

Testimony of Professor Elise Boddie
Joint Committee on Public Schools
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Good morning, everyone.

My name is Elise Boddie. I am a professor of law at Rutgers Law School in Newark.

I am also the founder and director of The Inclusion Project (based at Rutgers) which focuses on how to dismantle racial inequity through law, community engagement, and media.

Thank you Co-Chair Senator Ron Rice and Co-Chair Assemblywoman Mila Jasey and other members of the committee for the opportunity to appear before you today to speak about school segregation in the state of New Jersey, which I believe is one of the most critical issues of our time.

A quick story

If you'll bear with me, I'd like to start by sharing a quick story.

It's about two high school seniors from Central High School in Newark (who have since graduated).

About a year and a half ago, I asked them to speak about school segregation at the annual conference of the New Jersey NAACP.

I'd like to tell you what they said.

The first student was on Central High school's volley ball team. She liked to compete and apparently she was very good.

One of their games that season was at a predominantly white high school in Essex County.

Just before the game, she and her teammates who were all black, walked into the school's gym.

As they walked in, they saw a group of students who were all white.

She heard one of those students ask another student what "they" were doing there.

And here the student used a word (that I'm not going to repeat) to describe the Central High team. I think you might guess which word they used...

In her speech, she talked about the pain she felt in that moment.

Her team had come to play, to show what they could do. And they had been subject to that vile and cruel racial slur.

She talked about how bad she felt when they lost...

... not simply because she wanted to win...

... but because she felt obligated to prove to that all-white team that her team could rise above them...

...and to rise above the student who was trying to tear them down, not based on the quality of their play but because they were Black.

Second story

The second student took a different path in his speech.

He described the beauty of Newark and what people who don't know the City often don't see.

He talked about the ethnic diversity within his school—the various languages and cultures.

He talked about the experience at his school of sharing different foods and different music.

He also talked about the public art in Newark's streets—on its billboards and sidewalks...

...and the sense of pride he felt when walking through his neighborhood and how the art made him feel at home.

Why am I sharing these stories?

I share these stories because of what they say about the harms of segregation...

...how, on the one hand, it can drive people to be cruel to those who are different...to deny them empathy, to fail to see their humanity.

The second story is about what we miss as a result of segregation—the experiences *we don't get*, the people *we don't meet*, the things *we don't see*.

The problem with segregation is that it makes us more likely to assume that people are a certain way—to stereotype how they think and who they are.

It can lead us to miss their full complexity.

How many of us have made assumptions about people we don't know, only to be proven wrong?

The dangers of those assumptions are amplified a thousand times with segregation...

...because with segregation you often don't get a chance to know someone from a different racial background.

So you never get to learn why all those things *you think you know* are actually wrong.

You don't get to know that the student who played volleyball is also a leader in her school, that she's a really good writer, and that she has dreams of going to Westpoint.

You don't see the diversity within Newark, the richness of its culture; and you don't learn that the student who wrote that speech is shy and quiet but also razor sharp.

Purpose of education

John Dewey wrote that "education is the means by which we initiate our children "into the interests, purposes, information, skill, and practices" of the rest of society.¹

Think back to the students I just mentioned.

What does segregation teach our children?

Are we teaching them to fear people who are different? To resent people who are different?

To devalue people who are different?

¹ John Dewey, *Democracy and Education* (1916) (2018)

Statistics

New Jersey has 1.3 million students. 45% are white; 27% are Latino; about 16% are black; approximately 10% are Asian.

Of the 585,000 Black and Latino public school students about 270,000 (46%) attend schools that are more than 90% Black and Latino...

That's to say nothing of the thousands and thousands of white students who attend predominantly white schools.

Benefits of integration

Why should we integrate our public schools?

We have decades of research on the social and academic benefits of integration.

At the height of integration in the 1970s and early 1980s we were winning the fight against the achievement gap.

When the National Assessment of Educational Progress began in the early 1970s, there was [a 53-point gap](#) in reading scores between black and white 17-year-olds.

By 1988, that gap had narrowed to 20 points.

During that time, every region of the country except the Northeast saw improvements in school integration.

In the South in 1968, [78 percent](#) of black children attended schools with almost exclusively students of color...

... by 1988, only 24 percent did.

We also know that integration leads to higher graduation rates and that students who attend integrated schools are more likely to go to college.

It leads to higher levels of employment and higher incomes and better health outcomes.

We know that diversity makes us smarter. It improves our cognitive and problem-solving skills.

Think about trying to persuade someone who has different experiences and perspectives—you have to think more critically.

We also know that integration builds empathy and reduces bias and helps students learn to question stereotypes.

But to reduce this kind of prejudice we need environments where people from different racial groups have equal status and common goals.

Public schools are the ideal place for this kind of interaction.

...Which other institution has the “potential to bring young people together across racial, ethnic, and social class lines to facilitate active learning to reduce prejudice”?

And we pass on these benefits from generation to generation.

My mother was part of the first wave of school desegregation. She integrated a school in Ohio.

I was bused as a child in Los Angeles.

My son is now enrolled in an integrated school.

We know what to do.

But the incentives in our system of 620+ school districts and our laws that mostly require students to go to school where they live...

...discourage us from doing it.

We have a problem in this state with what I call “other people’s children.”

We generally don’t care much about “other people’s children.”

The benefit of integration is that it increases the incentive to care about “other people’s children.”

To use a sports analogy...it puts students on *the same team*.

When students are on the same team . . .

. . . every parent wants *every* student on that team to have the best coach, the best uniforms, the best facilities.

