far too short to counteract the effects of a long history of discrimination and segregation. To acknowledge that meaningfully reversing the path of segregation is difficult does not mean that a nation committed to equal opportunity should give up—yet the Court's most recent decisions trumpet retreat.

This section also discusses court cases recognizing the importance of socially and racially diverse school enrollments, and the kinds of integration plans that districts can adopt to foster effective, integrated, learning environments for all students.

Unconstitutional Segregation

"[S]tate-imposed segregation by race in public schools denies equal protection of the laws."¹³³ To prove a constitutional violation in federal court, plaintiffs denied equal educational opportunity

must show that they are subject to a segregated education, and that “it was brought about or maintained by intentional state action.”¹³⁴ Evidence of this segregative (discriminatory) intent includes policies or actions taken to achieve or maintain segregation. These can include, for example, decisions affecting the following:¹³⁵

Attendance zones and district boundaries	Student assignment and transfer options
School site location	Mobile classroom units
School size	Transportation
School construction and renovation	Faculty and staff assignments

These factors derive from the Supreme Court’s decision in *Keyes v. School Dist. No. 1*.¹³⁶ *Keyes* also confirmed that districts which have operated unconstitutionally segregated schools in the past are presumed to have acted unconstitutionally in the present if they maintain any “racially identifiable schools.”¹³⁷

These factors were the foundation for evidentiary findings in the 1972 Minneapolis school desegregation case, *Booker v. Special Sch. Dist. No. 1*.¹³⁸ The federal district court’s conclusion that “the intended and inevitable effect of a series of policy decisions . . . has been to aggravate and increase the racial segregation in [Minneapolis] schools”¹³⁹ was supported by evidence that the Minneapolis School Board did the following:¹⁴⁰

- Drew attendance zones to avoid racial integration in schools.
- Considered race in decisions about constructing and closing certain schools; school sizes; and use of mobile units.
- Created transfer plans that caused or increased segregation.
- Assigned teachers and administrators to schools based on race.
- Maintained racially identifiable schools.

“These policies have been especially offensive due to the [Board’s] knowledge of the extensive nature of housing segregation,”¹⁴¹ the court said.

In a region like the Twin Cities where there is significant residential segregation and white flight, it is not difficult for officials to foresee the potential segregative or integrative effects of their decisions about attendance zone and facilities. This matters because “proof of foreseeable consequences is one type of quite relevant evidence of racially discriminatory purpose.”¹⁴² For example, suburban school boards’ decisions about attendance zones and school facilities are made with knowledge of the racial compositions of neighborhoods and schools. These decisions result in considerable controversy. Osseo, a large, sprawling school district of more than 20,000 children was engaged in such a controversy with parents over boundary proposals in the late 1990s.¹⁴³

Sometimes school boundary decisions are made in conjunction with facilities decisions. In 2000, for example, Bloomington added a new middle school and went through a process to choose new attendance boundaries. The four options were posted on the internet.¹⁴⁴ The process of public comment and committee deliberations of various factors resulted in a set of boundaries that was among the more racially imbalanced choices.¹⁴⁵ Many parents spoke out against the boundary decision, fearing it would racially isolate the eastern half of Bloomington’s middle school

population. A petition with more than one hundred signatures was also presented at the meeting protesting the decision.

When there is evidence of “intentionally segregative school board actions in a meaningful portion of a school system”—such as one-third of the schools attended by minority students—a presumption of unlawful intent as to the rest of a segregated school system is triggered.¹⁴⁶ A school district cannot escape that presumption simply by showing, for example, that it has a facially neutral “neighborhood school” policy.¹⁴⁷

The result, if the presumption is not refuted, is that students are entitled to a district-wide desegregation remedy¹⁴⁸ that accomplishes “a transition to a racially nondiscriminatory school system.”¹⁴⁹ Unfortunately, the short duration and limited geographic scope of federal remedies rarely matched the geographic and temporal scope of segregation dynamics. As a result, federal desegregation “remedies” too often were unable to alter the segregation patterns they were meant to solve, especially in jurisdictionally fragmented metropolitan areas.

The Limited Geographic Scope of Federal Remedies

In 1971, the Supreme Court detailed the scope of federal courts’ “broad” equitable powers to impose a range of desegregation remedies, including mandatory desegregation.¹⁵⁰ Federal desegregation law began breaking *Brown*’s promise just three years later. In its 1974 Detroit desegregation case, *Milliken v. Bradley*,¹⁵¹ the Supreme Court essentially limited federal remedies for school segregation to the area within the boundaries of a single school district. But segregation dynamics operate at the scale of a metro area’s housing market. Although an intradistrict remedy may work in a metropolitan area that has a large, metro-wide, school district, such single-district remedies cover far too small an area compared with the relevant housing markets in metro areas that are carved into myriad school districts.

The Detroit School District covers a small area of the Detroit metro region. In 1973, Detroit’s student enrollment was seventy percent nonwhite—amid a metro region that was only nineteen percent nonwhite.¹⁵² These percentages are similar to those in the Twin Cities today. *Milliken* required that Detroit schools be “desegregated” only by rebalancing enrollments within the boundaries of Detroit’s isolated, nonwhite district. In 1986, twelve years after *Milliken* was decided, the typical black student in Detroit attended a school with white enrollment under twelve percent.¹⁵³ By the 1990s, Detroit was the nation’s most segregated school district, and white enrollments had evaporated to four percent.¹⁵⁴

Thus, *Milliken*’s one-size-fits-all does not fit all. Under *Milliken*, whether nonwhite, poor students can attend desegregated schools is determined “to a substantial degree on how their state happened to organize its school districts.”¹⁵⁵ This is why state-law remedies for segregation are important: unlike federal remedies, they can be designed with sufficient geographic scope to address segregation effectively. In contrast, what happened in Detroit is a cautionary lesson for the Twin Cities and other jurisdictionally fragmented metro regions. The *Milliken* aftermath illustrates how intradistrict remedies tended to trigger white flight and destabilize neighborhoods.

The outcomes of *Milliken* do not contribute to a region’s prosperity. Instead, it exacerbates precisely the gaps that the 2005 Brookings Institute Report, commissioned by the Itasca Project and others, urges the Twin Cities region to close.¹⁵⁶ For example, the Twin Cities has the 14th highest

median household income among the nation's large metro regions, yet "black household income is among the lowest."¹⁵⁷ This may surprise many who believe that the progressive history of the Twin Cities brings benefits to all. As the Brookings report warns, the race, class, and place disparities in the Twin Cities, if not addressed, will affect the continued economic success of the region.¹⁵⁸

States with larger school districts that include most or all of a metro area's housing market have, overall, significantly fewer black students in severely segregated schools.¹⁵⁹ In contrast, [t]he norm in multidistrict metropolitan areas" that are fragmented like Detroit and the Twin Cities, "is intense isolation of students by both race and income."¹⁶⁰ Indeed, as of 2000, eighty-four percent of school segregation in the U.S. was due to inter-district segregation, not intra-district segregation.¹⁶¹ Thus, as another study concluded, "Only the movement of students across district boundaries, either through interdistrict integration programs or changes in housing patterns, can significantly reduce the racial isolation of black students in any of the four [Midwest, Northeast, South, West] regions."¹⁶²

But the Supreme Court's most recent school desegregation opinion, issued in 1995, reified the "intradistrict only" remedy in federal cases—even when a state, not just the local school district, is also liable for school segregation.¹⁶³ To obtain an interdistrict remedy, plaintiffs have an enormous burden to show "a violation that caused segregation between adjoining districts."¹⁶⁴ They must show, for example, that state officials had contributed to the separation of the races:

- by drawing or redrawing school district lines;
- by transfer of school units between districts; or
- by purposeful, racially discriminatory use of state housing or zoning laws.¹⁶⁵

This is an onerous evidentiary task on behalf of students who generally are poor and must depend on donated legal services, but it is important to undertake whenever possible. Otherwise, students—and communities—generally are more likely to face rapid resegregation.

The Limited Time Span of Federal Remedies

"Segregation was the evil struck down by *Brown*," and the remedial objective of federal court orders is "to eliminate from the public schools all vestiges of state-imposed segregation."¹⁶⁶

The goal of remedies for school segregation is to put students where they would have been but for the unconstitutional segregation. But this is not what today's Supreme Court does. In 1991, the Supreme Court announced that school districts that were in general compliance with earlier plans should abandon their desegregation efforts, even if doing so would hasten worse racial segregation in their schools.¹⁶⁷ Yet the Court's renewed assertion that mostly all-black schools are "desegregated" as long as residential segregation is the current reason for the school segregation¹⁶⁸ has not been tested. It must be tested against evidence of the vastly different educational and life opportunities available in segregated, high-poverty schools—by virtue of their social and economic segregation, as contrasted with the myriad opportunities available in racially integrated, economically diverse schools.

The Supreme Court clearly permits only short-term approaches to repairing an inequity having roots longer than a century. But it will take considerable time for school integration to influence the residential segregation created by over a century of discrimination, and perpetuated by

jurisdictional structures, affordable housing policies, and land use policies. The future of children, the region, and the nation are worth the patience needed to implement long-term solutions.

The woeful result of the Supreme Court's retreat from *Brown's* promise is that the nation's schools now are more segregated than they have been in over thirty years.¹⁶⁹ Students confined to segregated, high-poverty schools have turned to state courts. There, they assert both their state equal protection rights and their fundamental state rights to an education.¹⁷⁰ There, they can use the evidence of unequal opportunity in segregated schools to show violations of these rights. School integration plans imposed by state courts—and, even more promising, voluntarily adopted plans—are a way to avoid the often defeating limitations of federal school desegregation remedies, as next discussed.

Recent Developments in Federal Law over Race-Conscious K-12 Choice Programs

The 2003 Supreme Court case *Grutter v. Bollinger* may have breathed new life into voluntary school desegregation remedies, allowing districts to be cognizant of race while also allowing school choice to predominate.¹⁷¹ Such a program might consist of using race as one factor in student assignment plans, or use race as a tie-breaker to help keep some racial balance in a district's schools. The result is a less-than-perfect, yet effective method for achieving integration that is consistent with federal constitutional law.

When dealing with a race-conscious plan, federal courts view such cases with the highest standard of review. This "strict scrutiny" standard has often been referred to as "strict in theory, but fatal in fact."¹⁷² Nevertheless, the legal landscape surrounding the use of race consciousness and school choice to integrate schools is encouraging. The First Circuit recently upheld a voluntary desegregation plan in Lynn, Massachusetts, permitting the school district to deny voluntary transfers to maintain racial balance in the district's schools.¹⁷³ Similarly, the Ninth Circuit upheld the use of racial tiebreakers in Seattle's high school assignment plan.¹⁷⁴ Finally, in an unsigned opinion, the Sixth Circuit also upheld a similar program in Louisville that considered race as an assignment factor.¹⁷⁵

The programs in these cases share many similarities. In Seattle, for example, students rank their preferred schools and school administrators do their best to take student preferences into account.¹⁷⁶ In Louisville, the program uses race as one of several factors to create a stably integrated school district.¹⁷⁷ None of the plans involved the use of rigid quota systems which would arguably violate federal law.

Thus, it could be expected that the schools would not have a uniform enrollment of whites and minorities, but would each fall within a range around the district's average enrollment.¹⁷⁸ Importantly, however, the range around each school's enrollment would reflect the district average, thereby discouraging racial identification of schools.

Minnesota currently does not use similar methods to encourage racial integration, yet we have the legal means to do so. Many of the metro-area districts belong to a collaboration council that coordinates desegregation initiatives or have their own desegregation plan. Minnesota's open enrollment laws permit a district receiving a nonresident student application for enrollment to deny that student admission if the enrollment of that student would conflict with the district's desegregation plan.¹⁷⁹

Thus, by using school integration plans that are limited to students taking advantage of open enrollment or CIY, school districts can legally encourage minority enrollment in schools with overwhelmingly white enrollments, and maintain socioeconomic enrollment balances in schools that otherwise could become subject to “tipping.” Likewise, suburban school districts can discourage white flight from Minneapolis or inner suburban districts with segregated or quickly segregating schools by deprioritizing white transfer students.

The Promise of Equal Access to Educational Opportunity under State Law

Unlike the federal constitution, every state constitution places upon the state’s legislature a duty to provide public education.¹⁸⁰ These provisions are rather unusual as constitutional provisions go, because, unlike the usual limitations on governmental power that restrain state action, education clauses require legislatures to take action. Education clauses range from basic language mandating public education for all children to clauses containing quality and priority language.¹⁸¹

Education is a Fundamental Right in Minnesota

Public education is a fundamental right in Minnesota under Article 8, Section 1, of the Minnesota Constitution, which the Minnesota Supreme Court confirmed in *Skeen v. Minnesota*.¹⁸² When state actions infringe a fundamental right, they receive strict judicial scrutiny, and the state faces a heavy burden to show that its policy is necessary to a compelling governmental interest. Minnesota’s education clause, together with its equal protection clause,¹⁸³ thus provides a powerful and promising tool for seeking redress for the inequities of severely segregated schools in the Twin Cities.

The Minnesota Constitution stresses the significance of education in two ways. First, the education clause is the only provision in the entire document “where the phrase ‘it is the duty of the legislature’ is used,” imposing an affirmative duty on the State.¹⁸⁴ Second, the “sweeping magnitude” of the provision’s opening language stresses the significance of education to continuing our democracy¹⁸⁵:

The stability of a republican form of government depending mainly upon the intelligence of the people, *it is the duty of the legislature* to establish a general and uniform system of public schools¹⁸⁶

Skeen involved a challenge to part of Minnesota’s education funding scheme, which was found to be constitutional. The Minnesota Supreme Court said, however, that the case could have been different had the plaintiffs been low-income minority plaintiffs from the central cities.¹⁸⁷ Significantly, *Skeen* “never involved a challenge to the *adequacy* of education,”¹⁸⁸ nor did it involve racial disparities.

Three years later, however, Minnesota’s education and equal protection clauses were the bases for Minneapolis students’ 1995 and 1998 desegregation lawsuits against the Minneapolis School District and various State defendants. Those cases, discussed below, led to a settlement that created the CIY interdistrict remedy that is the topic of most of Part Four. Those cases—and lawsuits that could be brought against the state in the future—flow from a state-court-based effort

to rekindle *Brown*'s promise of equal educational opportunity. A Connecticut case successfully launched this new effort to make public educational opportunity meaningful for all children.

State Court-Ordered Interdistrict Desegregation Remedies Offer Promise

Informing the 1990s Minneapolis desegregation cases, and future desegregation litigation in Minnesota, is a seminal case from Connecticut, *Sheff v. O'Neil*.¹⁸⁹ When claims under Connecticut's education and equal protection clauses went to trial, the State was found liable for violating children's education and equal protection rights irrespective of existing district boundaries, and irrespective of the absence of discriminatory intent by state officials. The State was ordered to integrate the severely segregated schools.

Like Minnesota, Connecticut has an education clause in its constitution that makes education a fundamental right, although Connecticut's clause is classified as weaker than Minnesota's.¹⁹⁰ Similar to the Twin Cities, Connecticut was faced with segregated nonwhite central-city schools in Hartford, and mostly white schools in suburban districts. As in Minnesota, funding was "substantially equalized."

The court in *Sheff v. O'Neil* held, however, that adequate funding to segregated schools does not provide "a substantially equal educational opportunity" when schools are severely segregated.¹⁹¹ The Hartford schoolchildren had alleged that they were denied equal opportunity to a public education. Among the reasons were racial and ethnic segregation in Hartford schools (92 percent nonwhite, while only 7 of 21 suburban districts had nonwhite enrollments exceeding 10 percent), and the disadvantaged, unequal, and inadequate education provided, as compared with suburban districts.¹⁹² Although the state was found not to have intentionally discriminated, and although state funding resulted in higher per-pupil expenditures for Hartford than for 21 surrounding suburban districts, the court held that the state was responsible for remedying its segregated and unequal schools.¹⁹³

The court rejected the defendants' plea that federal desegregation law limitations should apply to cases litigated under the state education clause. Instead, it ruled that students confined to segregated schools do not have to prove discriminatory intent, in addition to unequal outcomes, for two reasons that apply in Minnesota's context as well.¹⁹⁴ First, federal courts, unlike state courts, are restricted by principles of federalism in how far they can go when scrutinizing state action. In contrast, when state courts apply state constitutional principles, federalism concerns are absent. Thus, as happened in *Sheff*, the state cannot duck the responsibility of providing intra-district desegregation remedies.

Second, unlike under the United States Constitution,¹⁹⁵ state constitutions create a fundamental right to public education.¹⁹⁶ This is significant because whether plaintiffs must prove *intentional* racial discrimination, in addition to proving racially unequal outcomes, can depend on whether a fundamental right is involved. Even under federal constitutional law, when a fundamental right like the right to vote is affected, plaintiffs are not required to prove that the government intended to discriminate. In fact, proving governmental awareness and *inaction* in the face of racially disparate impacts on the fundamental right to vote is sufficient evidence to establish that the government violated the federal constitution.¹⁹⁷

There is no meaningful distinction between a court requiring legislative action to “protect the fundamental right to vote” and requiring legislative action “to protect the fundamental right to a substantially equal educational opportunity.”¹⁹⁸ Thus, there is no reason to require proof of discriminatory intent to prove violation of a state’s fundamental right to educational opportunity. This reasoning is even more persuasive in Minnesota, in light of our Constitution’s express recognition that an educated citizenry is necessary to maintaining our democracy.¹⁹⁹ The Connecticut court borrowed from the United States Supreme Court to make the point: “[S]chools are an important socializing institution, imparting those shared values through which social order and stability are maintained.”²⁰⁰

Sheff anchored in *Brown* to explain that a sound education “is the very foundation of good citizenship” and thus “it is crucial for a democratic society to provide all of its schoolchildren with fair access to an unsegregated education.”²⁰¹ Educational opportunity “is a right which must be made available to all on equal terms,” because education is vital for other reasons as well.²⁰² Public education gives individuals the tools to be economically productive; it reduces the social costs society bears when certain groups are not permitted the means to acquire the tools essential to social order; and it protects a state’s economic well-being by providing skilled and technically proficient workers.²⁰³

In Minnesota, the reasoning of *Sheff* and the promises of Minnesota’s education and equal protection clauses were harnessed in the two 1990s cases out of which the Choice is Yours program was created. These cases, and the program, are discussed next.

