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THE CHIEF JUSTICE EARL WARREN INSTITUTE
ON RACE, ETHNICITY & DIVERSITY

UNIVERSITY OF CALIFORNIA. BERKELEY LAW SCHOOL

The Civil Rights Project

INTEGRATION DEFENDED:

Berkeley Unifieds Strategy to Maintain School Diversity

Lisa Chavez

Erica Frankenberg
Foreword by Gary Orfield

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Our report benefited from the willingness of several people formerly and currently associated with the Berkeley Unfied School District to answer our questions and provide information. They include: Marie Joiner; Michele Lawrence; Melisandra Leonardos; Francisco Martinez; and Bruce Wicinas. They are not responsible for any of the conclusions or analysis in this report. We appreciate the feedback from the presentation of our findings from participants in the Berkeley Law School Research Center and Clinic Presentation Series and at the AERA Annual Meeting in spring 2009. In addition, the following people provided us with more extensive feedback: Professors Steve Sugarman and Goodwin Liu from Berkeley Law School; Profrssor Gary Orfield and Genevieve SieWry

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ADDIL D)>A I. INFOR \IAiI()N

The ChiefJustice Earl Warren Institute on Race, Ethnicity & Diversity at the Berkeley Law School is a multidisciplinary, collaborative venture to produce research, research based policy prescriptions, and curricular innovation on issues of racial and ethnic justice in California and the nation.

The Civil Rights Project/Proyecto Derechos Cimles is based at UCLA with a mission to create a new generation of research in social science and law on the critical issues of civil rights and equal opportunity for racial and ethnic groups in the United States.

About the Authors

FOREWORD By Gary Orfield

The Berkeley, California school district has successfully resisted legal restraints to end desegregation efforts and, in the process, provided a possible model for many other districts across the country which want to keep the benefits of integrated schools but must face the limits on voluntary integration plans imposed by the U.S. Supreme Court two years ago.

Urban school desegregation outside the South began not in
the big busing battles in Boston and some other

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involuntary busing plans were largely products of the l970s.] These newer plans clearly disprove the claim that we must chose between educational quality and integration. Families of color have never pursued desegregation to sit next to white students. It has been about obtaining equal opportunity and access to the best schools and programs and networks to college, the vast majority of which are in white and Asian communities. The great

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to students from the micro-neighborhoods most likeLy to foster diversity. Since no one Looks at the race or ethnicity of the indi vidual student—in each micro-neighborhood, students from each race are treated identically—and no

INTRODUCTION

Despite drawing from neighborhoods that are deeply segregated by race-eth nicity and socioeconomic status, the public schools of Berkeley, California each reflect the district’s multira cial student population. In 2004, the Berkeley Unified School District (BUSD) adopted a student assign ment plan centered on a unique, multi-faceted conceptualization of neighborhood diversity that sought to provide equitable schooling choices for families and to integrate the dis trict’s 11 elementary schools by race, household income, and family edu cational background. As the district implemented the plan, it adopted pro cedures to ensure that its choice-based system did not advantage any group of families in the district while actively promoting school equity to make all schools attractive options for families. Importantly, the California Appel
late Court recently ruled that the 2004 plan does not violate Proposition 209, a 1996 voter-approved state initiative that prohibits the preferential or discrimi natory use of race-ethnicity in public institutions, because the plan does not consider individual students’ race-ethnicity in school assignments. The California Supreme

Instead of the techniques the Justices struck down, BUSD uses geography on two different levels: (1) three attendance zones and (2) 400 plus 4—8 residential block sized “planning areas” that are

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This
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recommendations were implemented by fall 1965. Over the next two years, 250 black elementary school students were bused voluntarily to schools in East Berkeley. 15
A district task force described
the limitations of the voluntary trans fer plan in a 1967 report, noting that non-white students bore the burden of busing. On January, 16, 1968, the school board voted unanimously to create four attendance zones that ran from the hills of Berkeley (which were largely white) to the “flats” that were largely non-white. All 14 elementary schools were restructured: schools in

the hills and middle of the city were changed to serve children in kinder garten through third grade while schools in the south and west of the city served grades four through six. Students were assigned to schools within their zones with the goal of bal ancing each elementary school and classroom so that each was 50% white,

school had a racial-ethnic distribution

1994 plan in one fundamental way: rather than considering the race-eth nicity of individual students, the new policy took account ofthe racial-ethnic, economic and educational diversity of each student’s neighborhood so that schools reflected zone-wide diversity on these factors. The new plan did not receive universal support from the community; in fact, protestors stood outside the board meeting object ing to the dilution of race in student assignment. 27 However, the school board approved the policy change and the new plan was put in place in the 2004—2005 academic year. At the