Part Four

The Choice is Yours in the Twin Cities Region: Using School and Housing Choice to Achieve Integration

An education in a socially and economically integrated environment can be the linchpin for a plan that offers equal education opportunity to low-income students across the region. The context and history of school integration tell us that choice is a reasonable avenue by which to achieve integration. This part of the report summarizes how the CIY program came to be. The focus is on the interdistrict aspect of the program because it offers low-income children in Minneapolis the best opportunity to receive a better public education by attending an integrated school. This section also summarizes studies showing that the program has been both popular and effective for all parties involved.

Economically and racially integrated classrooms are not an easy objective. Too many powerful political interests in the suburban areas and in the inner-city do not believe integration to be in their self interest. Many individuals do not understand that integration can be stable rather than the precursor of decline. Information is important. Through a proactive policy of targeting low-income housing to opportunity-rich areas, and increasing the effectiveness and reach of school choice programs, it is feasible to have a fully integrated community in the Twin Cities. Such a community can prepare all our citizens for a much brighter future.

The Minneapolis Settlement that Created a Promising Interdistrict Choice Program

As Minneapolis became more diverse during the 1990s, the Minneapolis School District and the State of Minnesota took actions that worsened school segregation. Despite severe residential segregation in Minneapolis, the District resumed assigning students to “neighborhood schools.” The State concurrently granted Minneapolis a waiver from the “fifteen percent” desegregation rule. It also implemented an Integration Revenue program that the Office of the Legislative Auditor concluded in 2005 not only lacks focus and oversight, but even has provisions that discourage school integration.²⁰⁴

Since the 1995-1996 school year, a majority of students enrolled in the Minneapolis Public Schools were poor and nonwhite,²⁰⁵ in contrast to enrollments in suburban districts.²⁰⁶ It was nearly a quarter-century after *Booker*, the federal desegregation case that found the Minneapolis School District violated students’ fourteenth amendment rights.²⁰⁷ During the mid 1990s, a quarter of the District’s schools were extremely segregated (81-100 percent nonwhite), racially identifiable schools.²⁰⁸

That year, the state was sued again, along with a number of state defendants²⁰⁹—this time in state court.²¹⁰ On behalf of all children enrolled in Minneapolis public schools, the complaint in *NAACP v. State of Minnesota* argued that a segregated education violates the Minnesota State Constitution’s education and equal protection clauses.²¹¹ The plaintiffs alleged that the State of Minnesota had not taken effective action to desegregate Minneapolis schools.²¹² They further alleged that the State reinforced racial and economic inequality via its school construction policies, and by its failure to provide integrated housing choices throughout the Twin Cities region.²¹³ The housing claims were excluded from the lawsuit after the Metropolitan Council, initially another defendant in the case, successfully removed itself from the litigation.²¹⁴

When it became uncertain whether the Minneapolis NAACP would vigorously prosecute the case on behalf of the plaintiff class, a nearly identical case, *Xiong v. State of Minnesota*,²¹⁵ was filed on behalf of Minneapolis students, and consolidated with *NAACP*.²¹⁶ During the three years between commencement of *NAACP* and *Xiong*, the District’s poverty enrollment had increased to 65 percent, and nonwhite enrollments had reached 70 percent.²¹⁷ The number of extremely segregated schools (80-100 percent nonwhite) had risen ten percentage points, to over one-third of the District’s schools (Table 4-1).

Table 4-1
Nonwhite Enrollment Shares in Minneapolis Public Schools, 1988-2003 [1]

Year	Schools Reporting [2]			Percentage 81-100% Nonwhite	Number of Schools With Nonwhite Enrollments in Each Percentage Range				
					0-20%	21-40%	41-60%	61-80%	81-100%
2002-03	130	of	144	46%	5	11	22	32	60
2001-02	135	of	144	44%	3	12	22	39	59
2000-01	135	of	141	39%	4	11	24	43	53
1999-00	126	of	14	35%	4	9	27	42	44
1998-99	124	of	148	34%	3	9	29	41	42
1997-98	122	of	150	33%	4	7	33	37	40
1995-96	118	of	144	24%	4	8	38	40	28
1993-94	110	of	138	15%	4	7	48	35	16
1992-93	57	of	58	4%	0	2	35	18	2
1991-92	57	of	58	2%	0	1	43	12	1
1990-91	54	of	55	0%	0	2	42	10	0
1988-89	55	of	55	0%	0	14	36	5	0

Sources: NCES 100 Largest Districts data for each year.²¹⁸

[1] Data not provided for 1989-90, 1994-95 and 1996-97.

[2] Reporting changed with the 1993-94 school year.

The *NAACP* and *Xiong* cases settled in 1999? 2000, producing the agreement creating the “Choice is Yours” interdistrict transfer program.²¹⁹ The settlement has four components that offer greater opportunity to low-income families:

1. Parent choices for suburban schools (the focus of this report).
2. Enhanced access to high-performing Minneapolis schools.
3. Greater accountability from Minneapolis Public Schools.
4. Parent information, outreach, and advocacy.

Unfortunately, the *NAACP-Xiong* settlement has not been implemented in a way that comprehensively redress segregation in the west metro. The result is more, not less, segregation in the Minneapolis Public Schools—and rapidly increasing segregation in a number of suburban districts. Within three years of the 2000 settlement, nearly half of the Minneapolis Schools were 80-100 percent nonwhite, racially identifiable schools (Table 4-1).

Although the CIY pilot program has, so far, been implemented at too small a scale, it’s interdistrict choice model is a promising approach, and is beneficial to the students involved. As proposed below, CIY should be expanded significantly to encompass many more districts and offer choices to many more students.

The Choice is Yours Program is a Promising School Choice Model for School Integration

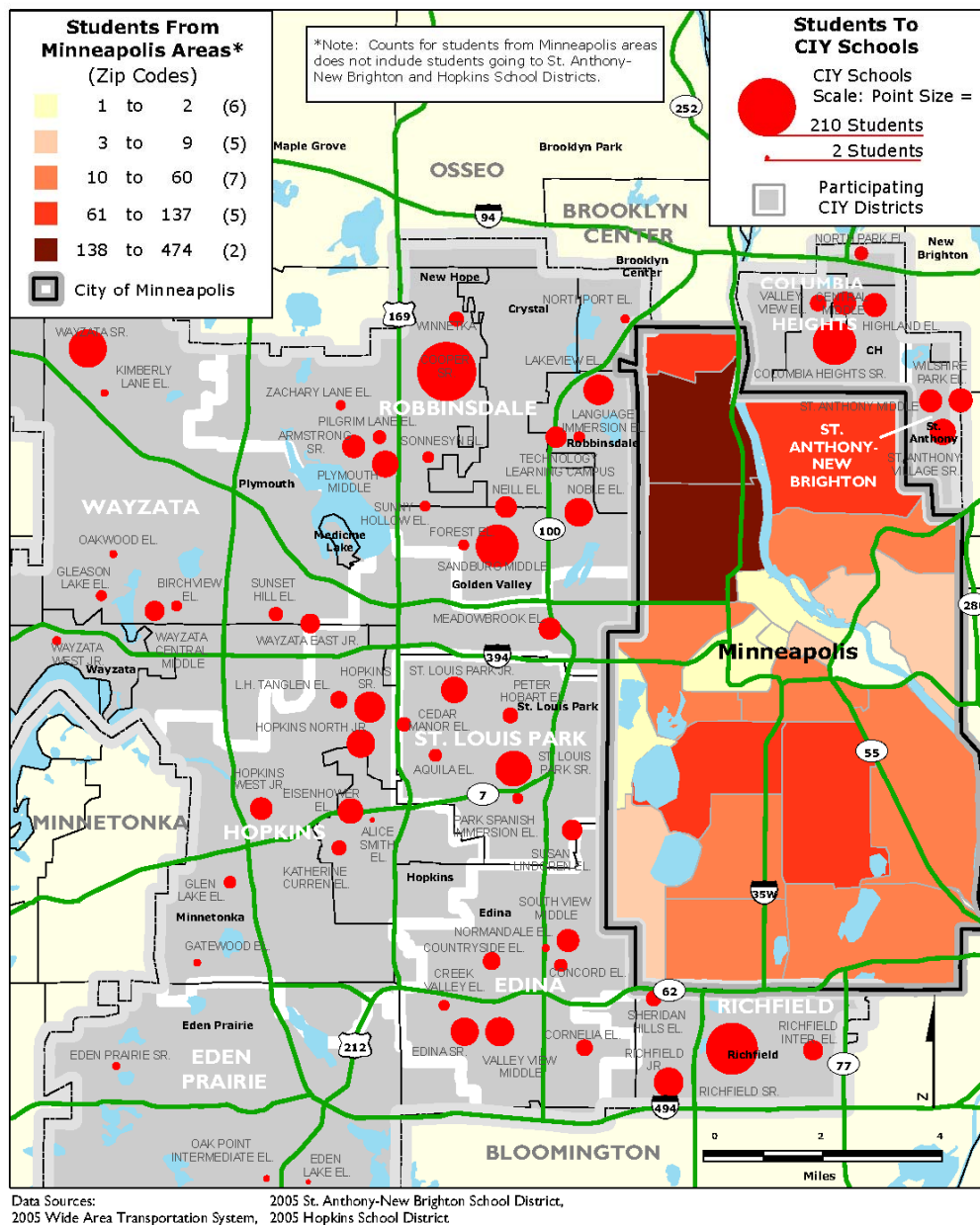
At the beginning of the 2005-06 school year, approximately 1680 children were enrolled in the CIY program; 1090 of these students were returning from the previous year. The majority of

students coming from Minneapolis Public Schools taking advantage of CIY had previously attended overwhelmingly poor Minneapolis schools, like Jordan Park and Lincoln—schools where nearly all of the students were poor enough to qualify for free or reduced-cost lunch, a program which for example, limits eligibility to children in four-person families with less than \$35,798 per year of income.

Of the 1680 student total, 63 percent are African American, 18 percent are white, 10 percent are Latino, seven percent are Asian or Pacific Islander, and one percent are American Indian. This is compared with a currently reported district-wide enrollment in Minneapolis of 43 percent African American, 27 percent white, 12 percent Asian or Pacific Islander, 14 percent Latino, and four percent American Indian.²²⁰

Figure 4-1 shows the distribution of CIY students in the participating districts, as well as the number coming from each Minneapolis zip code.

Figure 4-1: "Choice Is Yours" Students From Minneapolis to Surrounding Suburban Schools, 2005-2006



The participation data show that, although students from across Minneapolis participate, North Minneapolis neighborhoods are the largest contributors to the program, with 62.4 percent of CIY students (Table 4-2). During the 2005-06 school-year, half of CIY participants came from the North Minneapolis neighborhoods shaded dark brown in Figure 4-1. Not surprisingly, the suburban district immediately adjacent to these neighborhoods – Robbinsdale – received more students under the program than any other district (Table 4-2). There were 583 CIY participants attending

schools in the Robbinsdale district compared to 238 in Richfield, the suburban district with the second most participants.

Table 4-2 Choice is Yours Student Residence Locations in Minneapolis		
	n	%
North	942	62.4
Northeast	118	7.8
Southwest	174	11.5
Southeast	275	18.2
Total	1,509	100.0

Source: 2005 Wide Area Transportation
Note: Data not provided for students attending St. Anthony or Hopkins school districts. Other unknown Minneapolis student locations = 20

Table 4-3 Choice is Yours School District Attendance		
	n	%
Columbia Heights	196	10.5
Eden Prairie	6	0.3
Edina	170	9.1
Hopkins	230	12.4
Richfield	238	12.8
Robbinsdale	583	31.4
St. Anthony	99	5.3
St. Louis Park	177	9.5
Wayzata	159	8.6
Total	1,858	100.0

Sources: 2005 Wide Area Transportation
2005 St. Anthony-New Brighton School District,
2005 Hopkins School District

CIY Participants Make Significant Achievement Gains

In its 2006 report, the Minnesota Department of Education reported significant achievement gains by students participating in CIY.²²¹ Students from grades 3 through 7, averaged across all demographics, made consistent and significant improvements in reading and mathematics. In comparison with CIY-eligible, but non-participating students, the CIY suburban students made annual gains that were nearly a third higher.

The Minnesota Department of Education attempted to correct for the self-selection bias that occurs in choice programs by studying students who began in the program with a wide range of achievement levels. Students who scored below the 50th percentile initially made gains similar to other CIY participants. In both reading and mathematics, low-performing CIY students scored 19 percentile points higher in mathematics progress than non-participants and 13 to 22 percentile points higher in reading. While an ideal comparison would be of students in the CIY program compared with eligible students who were not accepted into the program—thus controlling for the self-selection factors of highly motivated students and parents—studying test scores of students at all ranges shows that CIY holds promise for its academic quality.

Parents and Students Like the Program

Choice is Yours has been favorably regarded by parents, students, the Minnesota Office of the Legislative Auditor, and even the Bush Administration. One of the nine choice programs nationwide to receive a federal grant while those monies were still available, CIY was found to be the best of all nine programs.²²² In November 2005, Minnesota's Legislative Auditor noted that CIY, among other West Metro Education Program programs, were "consistent with a traditional view of integration," unlike some of the activities for which State Integration Revenue funds were used.²²³

A survey conducted about the first two years of CIY found that academic quality was the primary reason that parents enrolled their children in suburban school districts.²²⁴ They also cited

school safety as a reason more often than did parents declining the interdistrict transfer option for their children.²²⁵

Interviews with parents of participants in the program showed great satisfaction with the program. Parents rated the schools well on a variety of factors, including setting high standards for achievement, creating community, and making students feel welcome.²²⁶ Ninety-seven percent of participating families who answered the survey would recommend or already had recommended the program to a friend. Indeed, the survey found that word of mouth, not standard advertising techniques, was the most effective method of encouraging enrollment. Sixty-five percent of Choice is Yours participants said they had heard about the program from a friend, and 22 percent said that the personal recommendation was their motivating factor in choosing the program.²²⁷

Parents seemed pleased with the suburban schools' approach to diversity. Nearly two-thirds of suburban participants reported their schools could meet diverse needs, a proportion slightly less than the responses from non-participants remaining in city schools. Focus groups with participating children revealed that many felt suburban schools took learning more seriously, and that they did not have to be concerned with "bad" students interfering with their desire to learn. They did, however, feel they encountered some racism and hostility from teachers and students, and felt CIY students received harsher discipline than did misbehaving suburban students.

The benefits of academic quality and parent satisfaction continued throughout the following two years of the program, according to the 2006 Minnesota Department of Education study. Parents continue to be satisfied with the program, with the vast majority indicating they would recommend it to their friends or family. Moreover, the most recent study has concluded that suburban schools are becoming better able to meet the needs of diverse cultures and better prepared to assist students in the transition from city to suburb.²²⁸

Benefits to Districts and Taxpayers

Many of the inner suburban districts receiving CIY students are facing declining or stagnating enrollment. Thus, because of the financial benefit incoming students provide, they have been more likely to see CIY students as a boon than do the stable or growing outer suburbs.

While incoming students in other city-suburban transfer programs around the country have experienced hostility in the suburbs,²²⁹ CIY students have not, partly because of this enrollment dynamic and partly because of financial incentives built into the program. Minnesota's school finance law rewards suburban districts for taking CIY transferees because incoming CIY students bring with them what is known as "compensatory revenue" in addition to the base amount of state aid allocated to all students. Compensatory revenue is awarded under a state formula based on the number of low-income children in each district. This means that suburban districts receive more state aid for CIY students than they do for other students. Thus, to avoid making tough decisions about closing schools due to steep enrollment declines, districts like Robbinsdale or Columbia Heights can instead aggressively market toward CIY-eligible children and raise attendance and revenue. Without CIY students, each district, except for St. Anthony, would be facing even steeper declines in enrollment.

Resegregation Can Be Avoided

Choice is Yours presently adds just under 1,700 students to a total enrollment of over 61,000 in the participating WMEP districts. It does, however, account for more than 10 percent of the enrollment of certain suburban schools in districts, like Robbinsdale, which have high CIY enrollments. Some CIY districts are beginning to diversify, but some CIY districts that were already diverse are beginning to resegregate. This last trend is one that school choice programs must be designed to avoid.

Edina is diversifying its student body with CIY, adding 98 black students and 33 white students in 2005-06. Conversely, Richfield, Robbinsdale, and a few other districts are adding many nonwhite students and very few white students, while at the same time experiencing residential demographic shifts and rapid segregation. The State Auditor recently noted this troubling outcome, highlighting two “racially isolated” inner-ring suburban districts—Brooklyn Center and Richfield—in 2000 that had *larger* interdistrict racial imbalances with adjoining districts in 2005 than they did in 2000²³⁰ (Table 4-4).

Table 4-4 Brooklyn Center and Richfield Enrollments		
	<u>Brooklyn Center</u>	<u>Richfield</u>
2005 Percentage Nonwhite	66.0	55.1
Percentage-Point Increase, 2000-2005	20.7	22.7
Percentage-Point Difference With Adjoining Districts:		
2000	30.3	22.1
2005	40.7	39.9

Thus, by 2005, both districts had nonwhite enrollments roughly 40 percentage-points higher than adjacent districts, an *increase* of 10-18 percentage points from five years earlier. The Brooklyn Center and Richfield districts have 2005 poverty enrollments of 66 and 47 percent, respectively; poverty is becoming quite prevalent and concentrated in those districts.

Choice is Yours Enrollment is Promising

As of the start of the 2005-06 school year, 3,503 students have enrolled in CIY over four complete school years and the beginning of the current year. One of the most difficult aspects of measuring the success of a suburban transfer program like CIY is the intense mobility of the students participating. Low-income families move frequently, causing their children to withdraw from their schools and switch to new districts. Thus, in each year of its existence, the CIY program has seen dips between the beginning year enrollment and the end year enrollment (Table 4-5; the data do not represent a longitudinal analysis of enrollment, following individual students from year-to-year. Only the total number of students returning from the previous year is indicated.)

Table 4-5
Choice is Yours Enrollment 2001-2006

	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
Start of Year Total Enrollment	558	896	1155	1489	1680
Returning Enrollment from Previous Year	n/a	411	593	784	1090
End of Year Enrollment	472	720	1030	1435	n/a
Percent Returning from Previous End of Year Enrollment	n/a	83%	82%	76%	76%

Source: Minneapolis Public Schools, Student Accounting Department

One concern suggested by the table above is that CIY has failed to fulfill its initial goal of enrolling 500 students each year. There should be approximately 2500 children enrolled at the beginning of 2005-06 if the maximum number of allotted seats were filled. School districts like Edina, Wayzata, and Hopkins have consistently under-enrolled students, rarely reaching 50 percent enrollment of their allocated CIY spaces in most years. This may be due to the fact that students wishing to enroll in CIY who cannot find seats in their preferred schools may choose not to enroll in any of the remaining districts. Thus, demand for the program could conceivably meet expectations, but only in the four popular districts. Moreover, districts with larger target enrollments tended to have lower enrollment percentages, on average.

This tendency is also reflected in the fact that Columbia Heights and St. Anthony have consistently over-enrolled each year. The table below illustrates the trends, showing the percent enrollment aggregated over five years. Four districts—Robbinsdale, Columbia Heights, St. Anthony-New Brighton, and Richfield—tended to enroll closer to their targets than the remaining districts. The size of the allotment also tended to have a negative correlation with the percentage enrollment: districts with the smallest allocation of students each year hit or exceeded their targets more often than larger allocated districts. Edina, Wayzata, Hopkins, and St. Louis Park never reached their yearly allotment and, between the four districts, averaged 50 percent enrollment over 5 years. (Table 4-6.) Eden Prairie is excluded because it has not been assigned an enrollment target and enrolls very few children. Despite these percentages early in the program, this result can be avoided through expansion of choice to include more districts and by capping per-school poverty enrollments.

Table 4-6 School District and 5-year Average Enrollment as Percentage of Allotted Spaces	
Columbia Heights (26 spaces per year)	165%
St. Anthony (15 spaces per year)	144%
Richfield (42 spaces per year)	99%
Robbinsdale (127 spaces per year)	97%
St. Louis Park (43 spaces per year)	67%
Edina (70 spaces per year)	61%
Hopkins (85 spaces per year)	44%
Wayzata (92 spaces per year)	38%

Source: Minneapolis Public Schools, Student Accounting Department

The Choice is Yours Program Offers Students, and the Minneapolis School District, What Some Other Strategies Have Not

This report recommends shaping the region's education policy around a proven strategy for offering educational and life opportunities to children of all backgrounds: racially and economically integrated schools. More spending alone, without economic and racial integration, cannot provide students with the environments proven to support educational success. Similarly, whatever role charter schools someday may fill in the nation's public education system, they presently are more segregated than traditional public schools, experience closure and mismanagement problems, and have mixed performance records.

The Twin Cities region must make difficult decisions and place children's futures ahead of protecting struggling schools and districts from needed change. What, after all, really matters? Children matter. We can, and should, save all children from segregation "at once and hereafter."²³¹

Spending Cannot Replicate the Benefits of a Diverse Study Body

School finance litigation has touched many states—almost all of them—and finance systems have been found unconstitutional in at least 26 states.²³² After experiencing resistance in the federal courts,²³³ plaintiffs' lawyers went to state courts to pursue justice in equalizing education finance. They have achieved some notable successes.²³⁴ In a period of twenty years, from 1972 to 1992, court-ordered finance reform provided the change that legislation could not, reducing inequities in spending by 16 to 38 percent.²³⁵ Minnesota shared this success in increasing resources to inner-city schools. Minnesota was one of the states that increased resources going to inner-city schools. However, increased resources have not reduced the extent to which poverty is concentrated in Minneapolis' schools.²³⁶ In fact, it appears to have achieved far less progress than integration and the exposure of poor children to opportunity rich school and their networks could have.

Minneapolis has many schools with some of the neediest children in the country, and students that speak over 90 different languages,²³⁷ producing the most difficult-to-educate student population in the state. Minnesota's school finance scheme provides increased funding for each low-income child, as well as additional funds for schools with concentrated poverty. These funds are allocated directly to each school building. In 2005, Minnesota allocated an average of \$8,516 on each student in the state.²³⁸ The Minneapolis district now averages about \$3,000 more per pupil than the state average, or about \$11,393 per student.²³⁹

Some schools within the school district spend much more than even the Minneapolis per-pupil average and invariably these are racially isolated schools of concentrated poverty. For example, Barton Elementary is integrated (47 percent minority) and has a much-lower than average percentage of students eligible for free or reduced-price lunch. It spends about \$9,101 per pupil, 20 percent less than the district-wide average.²⁴⁰ Likewise, the Lake Harriet Lower Campus is 87 percent white, has only 6 percent of its students eligible for free or reduced-price lunch and only spends just \$8,786 per student. By comparison, Birchview Elementary, a CIY-receiving school in the Wayzata school district, is overwhelmingly white, low-poverty, and only spends about \$7,200 per student.

At the other end of the spending spectrum, North Star elementary is highly segregated, at 97 percent students of color; more than 96 percent of its students are eligible for free or reduced-price lunch, and it spends more than \$13,000 per pupil.²⁴¹ Bethune Elementary is 99 percent students of color; more than 95 percent of students are eligible for free or reduced-price lunch, and it spends nearly \$14,000 per pupil. These differences result because state financing allocations require more funding to schools with high proportions of poor students.²⁴² This financing scheme, however, has done nothing to address the concentration of poverty in these schools or the likelihood of poor performance that will flow from the concentration of poverty.

Charter Schools are Unproven

A skyrocketing number of nonwhite families are choosing charter schools as alternative to traditional public education. This trend provides cause for concern because segregation is more severe in charter schools than in traditional public schools, and there is little evidence that charter schools are bridging the achievement gap. Those charter schools that have any performance record at all show outcomes that are, at best, mixed. Additionally, there have been a significant number of charter schools that have closed soon after opening because of financial mismanagement or noncompliance with reporting and disclosure requirements.

Minnesota pioneered the charter concept in 1991.²⁴³ By 2005, almost every state had laws enabling charter schools,²⁴⁴ which are independent public schools operating under a contract (charter) to meet certain expectations.²⁴⁵ They often are operated by teachers and parents.²⁴⁶ In Minnesota, 43 percent of charter schools are sponsored by school districts, 25 percent by colleges and universities, 23 percent by nonprofits and foundations, and nine percent by state agencies.²⁴⁷ Charter schools are exempt from many state education regulations and receive all their funding through the state, not school districts.²⁴⁸

Nationally, there were 2,996 charter schools as of a 2004 report by the Center for Education Reform. Nearly 10 percent of charters that opened since 1992 have closed “for academic, managerial, or financial reasons.”²⁴⁹ In addition to closures, the Bush Administration reports that state authorizers “have difficulty closing schools that are having problems.”²⁵⁰

In Minnesota, the number of charter schools grew from one to 88 between 1992 and 2004.²⁵¹ Estimates projected that Minnesota would have at least 130 charter schools in 2005-06.²⁵² Between 2000 and 2004, Minnesota’s charter school enrollments mushroomed, increasing 87 percent, while traditional public school enrollments fell 2.1 percent.²⁵³ By 2004, Minnesota charter schools enrolled 17,544 students,²⁵⁴ or roughly two percent of Minnesota students.²⁵⁵ Nearly 70 percent of charter students are in the Twin Cities region and nearly half of those are in the two central

cities.²⁵⁶ While only two percent of students statewide were enrolled in charter schools, more than nine percent of Minneapolis students and just over seven percent of St. Paul students attended charter schools.

Charter Schools are Severely Segregated

Most of the growth in charter schools has been from nonwhite enrollments. As a result, many charter schools are segregated racially. Similarly, poverty enrollments and concentrations are even worse in charter schools than in traditional public schools. The same is true nation-wide: the Bush Administration reported in 2004 that charter schools are more likely than other public schools to serve poor and minority students.²⁵⁷

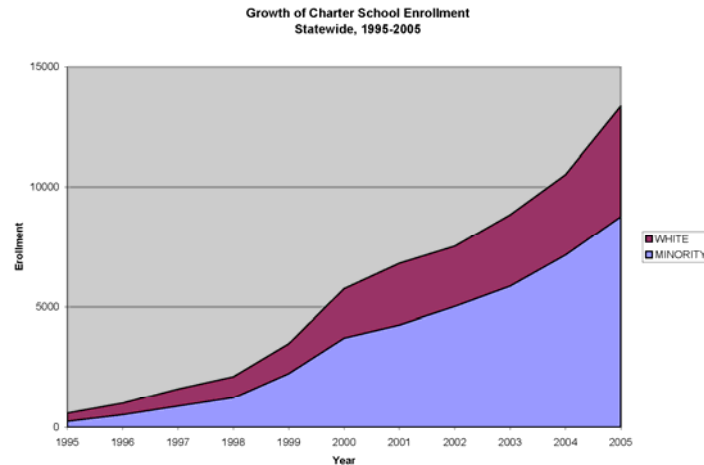
Poverty enrollments in Minnesota charter schools are nearly twice that of traditional public schools. Fifty-four percent of Minnesota's charter students are eligible for free or reduced price lunch, compared with only 29 percent of its traditional public school students.²⁵⁸ Minneapolis and St. Paul charter school poverty enrollments are nearly 80 percent, a rate 10 or 11 percentage-points higher than the already high poverty concentrations in those districts' traditional public schools.²⁵⁹

Concentrated poverty among charter school students is on the rise nationwide as well, with rates increasing from 39 to 53 percent between 1998 and 2001.²⁶⁰ In 2001-02, the 53-percent poverty rate in the nation's charter schools was 16 percentage-points higher than the 37-percent rate in traditional public schools.²⁶¹

Racial segregation in the nation's charter schools mirrors these poverty concentrations. Between 1999 and 2002, white charter school enrollments dropped 11 percentage points, while nonwhite enrollments increased fourteen percentage points to nearly 70 percent nation-wide.²⁶² The nonwhite increase reflected surging black enrollments²⁶³—even as the black proportion of nonwhite students continues to decline nationwide.

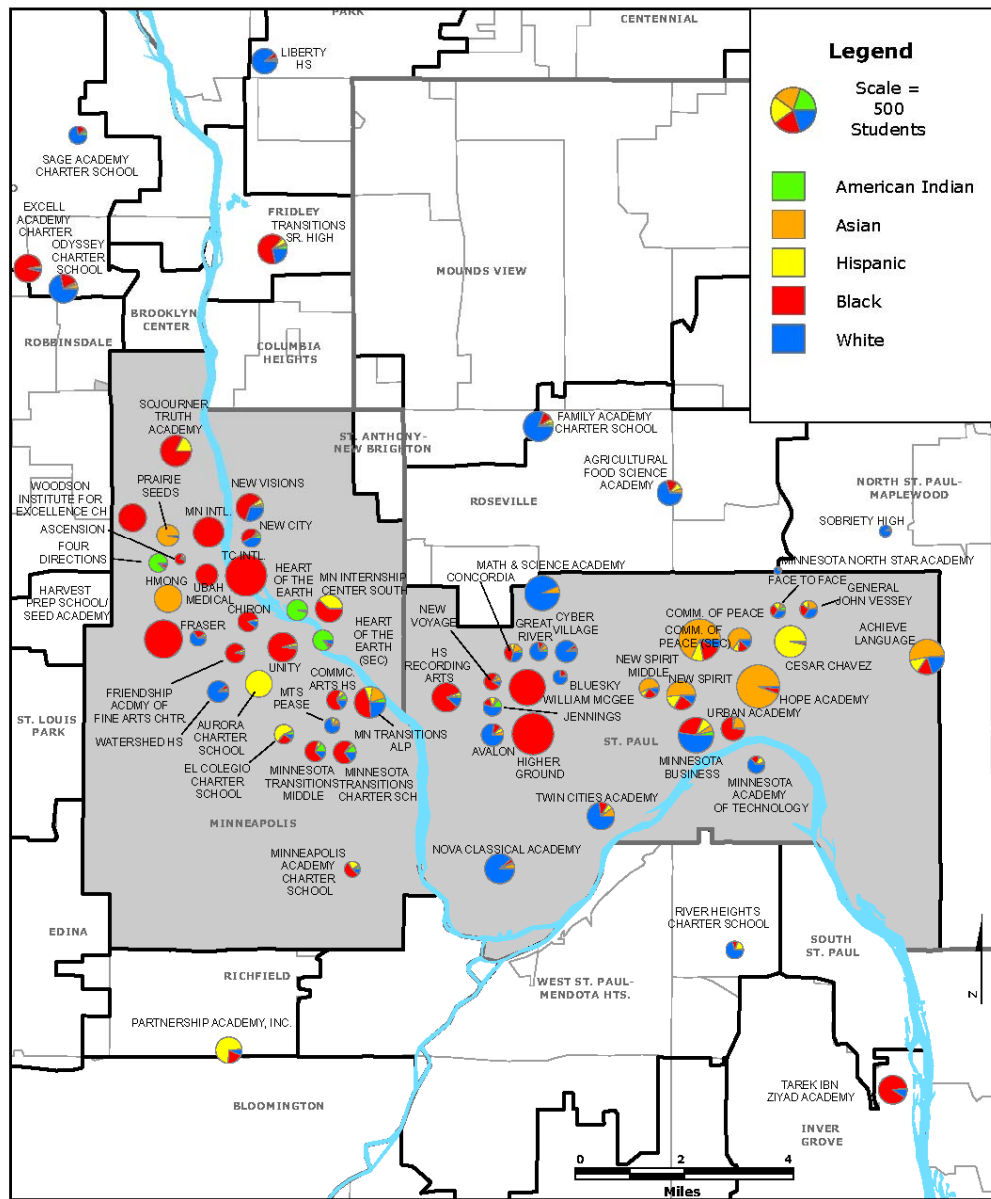
Minnesota's charter schools also are racially segregated. In 2004, 53 percent of Minnesota's charter school students were nonwhite, compared with only 19 percent of all public school students.²⁶⁴ Similarly, black students make up one-third of Minnesota's charter school enrollments, yet are only eight percent of the State's students.²⁶⁵ This racial gap continues to grow (Figure 4-2).

Figure 4-2. Growth of Minnesota Charter School Enrollment, 1995-2005



The result of these enrollments is extreme racial segregation in many of the Twin Cities' charter schools. The Minnesota Department of Education reported for 2005 that 23 charter schools in the seven-county metropolitan area have nonwhite enrollments exceeding 80 percent.²⁶⁶ Nearly 50 percent of the charter schools in the Minneapolis and St. Paul are "culturally centered," or primarily serve one nonwhite population.²⁶⁷ Figure 4-3 illustrates the racially segregated charter school landscape in and near the central cities, revealing that the majority of charter schools in the Twin Cities are racially identifiable.

**Figure 4-4: MINNEAPOLIS - SAINT PAUL
(CENTRAL REGION) Race and Ethnicity
Charter Schools, 2004-2005**



Data Source: Minnesota Department of Education

Because of the alarming racial and economic segregation in charter schools, local²⁶⁸ and national²⁶⁹ studies urge that charter schools become integrated and be included in pro-integrative policies. This is difficult, however, because charter school performance is unproven and charter school accountability is an unresolved issue. Not only are the data for charter schools, alternative schools and other specialized schools less accessible and often not included in various school district

statistics, such schools expressly are excluded from calculations for the state Integration Revenue program.²⁷⁰ Because of the exclusion from this program, which provided almost \$79 million to 80 school districts in 2005 to assist with integration-related activities,²⁷¹ charter schools do not have the same incentives to desegregate as traditional public schools.

Charter School Performance is Mixed

The Bush Administration's 2004 charter school research found that charter schools were less likely to meet state standards than traditional public schools,²⁷² even after studying only those states with considerable numbers of charter schools, sufficient data, and a state performance standard.²⁷³ The share of charter schools meeting state standards trailed that of traditional public schools by between eight and 32 percentage points.²⁷⁴

Significantly, the Bush Administration's research found that schools least likely to meet performance standards—whether charter or traditional—had “above-average proportions of students eligible for free and reduced-price lunches and above average proportions of minority students.”²⁷⁵ Because this is consistent with what a half-century of social science research has shown about the performance impacts of economic and racial segregation, the Administration's researchers conducted regression analyses of the results for two states with the most data to determine whether charters' weak performance was explained by race, poverty, number of students, and student mobility.²⁷⁶ Even controlling for those factors, charter schools showed lower performance than traditional public schools.²⁷⁷

The Bush Administration also concluded that its research and existing studies suggest that “some charter schools may have difficulty meeting the high-stakes performance standards” of No Child Left Behind.²⁷⁸ Although results are mixed,²⁷⁹ there is agreement that charter school performance should be studied carefully, and evaluated relative to traditional public schools.²⁸⁰ Although the few existing studies of charter schools are not conclusive, decades of data show that segregated schools hurt academic performance and limit life opportunities. Decades of data show that racially and economically integrated schools provide settings conducive to academic success, and networks that lead to greater life opportunities. And a decade of data shows that charter schools are much more segregated than traditional public schools.

Charter Schools Experience Closures and Inadequate Accountability

In addition to severe segregation and unproven performance, many of Minnesota's charter schools have been lax, or worse, in their accounting practices. A significant number closed after short periods of operation. While these failing, even sometimes criminal, institutions must be shut down, the large percentage of failures bodes poorly for affected students. It also should worry taxpayers, since over \$100 million in state funding flows to Minnesota charter schools annually.²⁸¹

Sixteen percent of Minnesota charter schools were closed by 2004,²⁸² and 14 of 16 schools closed by 2002 were closed at least in part because of poor financial management.²⁸³ In Minneapolis and St. Paul alone, eight charter schools closed due to indebtedness, poor academic performance, and inferior facilities (Table 4-7).