same time, the board also restated the district’s 40-year commitment to racial-ethnic desegregation and described the need to consider parental educa tion and household income in student assignment to reduce racial and socio economic isolation in schools (see boxed text). 29 The resolution also articulated two additional goals: (1) school-site equity with a commitment to establish a base program across all schools and (2) staff diversity that reflects student diversity.
A New Measure of Dversty. As
described above, the prior integra tion plan’s primary innovation was

geographical zones that were drawn on the basis of 445 “planning areas” that identified student residential patterns by race-ethnicity. The new plan assigns each planning area a “composite diver sity category (or “codes”)” of one, two or three (see Figure 3). The compos ite diversity categories (or “codes”) are based on household incomes, educa tion

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The 2004 plan primarily applies Proposition 209. In an April 2007 The California Appellate Court ruled
to the elementary schools,

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THE BERKELEY UNFlED
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BUSD adopted its first desegregation plan in response to residential segrega tion and has pursued alternative plans in order to mitigate the racially isolated schools that would result from a school assignment system based on neigh borhood schools. In this section we describe the city’s composition along each of the characteristics considered in BUSD’s current plan: educational attainment, household income, and racial composition of residents.
The Berkeley Unified School
District is coterminous with the city boundaries of Berkeley, California, situated on the eastern side of the San Francisco Bay and connected to the city of San Francisco and other parts of the Bay Area by public transpor tation. One of 18 school districts in Alameda County, the district currently serves approximately 9,000 students in eleven elementary schools, three mid dle schools, one comprehensive high school and one small continuation high school; there are no charter schools. Many other districts across the nation are comparable in size to BUSD—more than 1,000

Race/Ethnicity 1%)

White, non-Hispanic
Btack, non-Hispanic
Hispanic
Asian
Other
Multiracial

Totat Population

Total
Population
Race-Ethnicity
White,
non-Hispanic
Black,
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Hispanic
Asian
Other
Multiracial

1.5 3.1
N/A N/A

27.7 13.7 18.8 21.0
8.7 9.9 17.2 32.8
32.6 12.9 21.7 17.6
8.6 11.0 7.4 10.86.4 0.her

FIGURE 4 2000 Residential Patterns by Block Group for Students EnroLled in K-12 by Race-Ethnicity in Berkeley, California

Berkeley and is adjacent to Albany, a smaller diverse city. The “flats” are in the southern part of Berkeley, next to Oakland.
In general, neighborhoods with
higher concentrations of families with high incomes are in northeast Berkeley and, to a lesser extent, in southeast Berkeley, both areas that have concentrations of white stu

dents (see Figure 5). Areas with lower median income include areas immedi

ately adjacent to the university, which may house students who have little to no current income and few children, and the southwestern part of Berkeley bordering Oakland, a

20

than 90% of black students did so. This suggests that BUSD was not attracting white students at the rate of students of color in 2000; unfortunately, we do not have disaggregated data for the years after the current plan was put in place. However, the majority ofschool-aged residents from every racial-ethnic group in Berkeley report attending public schools.

THE RACIAL AND ECONOMIC
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We now turn to an analysis of the racial-ethnic and socioeconomic demo graphics of BUSD schools (see Table 4). While the goal of Berkeley’s plan is

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of elementary students were receiving free/reduced lunch. 55 Whereas the representation of low-income students varied by 10 percentage points and more from all elementary school stu dents in just two schools, that number increases to six when applying the 5 percentage points criteria. One school had nearly 60% of students from low-income families while another only had 36%. Two of the three schools where all racial-ethnic groups were balanced were schools that were out of economic balance due to having lower

8.9 16.1 23.2
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13.4 27.6

3.4 18.5 67.2

percentages of low-income students than among all BUSD elementary stu dents. Thus, by this measure ofstudent poverty, BUSD’s student assignment plan is not as effective as it is for diver sifying most racial groups of students. Mddte and HIgh Schoots. While the 2004 plan explicitly applies to elementary school assignment, assign ments to middle schools remain based on the mid-1990s controlled choice plan that created two middle school zones that run the length of the city (King/Willard border, recall Figure