Table 4-7
Charter School Closings in Minneapolis and St. Paul through 2003

<u>Years of Operation</u>	<u>Charter School Name</u>	<u>Reasons Closed</u>
1995-99	Frederick Douglass Math/SCI ACAD	Unpaid retirement contributions (\$23,000) Inconsistent data reported Students left for public school
1998-00	Success Academy	Criminal use of public funds (cars, trips, condos) Over-counted enrollment to obtain funding Left \$1 million in debt
1999-01	Skills for Tomorrow	Financial mismanagement
1999-01	Learning Adventures	Fiscal mismanagement School's business manager leased space and hired consultants from a firm he owned
2000-01	Opportunity for Learning	Mismanagement Consolidated with Minnesota Transitions Charter School
2000-01	Fort Snelling Academy	No permanent school facility (using tents and trailers) Staff were not being paid Financial mismanagement
2000-02	Mexica Multicultural Ed Charter	Enrollment declined Overspending
2001-03	Native Arts Charter School	Overspending Inappropriate facility

Source: Minnesota Department of Education

Indeed, 19 percent of charters reported serious debt problems in 2000, as did 12 percent in 2002.²⁸⁴ A state report found nearly one of every four Minnesota charter schools operating in 2001-2002 to be “financially at risk,” spending more than they took in.²⁸⁵

Accounting and reporting failures have been too common among Minnesota’s charter schools, according to several Minnesota House of Representatives studies.²⁸⁶ The studies found, for example, that there was inadequate segregation of accounting duties—an anti-fraud measure—in 84 percent of charter schools in 2002.²⁸⁷ It concluded that accounting practices in over 70 percent of charter schools lacked safeguards against fraud in at least one internal operation.²⁸⁸ Similarly, Minnesota’s charter schools increasingly have failed to keep an updated list of General Fixed Assets, an important safeguard against theft.²⁸⁹

In addition to accounting lapses, many Minnesota charter schools were noncompliant with other oversight measures, such as filing their audits on time with the Department of Children, Families, and Learning.²⁹⁰ Sixty-four percent of charter schools filed their 2001 audits late, and 34 percent were late with their 2002 filings.²⁹¹ Eleven charter schools turned in their audits late every year from 1998 to 2001.²⁹² Moreover, 33 percent of 48 charter schools surveyed in early 2003 failed to make their board meeting minutes available upon request as required by Minnesota law.²⁹³

Non-segregated middle-class schools have a long record of effectiveness, especially contrasted with economically and racially segregated schools. Charter schools are concentrating poverty and isolating nonwhite students more than even the traditional public schools in our central cities and

older suburbs. This is a dangerous way to duck responsibility for providing equal educational opportunity to our disadvantaged children. It is reminiscent of the “separate but equal” fallacy that *Brown* declared unconstitutional over a half-century ago.

It is Possible for Choice to Integrate Twin Cities Schools

A comprehensive strategy to fully integrate Twin Cities schools is beyond the scope of this report. That being said, there are several voluntary, choice-driven housing programs currently in operation in the Twin Cities metropolitan area with the potential to cut school segregation in half with relatively gradual changes. The programs with the most potential (besides CIY) are relatively large-scale housing programs designed to assist moderate and low-income families. This section focuses on three of those programs: the federal Low-income Housing Tax Credit program (LIHTC), and two Section 8 housing programs.

Before examining the potential effects on school integration of different types of remedies, it is necessary to estimate the scale of the changes needed to eliminate segregated schools in the region.²⁹⁴ First, it is important define *integrated*. Second, it is necessary to estimate the number of students who would have to change schools in order for all of the region’s schools to be integrated. To simplify the analysis, the initial simulations reported here deal only with segregation of African American and white students. The numbers of students of other races or ethnicities, especially Latinos, are on the rise. However, African Americans are clearly the dominant racial minority in area schools, representing 65 percent of non-Asian minorities. In addition, the simulations are meant to be illustrative, and adding a third or fourth group to the analysis complicates them considerably.

For the purposes of these simulations, an *integrated* school is one with an African American enrollment between seven percent and 35 percent. Seven percent represents one-half the regional average share for African American students, and 35 percent is an often-cited threshold, beyond which schools tend to re-segregate. For instance, prior IRP analysis of integrated schools in 15 large metropolitan areas (including the Twin Cities) found that integrated schools where the African American share of students in 1992 was less than 32 percent were more likely to still be integrated in 2002 than to have re-segregated, while schools where the African American share was greater than 38 percent were more likely to have re-segregated than to remain integrated. In the range from 32 percent to 38 percent, the chances were about 50-50.

The starting point for the analysis is an estimate of the number of students that would have to change schools in order for all of the region’s schools to be in the 7 percent to 35 percent range. In 2005 375 of the roughly 1,000 schools in the seven-county region showed African American shares in this range; 443 showed shares less than seven percent and 184 schools had shares above 35 percent. If integrating all schools was achieved simply by having students of appropriate races in the appropriate schools trade places, then roughly 9,900 African American students in schools above the 35 percent ceiling would have to trade places with 9,900 white students in schools below the seven percent floor. However, a choice program would be unlikely to result in one-for-one trades across schools. If, instead, only 50 percent of the African American students leaving predominantly African American schools were replaced by white students then about 12,500 African American students would have to re-locate to predominantly white and already-integrated schools in order

for all schools to be below the 35 percent ceiling. If none of the African American students leaving segregated schools were replaced by white students, then the number would increase to 15,250.

Thus, there is no single magic number of student moves that would result in integrated schools across the entire region. But 12,500 represents the middle of the range, and is used as the starting point for evaluating the potential impact of LIHTC and Section 8 programs.

The LIHTC program is the largest federal program that supports building low-income housing.²⁹⁵ Created by the Tax Reform Act of 1986, the LIHTC program provides over five billion dollars a year for the construction, acquisition or rehabilitation of low-income housing.²⁹⁶ Administered by the Treasury Department, the program allows investors in residential rental property to claim tax credits for the development or rehabilitation of property to be rented to low-income tenants.²⁹⁷ The program is implemented mainly through state agencies which distribute the credit to developers on a competitive basis.²⁹⁸ Part of the LIHTC statute gives preference in allotting credits to very poor areas.²⁹⁹ Consistent with a common interpretation of this preference, many state agencies, including Minnesota's, have allocated significant numbers of credits to areas with high concentrations of minorities and people with low incomes.³⁰⁰

Before the LIHTC, the primary low-income housing program from 1974 to 1983 was Project-based Section 8, under which HUD provided assistance to public housing authorities and private owners for 20 to 40 years after construction or substantial rehabilitation of low-income rental units.³⁰¹ During the nine years it was in effect, project-based Section 8 produced over 750,000 new or substantially renovated subsidized housing units nationwide, an average of about 83,000 per year, many of which still function as low-income housing today.³⁰²

Since the inception of the LIHTC program, approximately 5,000 LIHTC units have been located in Twin Cities suburbs and an equal number have been located in the central cities.³⁰³ However, in 2000 Minneapolis and St. Paul were home to only 23 percent of the region's total population. The 50-50 city-suburb split means that LIHTC units have been located disproportionately in Minneapolis and St. Paul. In addition to this, among the households living in LIHTC units, people of color have been much more likely to locate in the cities than in the suburbs. Sixty-five percent of the African American households in LIHTC units are in city units, compared to just 50 percent of the total LIHTC units in the cities.

Project-based Section 8 units show a similar bias. In 2004, they were disproportionately located in the central cities—there were 7,484 Section 8 project units in the region as a whole, 4,079 of which (55 percent) were in the central cities. Similarly, black Section 8 households were disproportionately located in city units. Although 55 percent of Section 8 project units were in the central cities, 69 percent of Section 8 households who were black were in the central cities.

These distributions imply that two possible changes in the programs could have pro-integrative effects on school enrollments. The first would be to ensure that there is no correlation between an LIHTC or Section 8 household's race and its location. For instance, in this situation, if 50 percent of LIHTC units are in the suburbs then 50 percent of African American households in LIHTC units would also be in the suburbs, rather than the actual share of 35 percent. The second potential change would be to ensure that LIHTC and Section 8 units were distributed evenly across

the region—if 77 percent of the region's total population is in the suburbs then 77 percent of LIHTC and Section 8 units would be there as well, rather than the actual shares of 50 and 45 percent. Many suburban housing and redevelopment authorities complete unsuccessfully with central city organizations for these tax credits. In the future, perhaps this imbalance could be rectified.

Table 4-8 shows the potential impact of making these two changes in the LIHTC and Section 8 programs.³⁰⁴ If LIHTC and section 8 units were assigned randomly by race there would be an additional 1,527 black students in the suburbs—738 due to the LIHTC program and 789 due to Section 8. If, in addition, LIHTC and Section 8 units were located in proportion to population, there would be another 1,956 black students in the suburbs—655 due to the LIHTC program and 1,301 due to Section 8. Thus, these changes alone could have brought the region nearly a third of the way to the goal of integrated schools.

Another HUD program included in this analysis is the Section 8 voucher program. Enacted in the Housing Act of 1937, the Section 8 voucher program was established "[f]or the purpose of aiding lower income families in obtaining a decent place to live and of promoting economically mixed housing."³⁰⁵ Under this program, the administering public a housing authority (PHA) pays the landlord the difference between 30 percent of household income and the PHA-determined payment standard—about 80 to 100 percent of the fair market rent.³⁰⁶ With approximately 1.4 million available nationwide, Section 8 vouchers are portable—a tenant who receives a voucher in one jurisdiction can take it to another for use.³⁰⁷

In 2004, there were 17,109 section 8 vouchers used for housing in the Twin Cities. As with the other housing programs, they were used disproportionately in the central cities – 47 percent of vouchers were used for central city locations compared to just 23 percent of the region's population. In addition, black households participating in the program were more likely to locate in the central city than in the suburbs—58 percent of black participants located in the central cities compared to just 46 percent of total participants.

Unfortunately, the location-specific race data needed to repeat the simulations shown for LIHTC units and Section 8 project units are not available. However, at a very general level, if the distribution of vouchers were changed to reflect population shares, then there would be 4,750 more Section 8 vouchers used in the suburbs than is currently the case. At current average rates for the region as a whole, this would mean an additional 2,215 black households in the suburbs. These data suggest that there is probably as much potential for the Section 8 vouchers to affect school desegregation efforts as for each of the other two programs shown in Table 4-8. If this is the case, then adding Section 8 vouchers to the simulations would bring the totals in Table 4-8 up to roughly 50 percent of the number of students needed to achieve the goal of integrated schools across the entire seven-county region.

Table 4-8 Metro School Integration Scenarios	
Number of black students that would have to change schools in order to achieve racial balance.	12,580
Number of additional black students that would already be in a racially integrated school if: <ul style="list-style-type: none"> LITHC units were assigned randomly by race. Section 8 project units were assigned randomly by race. 	738 789
Number of additional black students that would already be in a racially integrated school if: <ul style="list-style-type: none"> LIHTC units were distributed across the region in proportion to school enrollment. Section 8 project units were distributed across the region in proportion to school enrollment. 	655 1,301
Additional Section 8 vouchers in the suburbs if they were distributed in same proportions as school enrollment.	4,750

Source: Institute on Race and Poverty

Integrating Schools with Housing Choice and Linked Choices

Greater housing choice can be an effective strategy when linked with school integration efforts. Louisville, Kentucky and Yonkers, New York are examples of areas that have faced issues of school segregation and have partnered school choice with housing choice. In Louisville and Yonkers, the respective regional housing agencies made housing vouchers available on a priority basis to children involved in their desegregation programs.³⁰⁸ A neighborhood that is racially integrated has a better chance of having schools that are also integrated. Families that currently have their children traveling great distances to attend school should have first choice to live in the affordable housing that exists near those schools. If a significant portion of the affordable units became available on priority basis to families wanting to use the Choice is Yours program, the need for student transportation solutions could be significantly reduced.

The Metropolitan Council's Housing Policy 13 (later renumbered Policy 39) also helped the region to make a greater amount of affordable housing available in the region. Under Policy 13/39, the Council used its authority as an agency designated by the federal government to review applications for federal grants to implement its housing policy that encouraged subsidized housing development in the suburbs.³⁰⁹ Policy 13/39 resulted in the regional construction of 11,000 units of Project-Based Section 8 housing in the suburbs.³¹⁰ The Metropolitan Council still possesses great power to guide the development of low income housing in suburban areas, authority increased by the passage of the Livable Communities Act in 1995. If exercised in coordination with expanded school choice, the resulting increase in low-income housing would also strengthen regional integration efforts, by deconcentrating the poverty from units clustered in the Minneapolis and St. Paul.

Recommendations for Choices that Ensure Educational Opportunity

What does a comprehensive solution require? It requires the expansion of the Choice is Yours program. It requires that the program maintain the ideals and goals of its original mandate. It requires making the expanded program operate more efficiently. It also requires that families that choose to participate in the Choice is Yours program have an opportunity to actually live in the communities in which their children go to school. The following recommendations provide the basic foundation for the Choice is Yours program to continue to be successful.

1. Honor School Choice Through Greater Program Efficiency

Even though eliminating segregated schools requires a clear number of nonwhite students to attend predominantly white schools, the Choice is Yours program is not and should never be a forced desegregation program. CIY is a voluntary program that needs to accommodate the choices of parents as much as possible. Currently, CIY parents are allowed to transfer into any CIY member school as long as there is room for the student. However, if the parent's first choice is not available, the parent is not necessarily made aware of other CIY options. Even if the parent is considering several CIY schools, the program is not currently set up to take second and third choices into consideration of the student's placement. This needs to be changed. CIY is so beneficial that even a parent's third choice has the potential to provide benefits that the segregated school they would be leaving cannot provide. The CIY program needs to ensure that it honors parent choice, while at the same time ensure that if a particular choice is not possible that additional choices are easily accommodated. A simple ranking system for the CIY program will help to accomplish these goals.

2. Provide Educational Opportunity for Those Who Need it Most

The CIY program exists to ensure that educational opportunities are available to the most disadvantaged students. An expanded school choice program must continue to give priority to poor students. Additionally, among the economically disadvantaged, priority must be given to low-income nonwhite students. Nonwhite poor students disproportionately attend poor schools and an expanded choice program can help to reverse this trend. Some argue that by granting priority to low income nonwhite students the CIY program opens the door to new legal battles. These battles have already been fought, however, and courts have determined that color can be used to prioritize if tie breakers become necessary due to limited spaces available.³¹¹ Low-income white students deserve an opportunity to choose a better education as much as non-whites students do. Nonetheless, if low-income white students are three times more likely to attend a non-poor school then more needs to be done to ensure that low-income nonwhite students have an equal chance at a quality school.

3. Better Inform and Facilitate Choice

In order for the Choice is Yours program to have the greatest effect, all potentially eligible parents must be well informed about the option to have their children participate. Marketing to parents should not be passive. In addition to information available in a variety of media formats, CIY districts should devise more innovative strategies to inform parents about the program. Making the information available in as many languages as possible is also important for families that are newer to the region. In addition, CIY information needs to go beyond basic explanation of the program. Before parents decide to enroll their students in CIY, they need to have any questions about cultural competency and post-enrollment resources properly addressed. CIY families need to

feel certain before their students set foot in the classroom that they will be treated like every other family in the school's community. Strategies such as the establishment of a CIY Parents' Association, better partnering with community groups, engaging at community gatherings, cable access presentations, community newspaper advertisements, targeted mailings, and general informational meetings held at times that accommodate working schedules will not only inform, but will establish community trust and positive word-of-mouth.

4. Ensure that Free Transportation Remains

Including transportation as a part of the Choice is Yours program is essential. Every parent wants the best possible education for their child, but despite open enrollment, many parents do not have the time or money to fully take advantage of the opportunities available. Free transportation to CIY schools eliminates a barrier to access and also provides an additional support network for participating students via their daily travel together and CIY students traveling together also helps to alleviate parents' potential fears of their children traveling to other school districts. The CIY program should also extend the free transportation to allow students to participate in after-school programs. Part of being a member of a school community involves having the opportunity to participate in school-sponsored extracurricular activities. If CIY parents do not have the resources to get their children to school, they also will not have the resources to get them home from after-school programs. Free transportation is a key element of CIY, allowing students to experience all of the educational benefits their school has to offer.

5. Align Affordable Housing Choices with School Choice and Opportunity

One of the most helpful features of the Choice is Yours program is also a reminder of additional challenges to school integration. Transportation for CIY students provides a convenient and free daily commute to school, but the educational experience of these students could be further enhanced if they had the opportunity to live closer to their school. Integration of communities in addition to schools enriches the networks and opportunities necessary for success. Ensuring that parents can live closer to the schools which their children attend allows them greater ability to engage in the day-to-day educational experience of the child. Living closer to the schools also strengthens the important parent-teacher line of communication.

6. Foster School and Neighborhood Stability

Once the region is completely integrated, the work of the Choice is Yours program is still not complete. With the region's demographics rapidly changing and growing, integrated schools and districts must be protected from resegregation. Through adequate data collection and forecasting the region must take the proper steps to ensure that it is not trying to resolve the same problems decades after the efforts it will hopefully make today. Such mechanisms as ceilings on poverty enrollments, and continual equitable dispersal of the Low Income Housing Tax Credit allocations throughout the region will foster greater stability.

7. Ensure that Participating CIY Schools Maintain Stable Integration

As the Choice is Yours program continues to grow, it will become more important to monitor the enrollment levels of participating schools to ensure that new concentrations of race and poverty do not emerge. Stable integration within the Choice is Yours program is best accomplished with two strategies. First, expansions of school choice to include more districts and schools will help to ensure that there will not be schools of concentrated poverty. Second, capping per-school poverty enrollments will ensure that families can have confidence that poverty concentrations will not make it impossible for schools to offer quality educational opportunity. Expansion and monitoring of

enrollments will allow the Choice is Yours program to adapt effectively to regional demographic changes and will ensure that efforts of districts to integrate will not be in vain.

Conclusion

It is clear that children are benefiting from the Choice is Yours program. Attending racial and economically integrated schools will result in lower dropout rates, more children going to college, increased law-abiding taxpayers, and less challenging lives for our poorest youth. The Choice is Yours program means more opportunity. Integration is a panacea and does not solve all the problems of inequality, but integration has demonstrated clearer effects on expanding opportunity than any other type of solution. It is fair to say that it is a necessary but not sufficient part of any solution. Money by itself is not working. Charter schools are unproven. Integration is at the core upon which all other solutions are built. We must start here and build upon the foundation that integration provides.

The more comprehensive the solution—the more children that have a chance to go to integrated opportunity-rich schools—the more positive of a regional effect the Choice is Yours program will have. The program will not only enrich children's lives, but the program can help to eliminate segregated and poverty-ridden schools. To the extent that we can bring CIY to scale, we can help children, neighborhoods, and the region.

The places in the nation that have created the most metropolitan-wide systems of integration have not only had the most positive effects on children but have actually stabilized the otherwise always-present pattern of resegregation. Of the 100 largest regions in the nation, stably integrated regions are the only ones that do not exhibit signs of white flight. No one, white or not, wishes to flee from success. Thus, this report suggests that while an incremental solution is good, a comprehensive one can truly break many of the cycles of individual and regional inequality.

Segregation hurts everyone. Integration helps everyone. Will we choose to address these problems while they are still manageable? The choice belongs to all of us.

¹ Douglas Massey & Nancy Denton, *American Apartheid* 10 (1993) (coining the term “hypersegregation” to describe intense, multidimensional segregation).

² Institute on Race and Poverty, *Selected Demographics, Minneapolis Public Elementary Schools, 2003-2004* (2004).

³ Minnesota Department of Education, “School Report Card: Minneapolis,” (2005), *available at* http://education.state.mn.us/ReportCard2005/aypGraduation.do?SCHOOL_NUM=000&DISTRICT_NUM=0001&DISTRICT_TYPE=03 (visited May 2006).

⁴ Myron Orfield, *Metropolitics: A Regional Agenda for Community and Stability* 91 (1997).

⁵ Myron Orfield, *Metropolitics: A Regional Agenda for Community and Stability* 45 (1997).

⁶ Myron Orfield, *Metropolitics: A Regional Agenda for Community and Stability* (1997).

⁷ Russell W. Rumberger & Gregory J. Palardy, *Does Resegregation Matter? The Impact of Social Composition on Academic Achievement in Southern High Schools*, in *School Resegregation: Must the South Turn Back?* 127, 135, 137 (John Charles Boger & Gary Orfield, eds. 2005) (national, longitudinal study of eighth through twelfth graders).

⁸ Gary Orfield, *Metropolitan School Desegregation: Impacts on Metropolitan Society* in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 141 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

⁹ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 25 (2001).

¹⁰ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 195 (2001).

¹¹ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 43 (2001).

¹² Russell W. Rumberger & Gregory J. Palardy, *Does Resegregation Matter? The Impact of Social Composition on Academic Achievement in Southern High Schools*, in *School Resegregation: Must the South Turn Back?* 127, 127-128 (John Charles Boger & Gary Orfield, eds. 2005). In addition to the racially disproportionate burden on nonwhite children of attending poor schools, the rate of individual poverty is 2.5 times higher among nonwhite children. *Id.* at 127.

¹³ Russell W. Rumberger & Gregory J. Palardy, *Does Resegregation Matter? The Impact of Social Composition on Academic Achievement in Southern High Schools*, in *School Resegregation: Must the South Turn Back?* 128 (John Charles Boger & Gary Orfield, eds. 2005).

¹⁴ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 31 (2001).

¹⁵ Gary Orfield et al, *Losing Our Future: How Minority Youth are Being Left Behind by the Graduation Rate Crisis*, 3 (Executive Summary, 2004), *available at* www.civilrightsproject.harvard.edu/research/dropouts/LosingFuture_Executive.pdf (visited Nov. 2005).

¹⁶ Gary Orfield et al, *Losing Our Future: How Minority Youth are Being Left Behind by the Graduation Rate Crisis*, 1 (Executive Summary, 2004), *available at* www.civilrightsproject.harvard.edu/research/dropouts/LosingFuture_Executive.pdf (visited Nov. 2005).

¹⁷ Jacinta Ma & Michael Kurlander, “The Future of Race-Conscious Policies in K-12 Public Schools,” in *School Resegregation: Must the South Turn Back?* 240, 248-49 (John Charles Boger & Gary Orfield, eds. 2005).

¹⁸ Jacinta Ma & Michael Kurlander, “The Future of Race-Conscious Policies in K-12 Public Schools,” in *School Resegregation: Must the South Turn Back?* 240, 248-49 (John Charles Boger & Gary Orfield, eds. 2005).

¹⁹ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 24 (2001), quoting James Coleman’s testimony before the Senate Select Committee on Equal Educational Opportunity, *Report: Toward Equal Educational Opportunity*, 92 Cong., 2d Sess. (Government Printing Office, 1972).

²⁰ “Low graduation rates show a strong relationship with indicators of school segregation and this relationship is independent of poverty.” Gary Orfield et al, *Losing Our Future: How Minority Youth are Being Left Behind by the Graduation Rate Crisis*, 4 (Executive Summary, 2004), at www.civilrightsproject.harvard.edu/research/dropouts/LosingFuture_Executive.pdf (visited Nov. 2005).

²¹ Gary Orfield et al, *Losing Our Future: How Minority Youth are Being Left Behind by the Graduation Rate Crisis*, 5 (Executive Summary, 2004), available at www.civilrightsproject.harvard.edu/research/dropouts/LosingFuture_Executive.pdf (visited Nov. 2005).

²² U.S. Department of Education, *Great Expectations: Reforming Urban High Schools – An Education Forum With Urban Educators and Leaders* (2000).

²³ Michael A Boozer, et al., *Race and School Quality Since Brown v. Board of Education*, 1992 Brookings Papers Econ. Activity (Microeconomics), citing Marvin Dawkins & Jomills Braddock, *The Continuing Significance of Desegregation: School Racial Composition and African American Inclusion in American Society*, 63 J. NEGRO EDUC. 394 (1994); Janet Ward Schofield, *Review of Research on School Desegregation’s Impact on Elementary and Secondary School Students*, in *Handbook of Research on Multicultural Education* 597 (James Banks & Cherry McGee Banks, eds. 1995).

²⁴ Michael Boozer, et al., *Race and School Quality Since Brown v. Board of Education*, 1992 Brookings Papers Econ. Activity (Microeconomics), Brief as Amicus Curiae in Support of Defendants-Appellees, 14, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

²⁵ William Julius Wilson, *The Truly Disadvantaged* 103 (1987).

²⁶ See, Signithia Fordham & John Ogbu, *Black Students’ School Success: Coping with the Burden of “Acting White,”* 18 URB. REV. 176 (1986)

²⁷ Signithia Fordham & John Ogbu, *Black Students’ School Success: Coping with the Burden of “Acting White,”* 18 URB. REV. 176, 182 (1986).

²⁸ Case studies vividly relate this intense peer pressure, and its effects. See, e.g., Ron Suskind, *A Hope in the Unseen* (1999); Alex Kotlowitz, *There Are No Children Here* (1991).

²⁹ Terea Wasonga & Dana Christman, *Perceptions and Construction of Meanings of Urban High School Experiences Among African American University Students: A Focus Group Approach*, 35 EDUC. & URB. SOC. 181, 182 (2003).

³⁰ Terea Wasonga & Dana Christman, *Perceptions and Construction of Meanings of Urban High School Experiences Among African American University Students: A Focus Group Approach*, 35 EDUC. & URB. SOC. 181, 182 (2003).

³¹ Terea Wasonga & Dana Christman, *Perceptions and Construction of Meanings of Urban High School Experiences Among African American University Students: A Focus Group Approach*, 35 EDUC. & URB. SOC. 181, 183 (2003).

³² Terea Wasonga & Dana Christman, *Perceptions and Construction of Meanings of Urban High School Experiences Among African American University Students: A Focus Group Approach*, 35 EDUC. & URB. SOC. 181, 198 (2003).

³³ Terea Wasonga & Dana Christman, *Perceptions and Construction of Meanings of Urban High School Experiences Among African American University Students: A Focus Group Approach*, 35 EDUC. & URB. SOC. 181, 198 (2003).

³⁴ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 30 (2001), quoting Gary Orfield, interview by author, Cambridge Massachusetts, November 19, 1997, 28.

³⁵ This is in accord with the Itasca Project's recent call to narrow the gap for the Twin Cities poorer and nonwhite residents. See Brookings Institution, *Mind the Gap: Reducing Disparities to Improve Regional Competitiveness in the Twin Cities* 5 (2005), available at http://www.brookings.edu/metro/pubs/20051027_mindthegap.pdf (visited May 2006).

³⁶ *Booker v. Special School District No. 1*, 351 F. Supp. 799, 809 (D. Minn. 1972).

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Table 1a Minneapolis School District and City of Minneapolis Demographics			
<u>Minneapolis Public Schools</u>	<u>1971</u>	<u>1990</u>	<u>2000</u>
Enrollment	65,201	41,050	48,834
Percent White, Non-Hispanic	85.5%	47.9%	28.9%
Percent Poor		43.3%	65.6%
Number of Schools			
Reporting—	74	54	135
– Over 80% Nonwhite	0	0	53
– 61-80% Nonwhite	1	10	43
<u>City of Minneapolis</u>	<u>1970</u>	<u>1990</u>	<u>2000</u>
Population	434,400	368,383	382,618
Percent White	93.6%	78.4%	65.1%

City of Minneapolis data are from Minneapolis Planning Department, *2000 Census Report: Population, Race, and Ethnicity*, p. 7 (October 2001).

1971 school data are from *Booker v. Special School District No. 1*, 351 F.Supp.799, 802 (D. Minn. 1972).

1990 and 2000 school data are from National Center for Educational Statistics, available at <http://nces.ed.gov/datatools/> (visited Oct. 2005).

³⁸ See National Center for Educational Statistics, available at <http://nces.ed.gov/datatools/> (visited Oct. 2005).

³⁹ See National Center for Educational Statistics, available at <http://nces.ed.gov/datatools/> (visited Oct. 2005).

⁴⁰ Minnesota Department of Education, “School Report Card: Minneapolis” (2005), available at http://education.state.mn.us/ReportCard2005/schoolDistrictInfo.do?SCHOOL_NUM=000&DISTRICT_NUM=0001&DISTRICT_TYPE=03 (visited Oct. 2005).

⁴¹ Data for each district can be accessed through the index at Minnesota Department of Education, *School Report Card* (2005), available at <http://education.state.mn.us/ReportCard2005/index.do> (visited Oct. 2005).

⁴² Minnesota Department of Education, "School Report Card: Minneapolis" (2005), available at http://education.state.mn.us/ReportCard2005/schoolDistrictInfo.do?SCHOOL_NUM=000&DISTRICT_NUM=001&DISTRICT_TYPE=03 (visited Oct. 2005). "According to the most recent [Minneapolis] district data, the city's seven high schools had a 78 percent graduation rate. However, add in the contract alternatives, such as the Center School, 2421 Bloomington Ave. S.; The City, Inc., 1315 12th Ave. N.; and others, and the graduation rate drops to 54.5 percent." Scott Russell, "Schools Become a Big Issue in Mayor's Race," DOWNTOWN JOURNAL (Minneapolis, Oct. 3, 2005), <http://www.skywaynews.net/articles/2005/09/26/news/news02.txt> (visited Oct. 2005).

⁴³ In 2000, the 13-county Twin Cities region's percentage was 90.6; nationwide, it was 80.4 percent. U.S. Census Bureaus data for 2000.

⁴⁴ Minnesota's state-wide graduation rate in 2005 was 89 percent. Minnesota Department of Education, *School Report Card: Statewide* (2005), available at http://education.state.mn.us/ReportCard2005/schoolDistrictInfo.do?SCHOOL_NUM=000&DISTRICT_NUM=9999&DISTRICT_TYPE=99 (visited Oct. 2005). Data for individual districts and schools are accessible from the index at Minnesota Department of Education, *School Report Card* (2005), <http://education.state.mn.us/ReportCard2005/index.do> (visited Oct. 2005).

⁴⁵ Minnesota Department of Education, *School Report Card: Statewide* (2005), available at http://education.state.mn.us/ReportCard2005/schoolDistrictInfo.do?SCHOOL_NUM=000&DISTRICT_NUM=9999&DISTRICT_TYPE=99 (visited Oct. 2005).

⁴⁶ However, the Minnesota Department of Education no longer conducts four-year completion studies, arguably the most accurate measure of academic attainment. The last year for which these data are available, 2000-2001, indicated that only 32% of blacks and 31% of Latinos were graduating. See Minnesota Department of Education, 2001 Completion Study, available at <http://education.state.mn.us/mde/static/001234.pdf>. (visited Oct. 2005)

⁴⁷ Available at http://children.state.mn.us/mde/Data/Data_Downloads/Student/Graduation_Rates/index.html (visited May 2006).

⁴⁸ Data for each district can be accessed through the index at Minnesota Department of Education, *School Report Card* (2005), available at <http://education.state.mn.us/ReportCard2005/index.do> (visited Oct. 2005).

⁴⁹ Charles Tiebout, *A Pure Theory of Local Expenditure* (1956) 64/5 JOURNAL OF POLITICAL ECONOMY 416 (1956).

⁵⁰ Data for each district can be accessed through the index at Minnesota Department of Education, *School Report Card* (2005), available at <http://education.state.mn.us/ReportCard2005/index.do> (visited Oct. 2005).

Table 1b Minneapolis Public Schools Total Enrollment	
Year	Students
2000-01	48,800
2001-02	48,155
2002-03	46,037
2003-04	43,397
2004-05	40,499
2005-06	39,913

⁵¹ Myron Orfield, *Metropolitics: A Regional Agenda for Community and Stability* 39 (1997).

⁵² Xavier de Souza Briggs, “More Pluribus, Less Unum?,” in *The Geography of Opportunity: Race and Housing in Metropolitan America* 17, 26 (Xavier de Souza Briggs, ed., 2005), citing John Logan, Deirdre Oakley, and Jacob Stowell, *Segregation in Neighborhoods and Schools: Impacts on Minority Children in the Boston Region*,” Metro Boston Equity Project of the Civil Rights Project, Harvard University (2003).

⁵³ Camille Zubrinsky Charles, *The Dynamics of Racial Residential Segregation* (2003:179).

⁵⁴ Camille Zubrinsky Charles, *The Dynamics of Racial Residential Segregation* (2003:179).

⁵⁵ Nancy Denton, “The Persistence of Segregation: Links between School Segregation and Residential Segregation,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 89, 93-94 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

⁵⁶ Nancy Denton, “The Persistence of Segregation: Links between School Segregation and Residential Segregation,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 89, 94 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

⁵⁷ Nancy Denton, “The Persistence of Segregation: Links between School Segregation and Residential Segregation,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 89, 94 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

⁵⁸ Nancy Denton, “The Persistence of Segregation: Links between School Segregation and Residential Segregation,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 89, 94 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

⁵⁹ 42 U.S.C. § 3608 (2004).

⁶⁰ John Yinger, *Cash in Your Face: The Cost of Racial and Ethnic Discrimination in Housing*, 42 JOURNAL OF URBAN ECONOMIC 339 (1997).

⁶¹ Camille Zubrinsky Charles, *The Dynamics of Racial Residential Segregation* 176 (2003).

⁶² John Yinger, *Closed Doors: Opportunities Lost* (1995).

⁶³ See National Fair Housing Alliance, “Unequal Opportunity – Perpetuating Housing Discrimination in America: 2006 Fair Trends Housing Report.” 5 (2006). The NFHA tested 73 sales offices in twelve metropolitan areas: Atlanta, Austin, Birmingham, Chicago, Dayton, Detroit, Mobile, New York (including New York City, Long Island and Westchester County), Philadelphia, Pittsburgh, San Antonio and metropolitan Washington, D.C. (including northern Virginia, suburban Maryland and Baltimore).

⁶⁴ National Fair Housing Alliance, *Unequal Opportunity – Perpetuating Housing Discrimination in America: 2006 Fair Trends Housing Report*. 6 (2006).

⁶⁵ Out of 290 total visits, there were 51 instances where black or Latino testers were offered no service or reduced service. National Fair Housing Alliance, *Unequal Opportunity – Perpetuating Housing Discrimination in America: 2006 Fair Trends Housing Report*. 9 (2006).

⁶⁶ National Fair Housing Alliance, *Unequal Opportunity – Perpetuating Housing Discrimination in America: 2006 Fair Trends Housing Report*. 9 (2006).

⁶⁷ National Fair Housing Alliance, *Unequal Opportunity – Perpetuating Housing Discrimination in America: 2006 Fair Trends Housing Report*. 11 (2006).

⁶⁸ National Fair Housing Alliance, *Unequal Opportunity – Perpetuating Housing Discrimination in America: 2006 Fair Trends Housing Report*. 12 (2006).

⁶⁹ Meredith Lee Bryant, “Combating School Resegregation Through Housing: A Need for a Reconceptualization of American Democracy and the Rights it Protects,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 51, 52 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

⁷⁰ 42 U.S.C. § 3608 (d) (2005). The section in its entirety provides:

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including and Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the [HUD] Secretary to further such purposes.

⁷¹ *Shannon v. United States Dep’t of Housing & Urban Dev.*, 436 F.2d 809 (3rd Cir. 1970).

⁷² Some of the poverty burden these schools carry is from school choice enrollments of disadvantaged Minneapolis students. Care must be taken when designing and implementing choice programs so that participating districts and schools remain solidly middle class and able to deliver quality education over time.

⁷³ Data for each district were accessed through the index at Minnesota Department of Education, *School Report Card* (2005), <http://education.state.mn.us/ReportCard2005/index.do> (visited Oct. 2005). Some suburban districts with higher poverty enrollments include those accepting Minneapolis students under the Choice is Yours program. These poverty concentrations near or exceeding 50 percent are in the 9 of 11 districts in inner-ring suburbs that, during the 1980s, saw poverty enrollments increase to over 20 percent. Myron Orfield, *Metropolitics: A Regional Agenda for Community and Stability* 47-48 (1997).

⁷⁴ Within most districts, in addition, there is significant difference in the economic and racial compositions of individual schools, and unconscionable segregation occurs in particular schools in most of these districts.

⁷⁵ Data for each district were accessed through the index at Minnesota Department of Education, *School Report Card* (2005), available at <http://education.state.mn.us/ReportCard2005/index.do> (visited Oct. 2005).