at one school (Longfellow, the one middle school without a zone) var ied 10 percentage points or more than their representation among all middle schools (again see Table 5). Likewise, all three middle schools have low-income populations within 10 percentage points of the district-wide middle school average of 48%. However, percentages of black and white students at two of the three middle schools vary at least five per centage points from the percentage of BUSD middle school students whereas one school varies from the Latino percentage by more than five percentage points. King has more than twice the percentage of white students as does Longfellow. All three middle schools vary more than five percentage points from the percentage of low-income middle school students. Again, King has the lowest percentage at just under 40% while the other schools had more than 55% of students from

racial group and less integration exists in the middle schools compared with the elementary schools, in general, the integration across the district is fairly high. In elementary schools, there is less variation among white and Asian students while black and Latinos stu
dents are disproportionately enrolled
in some schools in comparison to their overall percentage of the elementary
school enrollment and not as much

from the system-wide averages have
3 remained relatively consistent over the past few years.
There is more disparity between
schools when examining student pov
erty than race-ethnicity: a majority of
the elementary schools and all middle schools vary five percentage points or more from the district low-income

percentage. This results in schools of substantial differences in terms of the percentage of low-income students in schools, which may affect the way in which schools are perceived by parents. For example, if schools have particu larly high numbers of low-income students—or conversely ifthere are few such students—parents may take such considerations into account in ranking their school choices. In choice-based

systems, schools that are somewhat imbalanced may become more so over time. 57 Yet, BUSD’s policies and pro cedures may mitigate the stratifying effect of choice systems. These trends
will be important to monitor over
time to ensure that schools that differ
from the systemwide average for one
or more racial-economic group do not
diverge further.

56. For more details about assignment to small schools and programs at 57. For more discussion, see Brief of the American Psychological BHS see, http://bhs.berkeley.net/index.php?page=lottery-selection-process. Association, 2006.
2008-2009 enrollment data by race-ethnicity for BHS small schools and
programs are not available.

TABLE 5 Deviation from System-wide RaciaL-Ethnic & Economic Composition in
BUSD among ELementary & Middle Schools, 2OO82OO9*

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IV. IMPLEMENTING THE 6USD
SCHOOL INTEGRATION PLAN

Having seen above that BUSD has sub stantially integrated schools and how its policy operates seemingly within the confines of the Supreme Court’s guid ance on voluntary integration plans, we examine in this section policy and practices for implementing the plan as well as what lessons there are from BUSD for other districts with similar goals. Of course, the history of com mitment in Berkeley to voluntarily implementing desegregation—in

a

metropolitan area where they wit nessed considerable disagreement about court-ordered desegregation policies

— undoubtedly contributes
to its current racial integration. We highlight

a few key components that
we believe help this plan maintain racially diverse schools. First, the three zones that cut across the entire district remained identical to the prior plan, but an added geographic layer of diversity codes distinguished the 2004 plan from

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in school choice. Whether navigating a system with multiple requirements, deadlines, and options or forming different choice sets, families engage seemingly neutral systems of school choice with different opportunities to learn about schooling options avail able to them. 6 If school districts that offer school choice are unmindful of these differences they run the risk of producing the same inequities that the integration policy was designed to address. 68 Our research on the BUSD integration plan revealed several ways the district proactively addresses disparities in information and par ticipation that may be found among Berkeley residents. In addition to describing the mechanics of the plan for elementar students, we interweave information on the choices and out comes among the 659 families who participated in Round 1 of the student assignment process for 2008—2009 kindergarten

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makes small adjustments to capacities by setting aside a small fraction ofseats (less than 10% total in 2008) in some schools or programs. The manager of theAdmissions Office determinesifthis is necessary before conducting Round 1 assignments by comparing the diver sity code distribution of each school’s program and grade level specific appli cant pool with the historical diversity code distribution of the school’s zone. If, for example, a diversity category is significantly underrepresented among the applicant pool of a school/pro gram grade-level in comparison to its representation among the estimated zone-wide diversity target, Round 1 capacities are adjusted accordingly for that school’s program. This also assists in balancing the student population.
The management of waitlists is
also crucial. Families may request to be waitlisted for an unlimited number of schools and programs other than the one they were assigned to, and the district fulfills these requests to the extent it is possible. The Admissions Office gives families a deadline to request to be waitlisted. As spaces open up, the Admissions Office places families into schools according to the set of priority categories it uses during Round 1 of assignments. Within each priority category, the district considers the diversity goals for each zone and the distribution of both sending and receiving schools that would exist as a result of changing assignments. This is another practice that recognizes potentially unequal opportunities to pursue alternative placements. Rather

than managing the waitlists on a “first come first served” basis, for example, a practice that typically favors more advantaged families who, on aver age, have the employment flexibility and resources needed to comply with requirements that may involve visiting the school district and waiting in long lines to get their needs met, BUSD gives families ample opportunity to request waitlist status and treats all applicants the same by utilizing the priority categories to move students off the waitlists.