⁷⁶ Institute on Race and Poverty, *Minority Suburbanization and Racial Change* Table A10 (2005), available at http://www.irpumn.org/uls/resources/projects/Minority_Suburbanization_full_report_032406.pdf (visited May 2006).

⁷⁷ Institute on Race and Poverty, *Minority Suburbanization and Racial Change* Maps 9-#, #, # (2005), available at http://www.irpumn.org/uls/resources/projects/Minority_Suburbanization_full_report_032406.pdf (visited May 2006).

⁷⁸ Myron Orfield, *Metropolitics: A Regional Agenda for Community and Stability* 3 (1997).

⁷⁹ Institute on Race and Poverty, *Minority Suburbanization and Racial Change* Table A24 (2005). Between 1980 and 2000, the 13-county Twin Cities metro region experienced a three-fold growth in its black and Latino population, and the share of the white population declined from 95 to 85 percent. Institute on Race and Poverty, *Minority Suburbanization and Racial Change* 5.B.9-1 (2005).

⁸⁰ Russell W. Rumberger & Gregory J. Palardy, “Does Resegregation Matter? The Impact of Social Composition on Academic Achievement in Southern High Schools,” in *School Resegregation: Must the South Turn Back* 128 (John Charles Boger & Gary Orfield, eds. 2005).

⁸¹ *Grutter v. Bollinger*, 539 U.S. 306, 330, 123 S.Ct. 2325, 2340 (2003).

⁸² Amy Stuart Wells & Robert L. Crain, *Perpetuation Theory and the Long-Term Effects of School Desegregation*, 64 REV. ED. RES. 531 (1994) (reviewing 21 research studies), cited in Brief as Amicus Curiae in Support of Defendants-Appellees, 15, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

⁸³ Amy Stuart Wells & Robert L. Crain, *Perpetuation Theory and the Long-Term Effects of School Desegregation*, 64 REV. ED. RES. 531, 552, 531 (1994) (reviewing 21 research studies), cited in Brief as Amicus Curiae in Support of Defendants-Appellees, 15, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

⁸⁴ Maureen Hallinan & Richard Williams, *The Stability of Students' Interracial Friendships*, 52 AM. SOC. REV. 653 (1987), in Brief as Amicus Curiae in Support of Defendants-Appellees, 19, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

⁸⁵ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 44 (2001), citing *Milliken v. Bradley*, 418 U.S. 717, 783 (1974) (Marshall, J. dissenting).

⁸⁶ Amy Stuart Wells & Robert L. Crain, *Perpetuation Theory and the Long-Term Effects of School Desegregation*, 64 REV. ED. RES. 531, 552, 531 (1994) (reviewing 21 research studies), cited in Brief as Amicus Curiae in Support of Defendants-Appellees, 15, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

⁸⁷ Brief as Amicus Curiae in Support of Defendants-Appellees, 8, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

See Christopher Ellison & Daniel A Powers, *The Contact Hypothesis and Racial Attitudes Among Black Americans*, 75 Soc. Sci. Q. 385 (1994); Lee Sigelman & Susan Welch, *The Contact Hypothesis Revisited: Black-White Interaction and Positive Racial Attitudes*, 71 Soc. Forces 781 (1993).

⁸⁸ Brief as Amicus Curiae in Support of Defendants-Appellees, 8-9, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

⁸⁹ *Grutter v. Bollinger*, 539 U.S. 306, 331, 123 S.Ct. 2325, 2340 (2003).

⁹⁰ *Grutter v. Bollinger*, 539 U.S. 306, 309, 123 S.Ct. 2325, 2329 (2003).

⁹¹ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 45 (2001).

⁹² Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 44 (2001), citing *Milliken v. Bradley*, 418 U.S. 717, 783 (1974) (Marshall, J. dissenting).

⁹³ See studies cited in Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 228-257 (2001).

⁹⁴ See, e.g., Richard Rothstein, *What Do We Know About Declining (Or Rising) Student Achievement?* 129-30 (1997).

⁹⁵ Based on social science research surveys reviewing four decades of research: Janet Ward Schofield, "Maximizing the Benefits of Student Diversity: Lessons from School Desegregation Research," in *Diversity Challenged: Evidence on the Impact of Affirmative Action* 99 (Gary Orfield & Michael Kurlaender, eds. 2001); Janet Ward Schofield, "Review of Research on School Desegregation's Impact on Elementary and Secondary School Students," in *Handbook of Research on Multicultural Education* 597 (James Banks & Cherry McGee Banks, eds. 1995); Robert Crain & Rita Mahard, *The Effect of Research Methodology on Desegregation Achievement Studies: A Meta-Analysis*, 88 AM. J. SOC. 839 (1983); Robert Crain, *School Integration and the Academic Achievement of Negroes*, 44 SOC. EDUC. 1 (1971). Cited in Brief as Amicus Curiae in Support of Defendants-Appellees, 9-10, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

⁹⁶ Robert Crain & Rita Mahard, *The Effect of Research Methodology on Desegregation Achievement Studies: A Meta-Analysis*, 88 AM. J. SOC. 839 (1983), cited in Brief as Amicus Curiae in Support of Defendants-Appellees, 11, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

⁹⁷ Janet Ward Schofield, *Review of Research on School Desegregation's Impact on Elementary and Secondary School Students*, in *Handbook of Research on Multicultural Education* 597 (James Banks & Cherry McGee Banks, eds. 1995), cited in Brief as Amicus Curiae in Support of Defendants-Appellees, 11, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

⁹⁸ See studies cited in Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 26-28 (2001).

⁹⁹ *Grutter v. Bollinger*, 539 U.S. 306, 330, 123 S.Ct. 2325, 2340 (2003).

¹⁰⁰ Michael A Boozer, et al., *Race and School Quality Since Brown v. Board of Education*, 1992 Brookings Papers Econ. Activity (Microeconomics) 269, cited in Brief as Amicus Curiae in Support of Defendants-Appellees, *Comfort v. Lynn Sch. Committee*, 12-13, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

¹⁰¹ See studies cited in Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 28-30 (2001).

¹⁰² Robert Crain & Rita Mahard, *School Racial Composition and Black College Attendance and Achievement Test Performance*, 51 SOC. EDUC. 81 (1978); see also Michael A Boozer, et al., *Race and School Quality Since Brown v. Board of Education*, 1992 Brookings Papers Econ. Activity (Microeconomics) 269.

¹⁰³ See Goodwin Liu & William Taylor, *School Choice to Achieve Desegregation*, 74 FORDHAM L. REV. 791 (2005).

¹⁰⁴ Brief as Amicus Curiae in Support of Defendants-Appellees, 12, *Comfort v. Lynn Sch. Committee*, No. 03-2415 2 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005), citing Marvin Dawkins & Jomills Braddock, *The Continuing Significance of Desegregation: School Racial Composition and African American Inclusion in American Society*, 63 J. NEGRO EDUC. 394 (1994); Janet Ward Schofield, *Review of Research on School Desegregation's Impact on Elementary and Secondary School Students*, in *Handbook of Research on Multicultural Education* 597 (James Banks & Cherry McGee Banks, eds. 1995).

¹⁰⁵ *Grutter v. Bollinger*, 539 U.S. 306, 308, 123 S.Ct. 2325, 2330 (2003).

¹⁰⁶ Janet Ward Schofield, "Maximizing the Benefits of Student Diversity: Lessons from School Desegregation Research," in *Diversity Challenged: Evidence on the Impact of Affirmative Action* 100 (Gary Orfield & Michal Kurlaender, eds. 2001), cited in Brief as Amicus Curiae in Support of Defendants-Appellees, 13, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

¹⁰⁷ Maureen Hallinan & Richard Williams, *Students' Characteristics and the Peer Influence Process*, 63 SOC. EDUC. 122 (1990), in Brief as Amicus Curiae in Support of Defendants-Appellees, 19, *Comfort v. Lynn Sch. Committee*, No. 03-2415 (U.S. Ct. App., 1st Cir. 2004), available at www.civilrightsproject.harvard.edu/policy/legal_docs/ComfortVLynn_brief.pdf (visited Oct. 2005).

¹⁰⁸ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 25 (2001).

¹⁰⁹ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 37 (2001), citing James Coleman et. al., *Equality of Educational Opportunity* 307 (1966).

¹¹⁰ Erica Frankenberg, "The Impact of School Segregation on Residential Housing Patterns," in *School Resegregation: Must the South Turn Back?* 127, 165 (John Charles Boger & Gary Orfield, eds. 2005) (comparative case study of Charlotte and Mobile).

¹¹¹ Unpublished 1995 research by Robert Crain, Diana Pearce, et al., cited in Erica Frankenberg, "The Impact of School Segregation on Residential Housing Patterns," in *School Resegregation: Must the South Turn Back?* 127, 180 (John Charles Boger & Gary Orfield, eds. 2005) (comparative case study of Charlotte and Mobile); and Gary Orfield, "Metropolitan School Desegregation: Impacts on Metropolitan Society," in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 135 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

¹¹² Erica Frankenberg, “The Impact of School Segregation on Residential Housing Patterns,” in *School Resegregation: Must the South Turn Back?* 127, 165 (John Charles Boger & Gary Orfield, eds. 2005) (comparative case study of Charlotte and Mobile).

¹¹³ Diana Pearce, *Breaking Down the Barriers: New Evidence on Impact of Metropolitan School Desegregation on Housing Patterns* (1980). Pearce’s 1980 “research for the National Institute of Education showed that in areas without metropolitan desegregation plans, housing advertisements were replete with racial signals.” In contrast: “Such racial signals were absent, however, in the metropolitan areas with area-wide desegregation.” Gary Orfield, “Metropolitan School Desegregation: Impacts on Metropolitan Society,” *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 135 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

¹¹⁴ Gary Orfield, “Metropolitan School Desegregation: Impacts on Metropolitan Society,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 125 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

¹¹⁵ See Institute on Race and Poverty, *Minority Suburbanization and Racial Change* (2005), available at http://www.irpumn.org/uls/resources/projects/Minority_Suburbanization_full_report_032406.pdf (visited May 2006).

¹¹⁶ See Institute on Race and Poverty, *Minority Suburbanization and Racial Change* (2005), available at http://www.irpumn.org/uls/resources/projects/Minority_Suburbanization_full_report_032406.pdf (visited May 2006).

¹¹⁷ For more background and notes about the methodology, see http://www.irpumn.org/website/projects/index.php?strWebAction=project_detail&intProjectID=15 (visited May 2006).

¹¹⁸ For white-Hispanic the turnover point was 27 percent, and for multi-ethnic, 24 percent. Results vary, too, by population size. The black-white turnover point is 29 percent in the largest 25 metro regions, and 42 percent for the other 75 regions.

¹¹⁹ Charlotte NC, Daytona Beach FL, Greensboro NC, Indianapolis IN, Lakeland FL, Las Vegas NV, Louisville KY, Nashville TN, Orlando FL, Pensacola FL, Wilmington DE, Raleigh-Durham NC, Sarasota FL, Tampa-St. Petersburg FL and West Palm Beach FL.

¹²⁰ “If fear of racial transition and racial and class isolation affects residential choice, then the most wide-ranging desegregation plans must distribute desegregation across an area broad enough to create a stable middle-class white majority in virtually all schools. Under such circumstances, the benefit of flight declines The motivation for flight also declines” Gary Orfield, “Metropolitan School Desegregation: Impacts on Metropolitan Society,” *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 125 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

¹²¹ Gary Orfield, “Metropolitan School Desegregation: Impacts on Metropolitan Society,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 126 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001). All students, and their parents, benefit from the involvement of middle- and upper-class parents in schools and policies affecting them. Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice* 47-76 (2001).

¹²² See Brookings Institution, *Mind the Gap: Reducing Disparities to Improve Regional Competitiveness in the Twin Cities* (2005), available at http://www.brookings.edu/metro/pubs/20051027_mindthegap.pdf (visited May 2006).

¹²³ Brookings Institution, *Mind the Gap: Reducing Disparities to Improve Regional Competitiveness in the Twin Cities* 5 (2005), available at http://www.brookings.edu/metro/pubs/20051027_mindthegap.pdf (visited May 2006).

¹²⁴ Brookings Institution, *Mind the Gap: Reducing Disparities to Improve Regional Competitiveness in the Twin Cities* 5 (2005), available at http://www.brookings.edu/metro/pubs/20051027_mindthegap.pdf (visited May 2006).

¹²⁵ A succinct summary of the economic theory is at Michael L. Lahr, “Is New York City Still Propelling Growth in its Suburbs?: A Study of Economic Spillover Effects Through Spatial Contiguity,” 3-4 (Center for Urban Policy Research, Feb. 2004), available at <http://econwpa.wustl.edu:8089/eps/urb/papers/0403/0403007.pdf> (visited Nov. 2005).

¹²⁶ Andrew Haughwout & Robert Inman, *How Should Suburbs Help Their Central Cities?* Fed. Res. Bank of N.Y. Staff Report No. 186 (May 2004), at www.newyorkfed.org/research/staff_reports/sr186.pdf (visited Nov. 2005); Robin Leichenko, *Growth and Change in U.S. Cities and Suburbs*, 32 *Growth and Change* 326 (2001), available at <http://geography.rutgers.edu/people/faculty/leichenko/leichenko2001.pdf> (visited Nov. 2005).

¹²⁷ Among large U.S. cities between 1970-90, city per capita income growth is found to increase suburban income and home appreciation, calculated to be 2.8 percent in a region such as Philadelphia. Richard Voith, *Do Suburbs Need Cities?*, 38(3) *J. REGIONAL SCIENCE* 445 (1998) (a sample of U.S. cities, using per capita income, house values, and population).

¹²⁸ Robin Leichenko, “Growth and Change in U.S. Cities and Suburbs,” 32 *GROWTH AND CHANGE* 326, 330 (2001), available at <http://geography.rutgers.edu/people/faculty/leichenko/leichenko2001.pdf> (visited Nov. 2005), cites the studies.

¹²⁹ Among large U.S. cities between 1970-90, city per capita income growth is found to increase suburban income and home appreciation, calculated to be 2.8 percent in a region such as Philadelphia. Richard Voith, *Do Suburbs Need Cities?*, 38(3) *J. REGIONAL SCIENCE* 445 (1998) (a sample of U.S. cities, using per capita income, house values, and population).

Similar results from more refined research came from advanced modeling using employment data rather than income. For 28 Spanish metro regions across 35 years, results showed that a 1 percent increase in economic activity in large central cities (populations over 300,000) resulted in a 2 percent increase in suburbs; for smaller central cities, the result was a 1 percent increase for the suburbs. Albert Solé-Ollé and Elisabet Viladecans-Marsal, *Central Cities as Engines of Metropolitan Area Growth*, 44(2) *J. REGIONAL SCIENCE* 321 (2004), at http://estructuraehistoria.unizar.es/Sole_y_Viladecans_JRS44.pdf (visited Nov. 2005). Cf. Robin Leichenko, *Growth and Change in U.S. Cities and Suburbs*, 32 *Growth and Change* 326, 330 (2001), available at <http://geography.rutgers.edu/people/faculty/leichenko/leichenko2001.pdf> (visited Nov. 2005) (study of 74 largest U.S. metro regions between 1970-2000 found that economic growth effects go both directions in the 1990s, but flow from suburbs to cities for 1970-90; exogenous factors largely explain differential city growth).

¹³⁰ *Brown v. Board of Educ.*, 347 U.S. 783 (1954).

¹³¹ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

¹³² *Brown v. Board of Educ.*, 347 U.S. at 495.

¹³³ *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 12 (1971).

¹³⁴ *Keyes v. School Dist. No. 1*, 413 U.S. 189, 198 (1973).

¹³⁵ *Keyes v. School Dist. No. 1*, 413 U.S. 189, 213 (1973).

¹³⁶ *Keyes v. School Dist. No. 1*, 413 U.S. 189, 213 (1973).

¹³⁷ *Keyes v. School Dist. No. 1*, 413 U.S. 189, 210 (1973). “[W]here it is possible to identify a ‘white school’ or a ‘Negro school’ simply by reference to the racial composition of teachers and staff, the quality of school buildings and equipment, or the organization of sports activities, a prima facie case of violation of substantive constitutional rights under the Equal Protection Clause is shown.” *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 18 (1971).

¹³⁸ *Booker v. Special Sch. Dist. No. 1*, 351 F. Supp. 799, 809 (D. Minn. 1972).

¹³⁹ *Booker v. Special Sch. Dist. No. 1*, 351 F. Supp. 799, 809 (D. Minn. 1972).

¹⁴⁰ *Booker v. Special Sch. Dist. No. 1*, 351 F. Supp. at 803-06.

¹⁴¹ *Booker v. Special Sch. Dist. No. 1*, 351 F. Supp. at 809.

¹⁴² *Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 536 n.9 (1979).

¹⁴³ See Mike Kaszuba, “District Wrestles with Racial Imbalance,” STAR TRIBUNE (Minneapolis), Oct. 11, 1998, at B1.

¹⁴⁴ While no longer available, they were posted at www.bloomington.k12.mn.us/distinfo/reports/MiddleschoolPro_Con.html, and are in IRP’s files. “Option D,” chosen as modified, is available at page 3 of TIES, *Geographic Information Systems for School Districts: A Power Tool for Superintendents* (Jan. 2001), available at www.ties.k12.mn.us/pdf/GIS_web.pdf (visited Dec. 2005).

¹⁴⁵ While no longer available, these were posted at www.bloomington.k12.mn.us/distinfo/reports/Middleschoolboundaries.html, and are in IRP’s files. Demographic information for Bloomington reflects the white-nonwhite residential division developing in that city. See, e.g., City of Bloomington Planning Division, (Aug. 2003), available at www.ci.bloomington.mn.us/cityhall/dept/commdev/planning/econdev/demograf/race12.pdf (visited Dec. 2005).

¹⁴⁶ *Keyes v. School Dist. No. 1*, 413 U.S. at 208.

¹⁴⁷ *Keyes v. School Dist. No. 1*, 413 U.S. at 211.

¹⁴⁸ *Keyes v. School Dist. No. 1*, 413 U.S. at 213-14.

¹⁴⁹ *Keyes v. School Dist. No. 1*, 413 U.S. at 203, quoting *Brown v. Board of Educ.*, 394 U.S. , 301 (1957).

¹⁵⁰ *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971).

¹⁵¹ *Milliken v. Bradley*, 418 U.S. 717 (1974).

¹⁵² *Milliken v. Bradley*, 418 U.S. at 765 n.1 (Marshall, J., dissenting).

¹⁵³ Gary Orfield, Franklin Monfort & Melissa Aaron, *Status of School Desegregation* 26 (1988).

¹⁵⁴ Gary Orfield, *Schools More Separate: Consequences of a Decade of Resegregation* 25, Table 6 (July 2001), at www.civilrightsproject.harvard.edu/research/deseg/Schools_More_Separate.pdf

¹⁵⁵ Gary Orfield, “Metropolitan School Desegregation: Impacts on Metropolitan Society,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 129 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

¹⁵⁶ Rebecca Sohmer, et al., The Brookings Institute, *Mind the Gap: Reducing Disparities to Improve Regional Competitiveness in the Twin Cities* (Nov. 2005), available at www.brookings.edu/metro/pubs/20051027_mindthegap.pdf (visited Nov. 2005).

¹⁵⁷ Rebecca Sohmer, et al., The Brookings Institute, *Mind the Gap: Reducing Disparities to Improve Regional Competitiveness in the Twin Cities* 4, 3 (Nov. 2005), available at www.brookings.edu/metro/pubs/20051027_mindthegap.pdf (visited Nov. 2005).

¹⁵⁸ Rebecca Sohmer, et al., The Brookings Institute, *Mind the Gap: Reducing Disparities to Improve Regional Competitiveness in the Twin Cities* 3, 33 (Nov. 2005), available at www.brookings.edu/metro/pubs/20051027_mindthegap.pdf (visited Nov. 2005).

¹⁵⁹ Gary Orfield, “Metropolitan School Desegregation: Impacts on Metropolitan Society,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 129-32 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

¹⁶⁰ Gary Orfield, “Metropolitan School Desegregation: Impacts on Metropolitan Society,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 121, 133 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

¹⁶¹ Charles T. Clotfelter, *After Brown: The Rise and Retreat of School Desegregation*, 67 (2004).

¹⁶² Steven G. Rivkin, *Residential Segregation and School Integration*, 67 Soc. of Educ. 279, 285 (1994), quoted in John A. Powell, “Living and Learning: Linking Housing and Education,” in *In Pursuit of a Dream Deferred: Linking Housing and Education Policy* 11, 45 (John Powell, Gavin Kearney, & Vina Kay, eds., 2001).

¹⁶³ *Missouri v. Jenkins*, 515 U.S. 70 (1995).

¹⁶⁴ *Missouri v. Jenkins*, 515 U.S. at 94.

¹⁶⁵ *Missouri v. Jenkins*, 515 U.S. at 94, quoting *Milliken v. Bradley*, 418 U.S. at 755 (Stewart, J., concurring).

¹⁶⁶ *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971).

¹⁶⁷ If a School Board had complied in good faith with a federal desegregation decree, and “the vestiges of past discrimination had been eliminated to the extent practicable,” then the desegregation order can be dissolved irrespective of segregation levels. *School Bd. of Oklahoma City v. Dowell*, 498 U.S. 237 (1991). “As far as practicable” meant that the trial court should examine student assignments and “every facet of school operations—faculty, staff, transportation, extracurricular activities and facilities.” *Id.* at 250, quoting *Green*, 391 U.S. at 435. The trial court should then examine the new policy “under appropriate equal protection principles,” by which it meant determining whether the policy was passed with a racial motive. 498 U.S. at 250. See also *Freeman v. Pitts*, 503 U.S. 467 (1992) (permitting incremental release from court supervision as to part of desegregation plan).

¹⁶⁸ *E.g.*, *Missouri v. Jenkins*, 515 U.S. 70, 87 (1995).

¹⁶⁹ See Gary Orfield, *Schools More Separate: Consequences of a Decade of Resegregation* (July 2001), available at www.civilrightsproject.harvard.edu/research/deseg/Schools_More_Separate.pdf (visited May 2006).

¹⁷⁰ Unlike at the state level, there is no federal constitutional right to a public school education. *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973).

¹⁷¹ *Grutter v. Bollinger*, 539 U.S. 306, 307 (2003) (holding that the “narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body is not prohibited by the Equal Protection Clause”).

¹⁷² See, e.g., *Fullilove v. Klutznick*, 448 U.S. 448, 519 (1980).

¹⁷³ See *Comfort v. Lynn Sch. Comm.*, 418 F.3d 1 (1st Cir. 2005).

¹⁷⁴ *Parents Involved in Comm. Sch. v. Seattle Sch. Dist. No. 1*, 426 F.3d 1162 (9th Cir. 2005).

¹⁷⁵ *McFarland v. Jefferson County Board of Education, et al.*, 320 F. Supp.2d 834 (WD Ky. 2004), aff’d, 416 F.3d 513 6th Cir. (2005).

¹⁷⁶ See *Parents Involved in Comm. Sch.*, 426 F.3d at 1169-70 (noting that Seattle Plan used four tiebreakers if student’s preference resulted in oversubscribed high schools).

¹⁷⁷ See *McFarland v. Jefferson County Board of Education, et al.*, 320 F. Supp.2d 834 (WD Ky. 2004), aff’d, 416 F.3d 513 6th Cir. (2005).

¹⁷⁸ See *McFarland*, 320 F. Supp.2d at 857-58 (noting discussion of what does and does not constitute a quota).

¹⁷⁹ See Minn. Stat. 124D.03, subd. 4 (2005). Thus, the power to deny nonresident student admission based on race under these circumstances is limited to districts with approved desegregation plans. The Minnesota Rules governing desegregation, however, do limit the ability of districts to discriminate on the basis of race. They note that segregation is the “intentional acts” of a school district that discriminate against a student based on race, and that also has the effect of increasing a concentration of protected students at a school. Minn. R. 3535.0110, subp. 9 (2005). While this could be construed to prohibit any race “discrimination” in school assignments, it is more likely that the text only applies to actions that are taken with the discriminatory purpose of creating minority schools, such that whites do not have to interact with minorities in the district.

¹⁸⁰ See William E. Thro, *An Essay: The School Finance Paradox: How the Constitutional Values of Decentralization and Judicial Restraint Inhibit the Achievement of Quality*, 197 ED. LAW REP. 477, 482 (June 30, 2005). Research on state constitutional provisions was conducted by Luke Garrett, University of Minnesota Law School.

¹⁸¹ The education clauses in state constitutions have been divided into four categories based upon the level of duty imposed by the text:

1. At the basic level are “twenty-one ‘establishment provisions’ which simply mandate that a free public school system be established and nothing more.” Connecticut’s Art. XIII § 1 is an example.
2. Next are “eighteen ‘quality provisions,’ which mandate that an educational system of a specific quality be provided.” Minnesota’s Art. XIII § 1 is an example.

3. Even stronger are the “six ‘strong mandate’ provisions that establish a level of quality and that also provide a strong mandate to achieve it.”

4. “Finally, at the far end of the spectrum are five ‘high duty provisions’ which seem to place education above other governmental functions such as highways or welfare.”

See William E. Thro, *An Essay: The School Finance Paradox: How the Constitutional Values of Decentralization and Judicial Restraint Inhibit the Achievement of Quality*, 197 ED. LAW REP. 477, 482 (2005)(footnotes omitted).

¹⁸² *Skeen v. Minnesota*, 505 N.W.2d 299, 313 (Minn. S. Ct. 1993).

¹⁸³ MINN. CONST., Art. 1, § 2.

¹⁸⁴ *Skeen v. Minnesota*, 505 N.W.2d 299, 313 (Minn. S. Ct. 1993)

¹⁸⁵ *Skeen v. Minnesota*, 505 N.W.2d 299, 313 (Minn. S. Ct. 1993)

¹⁸⁶ MINN. CONST., Art. 8, § 1 (emphases added).

¹⁸⁷ The Court reasoned that, “unlike challenges to state financing of education in other states, which frequently have been initiated by property-poor, inner-city districts, this case does not involve the three largest metropolitan school districts, Minneapolis, St. Paul and Duluth.” 505 N.W. 2d at 302.

¹⁸⁸ *Skeen v. Minnesota*, 505 N.W.2d 299, 302 (Minn. S. Ct. 1993). The plaintiffs challenged a small portion of the State’s education finance system as inequitable largely because of differences in property tax bases, although they “concede[d] that they continue to receive an adequate education.” *Id.* at 315. The plaintiffs primarily were outer-ring suburban and adjacent rural school districts. Joining the Minnesota Board of Education, its commissioner, and the State as defendants were 24 intervenor districts from inner-ring suburbs and the Iron Range. The court distinguished this case from those elsewhere in which constitutional violations were found because of inadequacies in basic funding, and the resulting deficient education, *id.* at 311, and upheld the Minnesota financing provisions, *id.* at 320.

¹⁸⁹ *Sheff v. O’Neill*, 238 Conn. 1, 678 A.2d 1267 (1996).

¹⁹⁰ William E. Thro, *An Essay: The School Finance Paradox: How the Constitutional Values of Decentralization and Judicial Restraint Inhibit the Achievement of Quality*, 197 ED. LAW REP. 477, 482 (2005).

¹⁹¹ *Sheff v. O’Neill*, 678 A.2d at 1280. The court was interpreting the education clause, as well as Connecticut’s unusual equal protection clause, which, like the constitutions of Hawaii and New Jersey, prohibit both discrimination and segregation. *Id.* at 1281-82, 1281 n.29.

¹⁹² *Sheff v. O’Neill*, 678 A.2d at 1267.

¹⁹³ *Sheff v. O’Neill*, 678 A.2d at 1290-91.

¹⁹⁴ *Sheff v. O’Neill*, 678 A.2d at 1279-80.

¹⁹⁵ *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973).

¹⁹⁶ *Sheff v. O’Neill*, 678 A.2d at 1279.

¹⁹⁷ *Sheff v. O'Neill*, 678 A.2d at 1279, citing, e.g., *Reynolds v. Sims*, 377 U.S. 533, 561-63 (1964).

¹⁹⁸ *Sheff v. O'Neill*, 678 A.2d at 1280.

¹⁹⁹ MINN. CONST., Art. 8, § 1.

²⁰⁰ *Sheff v. O'Neill*, 678 A.2d at 1285, quoting *Plyler v. Doe*, 457 U.S. 202 (1982).

²⁰¹ *Sheff v. O'Neill*, 678 A.2d at 1289, quoting *Brown v. Board of Educ.*, 347 U.S. at 493.

²⁰² *Sheff v. O'Neill*, 678 A.2d at 1289, quoting *Brown v. Board of Educ.*, 347 U.S. at 493.

²⁰³ *Sheff v. O'Neill*, 678 A.2d at 1290 (citations omitted).

²⁰⁴ Office of the Legislative Auditor, *Evaluation Report: School District Integration Revenue*, Office of the Legislative Auditor (Nov. 2005), at www.auditor.leg.state.mn.us/ped/pedrep/integrevf.pdf (visited Nov. 2005).

²⁰⁵ Minneapolis enrollments were 54.4 percent poor and 36.6 percent nonwhite. National Center for Education Statistics, *Characteristics of the 100 Largest Public Elementary and Secondary School Districts in the United States: 1995-96*, Table 9 (NCES 98-214, July 1998), at <http://nces.ed.gov/pubs98/98214.pdf> (visited Oct. 2005).

²⁰⁶ Class Action Complaint at 11, *NAACP v. State*, No. 95-14800 (Minn. Dist. Ct. 1995).

²⁰⁷ *Booker v. Special School District No. 1*, 351 F. Supp. 799, 809 (D. Minn. 1972).

²⁰⁸ National Center for Education Statistics, *Characteristics of the 100 Largest Public Elementary and Secondary School Districts in the United States: 1995-96*, Table 8 (NCES 98-214, July 1998), at <http://nces.ed.gov/pubs98/98214.pdf> (visited Oct. 2005).

²⁰⁹ The State defendants included the precursor to the Minnesota Department of Education; both chambers of the Minnesota legislature; various state officials; and the Metropolitan Council, which has the power and responsibility to ensure that affordable housing is available throughout the seven-county Twin Cities region.

²¹⁰ Complaint, *NAACP v. State*, No. 95-14800 (Minn. Dist. Ct. 1995).

²¹¹ Complaint at 2, *NAACP v. State*, No. 95-14800 (Minn. Dist. Ct. 1995). The court dismissed claims against the Met Council, however, and the housing equity claims dropped out of the litigation. *Xiong v. State*, 195 F.3d 424 (8th Cir. 1999). The Met Council was dismissed from the case {accurate 8th Cir. Holding from the two cases; implications} [because of the continued federal court oversight of the *Hollman* litigation].

²¹² Complaint at 15, *NAACP v. State*, No. 95-14800 (Minn. Dist. Ct. 1995).

²¹³ Complaint at 16, *NAACP v. State*, No. 95-14800 (Minn. Dist. Ct. 1995).

²¹⁴ *NAACP v. Metropolitan Council*, 125 F.3d 1171 (1997), reinstating *NAACP v. Metropolitan Council*, 125 F.3d 1171 (1997). Six months before the desegregation case was filed, the NAACP, some among the members of the plaintiff class, and the Met Council had reached a settlement in a Fair Housing Act discrimination case, *Hollman v. Cisneros*, Civ. No. 4-92-712 (D. Minn., Apr. 21, 1995). The release in *Hollman* barred “relitigation by any party of ‘any matters alleged in this action.’” 125 F.3d at 1173. The court dismissed the housing claims in the school case on *res judicata* grounds, finding that the case “seeks what *Hollman* sought: to end the claimed segregative effect of the Met

Council's policies and practices concerning housing and related infrastructure projects in the Twin Cities' metropolitan area." *Id.* Federal court oversight of the *Hollman* decree ended in 2002. 144 F.3d at 1171.

²¹⁵ Complaint, *Xiong v. State*, No. 98-2816 (Minn. Dist. Ct., Feb. 28, 1998). The *Xiong* complaint also added a due process claim under the Minnesota Constitution.

²¹⁶ *Xiong* and *NAACP* were consolidated for trial purposes. Settlement Agreement at 1, *NAACP v. State*, No. 95-14800 (Minn. Dist. Ct. 2000); *Xiong v. State*, No. 98-2816 (Minn. Dist. Ct. 2000), at Part 2(c).

²¹⁷ See Table 4-1.

²¹⁸ Table sources are the National Center for Education Statistics *Characteristics of the 100 Largest Public Elementary and Secondary School Districts in the United States* for each school year, available at <http://nces.ed.gov/> (visited May 2006).

²¹⁹ Settlement Agreement at 1, *NAACP v. State*, No. 95-14800 (Minn. Dist. Ct. 2000); *Xiong v. State*, No. 98-2816 (Minn. Dist. Ct. 2000). See also Richard D. Kahlenberg, *ALL TOGETHER NOW* 176 (2004) (settlement expanded upon existing suburban transfer program).

²²⁰ IRP obtained information on the per-school attendance of CIY children in the 2005-2006 school year from two different sources. Seven of nine participating districts use the Wide Area Transportation System (WATS) cooperatively for transporting their CIY students. For these districts, IRP obtained the number of students transported to Choice is Yours schools, and the Minneapolis zip codes from which they left, from WATS. Two participating school districts—St. Anthony-New Brighton and Hopkins—now use their own transportation system. IRP contacted these districts directly to obtain 2005-06 student enrollment numbers for each participating school.

Figure 4-1 was created using this data. The total number of students represented on the map is 1,858, while the total number of CIY students reported leaving Minneapolis for the 2005-2006 school year is approximately 1,680. This 178-student difference is because some open enrollment students use WATS along with the Choice is Yours students. The number of students represented in the first 7 districts may tend to underrepresent the actual number, as some Choice is Yours students may take rides from their parents, drive, or even walk to school. The information for Hopkins and St. Anthony-New Brighton gives no indication of the number of students benefiting from the respective busing programs.

²²¹ Aspen Associates (prepared for the Minnesota Department of Education) *Minnesota Voluntary Public School Choice 2004-2005, Evaluation Report* (2006).

²²² Personal communication with Marsha Gronseth, Executive Director, West Metro Education Program, September 14, 2005.

²²³ Office of the Legislative Auditor, *Evaluation Report: School District Integration Revenue*, Table 2.3 (Nov. 2005), at www.auditor.leg.state.mn.us/ped/pedrep/integrevf.pdf (visited Nov. 2005).

²²⁴ Elisabeth A. Palmer, *The Choice is Yours After Two Years: An Evaluation* 40 (2003).

²²⁵ Elisabeth A. Palmer, *The Choice is Yours After Two Years: An Evaluation* 44 tbl. 2.16 (2003).

²²⁶ Elisabeth A. Palmer, *The Choice is Yours After Two Years: An Evaluation* 66 tbl. 3.2 (2003); See also ASPEN and Associates. Assoc's., *Minnesota Voluntary Public School Choice 2003-2004* A-26 tbl. 25 (2004).

²²⁷ See Elisabeth A. Palmer, *The Choice is Yours After Two Years: An Evaluation* (2003).

²²⁸ See Aspen Associates (prepared for the Minnesota Department of Education) *Minnesota Voluntary Public School Choice 2004-2005, Evaluation Report* (March, 27 2006).

²²⁹ See James E. Ryan, *Schools, Race, and Money*, 109 YALE L.J. 249, 263-64 (1999).

²³⁰ Adapted from Office of the Legislative Auditor, *Evaluation Report: School District Integration Revenue*, Table 2.3 (Nov. 2005), available at www.auditor.leg.state.mn.us/ped/pedrep/integrevf.pdf (visited Nov. 2005).

²³¹ See *Alexander v. Holmes*, 396 US 19 (1969).

²³² See Campaign for Fiscal Equity, State-by-State, at http://www.schoolfunding.info/states/state_by_state.php3 (last visited November 15, 2005). Recently, the Kansas Supreme Court ordered their state legislature to double the amount it planned to spend on its schools to provide adequacy. See Gretchen Ruethling, Court Orders More School Funding, N.Y. Times, June 4, 2005, at A12.