PROMOTiNG SCHOOL-SITE EOUTY

As discussed earlier, one of BUSD’s integration goals is to promote school-site equity. In so doing, the district explicitly links school-site equity to a successful choice system by noting “choosing or attending one school rather than another will confer neither significant advantage nor disadvantage to pupils enrolled at any individual site.” 8°Moreover, although the student assignment plan is based on choice, the district does not encourage its elemen tary schools to “compete” with each other to draw families to theirschools. 81 The district refers specifically to mini mizing differences between schools with the “establishment and identifica tion of a ‘base’ program.” 82This goal is facilitated by the state of California’s requirement to implement public edu cation content standards that outline grade-level knowledge, concepts and skills. The district rounds out this base program with a 4—8th grade music pro gram and a cooking

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Muir) had teachers with the highest average years of teaching experience
and was the one of two schools not
to have any novice teachers. By con trast, some of the elementary schools with the highest percentages of white students had higher percentages of novice teachers. It is also remarkable to see the extent of teacher stability given the expensive San Francisco Bay Area housing market. Racial diversity of teachers is another important part of the district’s plan and has long been part of desegregation efforts in districts across the country. 97Our

90. We define schools that are “over chosen” as those that received a numerical number of requests from at least two diversity code categories of applicants that were overrepresented in comparison to their zone diversity distribution targets. The diversity distributions of fall 2007 kindergarten enrollment (see Table 1) were used ftr this analysis. For example, if

(Cragmont and Oxford). Likewise, the Southeast Zone

POST-PICS MODEL?

School districts that voluntarily pursue integration face demographic, legal (federal and state), and, these days, new economic challenges in trying to achieve their goals. This report docu ments the efforts of a medium-sized school district struggling with an issue it has been working on for 40 years. The integration in Berkeley’s schools suggests that they have figured out a holistic set of policies to create diverse schools despite real challenges of racial-economic polarization in their community. Berkeley’s demographics have been more stable than the coun try’s during the last decade, including those of many districts with neighbor hood schools. The recent experience of Berkeley at least runs counter to people’s expectation of “white flight” when an integration plan is imple mented. The integration plan may have even helped stabilize the district’s demographics despite a highly expen sive housing market.
An important aspect of BUSD’s
success has been understanding that, in order to create integrated schools using a choice-based assignment pol icy, you need to create improved and equal educational options, which is also sound education policy. BUSD has not simply devised and imple mented an assignment formula, but has recognized that their commitment to a system of successful, integrated schools requires making all schools attractive through equity in order to make all schools viable choices. In policy discussions, “better schools” and “integration” are often framed as tradeoffs, but the experience of

Berkeley suggests that they are not mutually exclusive choices.
The plan is not a panacea. Plans
such as Berkeley’s address within-dis trict segregation, but do not directly address the extremely high levels of between-district segregation. At the same time, if plans such as these can stem residential transition and create stably diverse communities, perhaps over time the racial-ethnic differences across school district boundary lines can lessen. Additionally, the residen tial mobility of a university city like Berkeley poses challenges for a plan like this that is closely linked to resi dential demographics. Will the district adjust its plan after the 2010 Census data is available? In particular, ana lyzing how the three zones compare in terms of school-aged population and capacity will be important since these zones have remained the same for 15 years. Changing zone bound aries is often politically contentious, and can be particularly challenging in districts experiencing significant growth or decline as they also try to maintain diversity.
The March 2009 state appellate
court decision upholding Berkeley’s integration plan may provide some insight as to how a post-PICS court might consider a plan like Berkeley’s if a lawsuit were filed in federal court. The court noted that the policy consid ered students’ cm1r0-0.0 9.4e9.4olicy

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Appendix:
Academic Achievement

These figures show achievement of
students who have been in BUSD
only during the new assignment plan, which was implemented in 2004 fall others for whom there is test score
data were in BUSD prior to the new
assignment plan’s implementation).
For example, third graders in 2007-08 were the first students in BUSD
to be admitted under the newly
adopted plan. We focus on academic achievement here due to the pub
licly available nature of these data
and the educational policy focus as
reflected in NCLB on achievement for subgroups of students. It is important to note that academic

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