²³³ See, e.g., *San Antonio Ind. School Dist. v. Rodriguez*, 411 U.S. 1 (1973).

²³⁴ See Access, Litigation Overview, available at <http://www.schoolfunding.info/litigation/litigation.php3> (last visited Sept. 11, 2005). Forty-five states have seen litigation, and 29 have rendered decisions in contested cases. *Id.*

²³⁵ See Melissa C. Carr & Susan H. Fuhrman, The Politics of School Finance in the 1990s, in National Research Council, *supra* note 232, at 136, 149.

²³⁶ Molly McUsic notes that socioeconomic integration would be more effective than increased funding in increasing the education attainment of poor, minority children. See Molly S. McUsic, “The Future of Brown v. Board of Education: Economic Integration of the public Schools,” 117 HARV. L. REV. 1334, 1353-56 (2004) (noting that increased funding has not succeeded in providing poor students with an “equal education” while class integration has produced positive results).

²³⁷ See City of Minneapolis, *Minneapolis Empowerment Zone 8*, available at <http://www.ci.minneapolis.mn.us/ez/docs/ez-ch2.pdf>.

²³⁸ Minn. Dep’t of Educ. Div. of Program Fin., K-12 Education Finance Overview 2004-2005 15 (2004).

²³⁹ Minn. Dep’t of Educ., School Report Card, available at http://education.state.mn.us/ReportCard2005/loadFinanceAction.do?SCHOOL_NUM=000&DISTRICT_NUM=0001&DISTRICT_TYPE=03 (2005).

²⁴⁰ Minn. Dep’t of Educ., School Report Card, available at http://education.state.mn.us/ReportCard2005/loadFinanceAction.do?SCHOOL_NUM=106&DISTRICT_NUM=0001&DISTRICT_TYPE=03 (2005).

²⁴¹ Minn. Dep’t of Educ., School Report Card, available at http://education.state.mn.us/ReportCard2005/loadFinanceAction.do?SCHOOL_NUM=185&DISTRICT_NUM=0001&DISTRICT_TYPE=03 (2005).

²⁴² See Minn. Dep’t of Educ. Div. of Program Fin., K-12 Education Finance Overview 2004-2005 19 (2004).

²⁴³ U.S. Dep’t of Educ., *Evaluation of the Public Charter Schools Program: Final Report*, ix (2004).

²⁴⁴ Joseph P Viteritti, *School Choice: How an Abstract Idea Became a Political Reality*, in *Brookings Papers on Educational Policy* 2005, 137 (Diane Ravitch, ed., 2005).

²⁴⁵ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report*, ix (2004).

²⁴⁶ Allie Shah, *A New Direction for School*, STAR TRIBUNE (Minneapolis), August 29, 1999, at 1A.

²⁴⁷ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 19 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005). An existing public or private school may convert to charter status if 60 percent of teachers in a school agree. *Id.* at 24.

²⁴⁸ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 24 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁴⁹ Joseph P. Viteritti, "School Choice: How an Abstract Idea Became a Political Reality," in *Brookings Papers on Education Policy* 2005, 137, 147 (Diane Ravitch, ed., 2005). A year earlier, in 2002-03, there were 2,575 charter schools nationwide. National Center for Education Statistics, *Characteristics of the 100 Largest Public Elementary and Secondary School Districts in the United States: 2002-03*, 5 (Aug. 2005), at <http://nces.ed.gov/pubs2005/2005312.pdf> (visited Oct. 2005).

²⁵⁰ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report*, x (2004).

²⁵¹ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 5, 9 (2004), at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005). The suburbs had 26; Minneapolis, 23; and St. Paul, 29. *Id.* at 9.

²⁵² Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 17 (2004), at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁵³ McMurry, *Enrollment Declines*, at 1. Minnesota's charter school enrollments grew from 9,384 to 17,544 between 2000 and 2004. *Id.*, at 5.

²⁵⁴ Martha McMurry, Minnesota State Demographic Center, *Enrollment Declines are Widespread Since 2000*, 5 (OSD-05-118, Apr. 2005), available at www.demography.state.mn.us/PopNotes/Enrollment%20Declines.pdf (visited Oct. 2005).

²⁵⁵ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 9 (2004), at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁵⁶ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 9, 10 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁵⁷ *Evaluation of the Public Charter Schools Program: Final Report*, at x; Diana Jean Schemo, *A Second Report Shows Charter School Students Not Performing as Well as Other Students*, NEW YORK TIMES, December 16, 2004, at 36A; *No Answers to Charter School Questions*, STATE LEGISLATURES, Feb. 2005, Vol. 31, Issue 2; Sam Dillon & Diana Jean Schemo, *Charter Schools Fall Short in Public Schools Matchup*, NEW YORK TIMES, November 23, 2004, at 21A. Charter school student

populations were 27% African-American and 21% Hispanic on average compared to 17% and 15% at other public schools. *Evaluation of the Public Charter Schools Program: Final Report*, at xiii. 43% of charter students were eligible for free and reduced lunches, compared to 38% at traditional public schools. *Id.*

²⁵⁸ McMurry, *Enrollment Declines*, at 7.

²⁵⁹ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 10 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁶⁰ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report*, 25 (2004).

²⁶¹ National Center for Education Statistics, *Characteristics of the 100 Largest Public Elementary and Secondary School Districts in the United States: 2002-03*, iii (Apr. 1999), available at <http://nces.ed.gov/pubs2005/2005312.pdf> (visited Oct. 2005).

²⁶² U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report*, 23-24 (2004).

²⁶³ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report* xv (2004).

²⁶⁴ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 11 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁶⁵ Martha McMurry, *Enrollment Declines are Widespread Since 2000*, 4, 7 (2005), available at <http://www.demography.state.mn.us/PopNotes/Enrollement%20Declines.pdf>. (visited May 2006).

²⁶⁶ See Figure 4-4.

²⁶⁷ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State*, 11 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005). In addition, the percentage of non-native English speakers in Minnesota charters is about three times the average statewide, at 20 percent. *Id.*

²⁶⁸ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 8 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁶⁹ See Gary Orfield & Chungmei Lee, The Civil Rights Project, *New Faces, Old Patterns? Segregation in the Multiracial South* (2005), available at www.civilrightsproject.harvard.edu/research/resseg05/resseg_lee05.pdf (visited Oct. 2005).

²⁷⁰ Office of the Legislative Auditor, *Evaluation Report: School District Integration Revenue*, 7 and n.8 (Nov. 2005), available at www.auditor.leg.state.mn.us/ped/pedrep/integrevf.pdf (visited Nov. 2005), citing Minn. Rules 3535.0110, subp. 8 (2005).

²⁷¹ Office of the Legislative Auditor, *Evaluation Report: School District Integration Revenue*, x (Nov. 2005), at www.auditor.leg.state.mn.us/ped/pedrep/integrevf.pdf (visited Nov. 2005).

²⁷² *Evaluation of the Public Charter Schools Program: Final Report*, at x. The report stressed that while the reported academic performance is useful, it does not accurately depict the effect of charter school attendance on student learning. *Id.* at 53.

²⁷³ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report* 54 (2004). The states were Colorado, Illinois, Massachusetts, North Carolina, and Texas. *Id.*

²⁷⁴ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report* 55 (2004).

²⁷⁵ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report* 55 (2004).

²⁷⁶ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report* 55 (2004).

²⁷⁷ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report* 56 (2004).

²⁷⁸ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report* 54, 56 (2004).

²⁷⁹ For example, and as cited in the Bush Administration's report, one nationwide study did find that students who attended charter schools were 4 percent more likely to be proficient in reading and 2 percent more likely to be proficient in math than students at nearby neighborhood schools. *No Answer to Charter School Questions*, STATE LEGISLATURES, Feb. 2005, Vol. 31, Issue 2.

²⁸⁰ U.S. Dep't of Educ., *Evaluation of the Public Charter Schools Program: Final Report* 57, 60 (2004); Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 40, 41, 45 (2004), at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁸¹ Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 21 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁸² Jon Schroeder, Progressive Policy Institute, *Ripples of Innovation: Charter Schooling in Minnesota, the Nation's First Charter School State* 29 (2004), available at www.ppionline.org/documents/MN_Charters_0504.pdf (visited Nov. 2005).

²⁸³ John Welsh, *One in Four Minnesota Charter Schools Faces Money Woes*, ST. PAUL PIONEER PRESS, June 27, 2003; Norman Draper, *Charters Struggle as They Improve*, STAR TRIBUNE (Minneapolis), June 27, 2003 at 1B.

²⁸⁴ Norman Draper, *Charters Struggle as They Improve*, STAR TRIBUNE (Minneapolis), June 27, 2003 at 1B.

²⁸⁵ John Welsh, *One in Four Minnesota Charter Schools Faces Money Woes*, ST. PAUL PIONEER PRESS, June 27, 2003; Norman Draper, *Charters Struggle as They Improve*, STAR TRIBUNE (Minneapolis), June 27, 2003 at 1B;

²⁸⁶ Matt Entenza (Minnesota House of Representatives), *Quest for Accountability: The State of Charter Schools in 2003* 4 (2003), available at <http://archive.leg.state.mn.us/docs/2005/other/050616.pdf> (visited May 2006). See also Duchesne Paul Drew, *Entenza to Call for Charges in Charter-School Cases*, STAR TRIBUNE (Minneapolis), March 7, 2001, at 3B; Duchesne Paul Drew & Anthony Lonetree, *A Call to Act on Charter School Woes*, STAR TRIBUNE (Minneapolis), February 7, 2001, at 1A.

²⁸⁷ Matt Entenza (Minnesota House of Representatives), *Quest for Accountability: The State of Charter Schools in 2003* 2-4 (2003), available at <http://archive.leg.state.mn.us/docs/2005/other/050616.pdf> (visited May 2006). Of

the 30 schools that had filed their year 2000 reports by January 24, 2001, 73% had not adopted national accounting standards designed to prevent excessive control by any one individual over a school's spending and record-keeping. Duchesne Paul Drew & Anthony Lonetree, *A Call to Act on Charter School Woes*, STAR TRIBUNE (Minneapolis), February 7, 2001, at 1A. The studies indicated that the schools viewed the staff increases necessary to comply with proper accounting practices as cost prohibitive. Matt Entenza (Minnesota House of Representatives), *Quest for Accountability: The State of Charter Schools in 2003* 3 (2003), available at <http://archive.leg.state.mn.us/docs/2005/other/050616.pdf> Charter Schools Study 2003 at 4 (visited May 2006).

²⁸⁸ Matt Entenza (Minnesota House of Representatives), *Quest for Accountability: The State of Charter Schools in 2003* 4 (2003), available at <http://archive.leg.state.mn.us/docs/2005/other/050616.pdf> (visited May 2006). For example, in 2001, Excel Academy for Higher Learning was found to have no policy of issuing receipts or other standard method for handling incoming funds, the school failed to document the amounts of salaries that were paid to employees, and it lacked a system for obtaining formal approval of expenditures by individuals with spending authority. *Id.* at 6-7.

²⁸⁹ Matt Entenza (Minnesota House of Representatives), *Quest for Accountability: The State of Charter Schools in 2003* 4 (2003), available at <http://archive.leg.state.mn.us/docs/2005/other/050616.pdf> (visited May 2006).

²⁹⁰ Matt Entenza (Minnesota House of Representatives), *Quest for Accountability: The State of Charter Schools in 2003* 3 (2003), available at <http://archive.leg.state.mn.us/docs/2005/other/050616.pdf> (visited May 2006).

²⁹¹ Matt Entenza (Minnesota House of Representatives), *Quest for Accountability: The State of Charter Schools in 2003* 3 (2003), available at <http://archive.leg.state.mn.us/docs/2005/other/050616.pdf> (visited May 2006). See also Norman Draper, *Charters Struggle as They Improve*, STAR TRIBUNE (Minneapolis), June 27, 2003 at 1B.

²⁹² James Walsh, *More Charter Schools Face Deficits*, STAR TRIBUNE (Minneapolis), February 20, 2002, at 1B.

²⁹³ See Matt Entenza (Minnesota House of Representatives), *Quest for Accountability: The State of Charter Schools in 2003* 3 (2003), available at <http://archive.leg.state.mn.us/docs/2005/other/050616.pdf> (visited May 2006); *Charter Schools*, STAR TRIBUNE (Minneapolis), May 20, 2003, at 10A.

²⁹⁴ For the purposes of this work, the region was defined as the seven core counties of the metropolitan area – Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington counties.

²⁹⁵ Florence Wagman Roisman, *Mandates Unsatisfied: The Low Income Housing Tax Credit Program and the Civil Rights Law*, 52 U. Miami L. Rev. 1011, 1011-12 (1998); see also Jill Khadduri et al., *LIHTC and Mixed Income Housing: Enabling Families with Children to Live in Low-Income Housing*, Address at the Association of Public Policy and Management Conference 1 (Oct. 30, 2004), available at <http://www.appam.org/conferences/fall/atlanta2004/sessions/downloads/3401.pdf> (estimating that the number of LIHTC units is comparable to the number of public housing units).

²⁹⁶ Sandra Nolden et al., *Abt Assocs., Inc., Updating the Low Income Housing Tax Credit Database: Projects Placed in Service Through 2001* (2003), available at <http://www.huduser.org/Datasets/lihtc/report9501.pdf> [hereinafter *Abt 2001 Report*]; David A. Smith et al., *Recapitalization Advisors, Inc., The Low-Income Housing Tax Credit Effectiveness and Efficiency* 3 (2002). This does not include the federal commitment for voucher-based housing programs.

²⁹⁷ *Tax Reform Act of 1986*, Pub. L. No. 99-514, § 252, 100 Stat. 2095, 2189-2208 (1986).

²⁹⁸ 26 U.S.C. § 42(m)(1)(A)(i).

²⁹⁹ 26 U.S.C. §§ 42(d)(5)(C)(ii)(I), (m)(1)(B) (2005).

³⁰⁰ Abt Assocs., Inc., Assessment of the Economic and Social Characteristics of LIHTC Residents and Neighborhoods: final report, 4:16-4:18 (2000). See also Sandra Nolden et al., Abt Assocs., Inc., *Updating the Low Income Housing Tax Credit Database: Projects Placed in Service Through 2001* (2003), available at <http://www.huduser.org/Datasets/lihtc/report9501.pdf> [hereinafter Abt 2001 Report]; David A. Smith et al., Recapitalization Advisors, Inc., *The Low-Income Housing Tax Credit Effectiveness and Efficiency* 3 (2002). Forty-eight percent of LIHTC units placed in service from 1995 through 2000 are in central cities, 38% are in suburbs, and 14% are in non-metro areas. Id. Among rental units in general, 45.5% are in central cities, 39% are in suburbs, and 15.5% are in non-metro areas. Id. Another recent study of LIHTC units shows that 58% of such units are in central cities, and 42% are "in the suburbs,"--but there is no data distinguishing between stressed and affluent communities in this analysis. Id. at 29-35.

³⁰¹ Kevin M. Cremin, The Transition to Section 8 Housing: Will the Elderly Be Left Behind?, 18 Yale L. & Pol'y Rev. 405, 409 n.23, 411 (2000); Nat'l Low Income Housing Coalition, 2004 Advocates Guide to Housing and Community Development Policy 96 (2004), available at <http://www.nlihc.org/advocates/index.htm>.

³⁰² Kevin M. Cremin, *The Transition to Section 8 Housing: Will the Elderly Be Left Behind?*, 18 Yale L. & Pol'y Rev. at 409 n.23 (2000).

³⁰³ Data provided by the U.S. Department of Housing and Urban Development.

³⁰⁴ Housing simulations for the Choice is Yours program adjust school racial enrollments according to if 1) the racial populations of low income housing were placed uniformly within existing housing units and 2) the housing units themselves were placed uniformly across the Twin Cities area. First, we determine how many more or less children would attend a school if the population of each low income housing unit had the same proportional racial distribution within the units. The child populations of low income housing units closest to elementary schools were used to adjust the schools' population. Second, we determined how many more or less children would attend a school if low income housing were placed uniformly according to school populations -i.e. that low income household populations are located in the same places that school children are located. We used racial demographic data for 2002 elementary schools and 2004 low income housing for the Twin Cities. For low income housing, child population data are provided with LIHTC households and are estimated with project-based section 8 households. Our estimate of section 8 children is derived by multiplying the Twin Cities average number of children in a household for each racial group (derived from U.S. census data) by the racial population results. To place low income housing units uniform to student populations we determined the each school's population as a percentage of total schools and multiplied it by the total population of LIHTC and project-based section 8 by race. We assume that spatially uniform low income populations are also racially uniform in their distributions.

³⁰⁵ See 42 U.S.C. § 1437f(a) (2006).

³⁰⁶ See U.S. Department of Housing and Urban Development, "Section 8 Rental Voucher Program" available at, <http://www.hud.gov/progdsc/voucher.cfm> (visited April 2006).

³⁰⁷ See U.S. Department of Housing and Urban Development, "Section 8 Rental Voucher Program" available at, <http://www.hud.gov/progdsc/voucher.cfm> (visited April 2006).

³⁰⁸ See John Powell, Segregation and Educational Inadequacy in Public Schools, 17 Hamline J. Pub. L. & Pol'y 337, 360 (1996).

³⁰⁹ Myron Orfield, *Land Use and Housing Policies to Reduce Concentrated Poverty and Racial Segregation* 32, FORDHAM L. REV (2006) (forthcoming)

³¹⁰ See Metropolitan Council, *An Overview of Regional Housing Policy and Implementation: 1967-2002* pp. 1-2 (2003); See also Berkeley Policy Associates, *Assessment of the Impact of the Housing Opportunity Plan (AHOP) Program, Final Report, Volume Two: Case Study Narratives* p. III-3 (1979); See also Myron Orfield, *Land Use and Housing Policies to Reduce Concentrated Poverty and Racial Segregation* 40-41, FORDHAM L. REV (2006) (forthcoming).

³¹¹ See *Parents Involved in Comm. Sch.*, 426 F.3d at 1169-70 (noting that Seattle Plan used four tiebreakers if student's preference resulted in oversubscribed high schools); See also *McFarland v. Jefferson County Board of Education*, et al., 320 F. Supp.2d 834 (WD Ky. 2004), aff'd, 416 F.3d 513 6th Cir. (2005).

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