Every parent wants to make sure that every child on that team has a good breakfast the day they compete. . .

...because they want everyone on the team to do well. They want to win.

Until parents with resources, networks, and opportunities have the incentive...

...to make decisions that benefit children who *don’t have those same opportunities*...

...they will continue to deny those opportunities to other children.

And racial inequality will continue.

We have to disrupt those incentives by integrating the system.

Northern segregation

Before I joined the Rutgers Law School faculty I directed the litigation program at the NAACP Legal Defense & Educational Fund, Inc.

And before that I was a staff attorney and traveled around the country litigating cases and worked on school desegregation cases in Alabama.

New Jersey was a bedroom community for me. I didn't spend much time here.

It wasn't until I came to Rutgers and was educated by my colleague Paul Tractenberg about segregation in New Jersey that I began to understand the depth of the problem.

Since then I've been speaking about school segregation across the state. I've been doing it for nearly four years.

And for much of that time people could not understand what I was talking about.

When most people hear the phrase "school segregation," they think about the South in the 1950s.

In their mind's eye they see white people jeering at black children as they walk through the doors of white schools.

- In the South they had laws that said black and white children couldn't to school together. We don't have that here. Instead our segregation is more subtle...
- And although a good number of southern schools voluntarily desegregated, there were also protests and massive resistance. There was struggle in plain sight.

The irony is that New Jersey is more segregated than *all* the states in the former confederacy for black students.²

...Mississippi, Alabama, Louisiana, Georgia

It is the 6th most segregated state in the country for African Americans and the 7th most segregated for Latinos.

The only states that are more segregated are New York, Illinois, and Maryland.³

We also know that segregation is more complicated for Black and Latino students...

...because they are doubly segregated--not only by race; they are also by poverty/income and class.

Southern school desegregation worked

Many people think that desegregation failed. It did not.

Southern schools are more integrated because school desegregation worked in the South.

Under the 1964 Civil Rights Actschools that discriminated because of race lost their federal funding.

² In terms of percentage of black students in 90-100% non-white schools.

<https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/brown-at-62-school-segregation-by-race-poverty-and-state/Brown-at-62-final-corrected-2.pdf>

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And the U.S. Supreme Court in a 1968 case called *Green v. New Kent County* established more rigorous standards for school integration, not only in student assignment ...

...but also in faculty and staff, facilities, curriculum, transportation, and extracurricular activities.

For roughly 20 years from 1968 to 1988, schools were desegregated in the South.

In a 1971 case, *Keyes v. School District No. 1*, the Court required a showing of discriminatory intent in school segregation cases. Intent generally is hard to prove. It requires a smoking gun.

And in a 1974 case, *Milliken v. Bradley*, the U.S. Supreme Court held that students could not be bused across jurisdictional boundaries without showing of discriminatory intent.

These cases together effectively stopped northern school desegregation in its tracks because of the difficulty of proving intent.

Eventually the U.S. Supreme Court became more conservative and rolled back the caselaw that had desegregated schools in the South.

Schools in the South started resegregating, but they are still more integrated than schools in New Jersey...

Early consciousness

But before all that happened there was a consciousness about segregation in northern and western states.

A 1962 U.S. Commission on Civil Rights report documented protests against segregation in 14 states and 42 cities outside the South.

In New Jersey there was also an early awareness of segregation.

You all likely know that we had so-called “colored” schools and white schools in Trenton, Mount Laurel, Moorestown, Penns Grove, Hackensack, Princeton, Montclair, Camden...

A Teachers College study in late 1930s discussed segregation in the Garden State

There were protests against school segregation in the 1920s and 1930s in Toms River, Asbury Park, Camden, Mount Holly, Montclair, East Orange, Trenton, and Long Beach

As a result the NJ NAACP worked to overhaul the state’s civil rights laws.

Robert Carter

I clerked for Judge Robert Carter who was a federal district judge in the Southern District of New York.

Robert Carter was a son of New Jersey. He was also one of the leading architects of *Brown v. Board of Education*.

After the *Brown* decision he became general counsel of the NAACP.

He and his staff brought and won cases challenging school segregation in the state and created some of the best state law in the country.

According to these cases, which are still good law, it does not matter *why* we have segregation. The simple *fact* of segregation itself violates New Jersey state laws and our state constitution.

Separate is inherently unequal

Some people wonder why we shouldn't just focus on making our separate schools "equal."

I'm here to tell you that I don't think separate can ever be equal in America.

And I say that in part for the reasons that the U.S. Supreme Court declared in *Sweatt v. Painter* in 1950.

A critically important part of education is the intangibles of that experience...

... of learning from people who have different ways of seeing the world.

Thurgood Marshall once said that "equality means getting the same thing, in the same place, at the same time."

Separate will never be equal because when you segregate people—as we do when we rely on residential borders to decide where a child goes to school-- you draw a fence around them.

You isolate them from power, from resources, from wealth.

Segregation separates people from opportunity.

When you draw that line around people, you dehumanize them. You treat them as if they are a threat.

It is easier to dismiss people, to dismiss their struggles, to treat them like they don't matter if they are "over there."

If we don't live in the same communities. If we don't go to the same schools. If we don't work together, then we don't ever really know each other.

We don't empathize with one another.

Why should I care about your schools if I don't *know* you. All I know is that you're not like me.

And that process of otherizing and discounting allows people to project their assumptions, their stereotypes, their bias and prejudice ...

... onto entire communities.

We build walls *inside* our mind and so we build walls *around* our schools

Democracy

I'll say one other thing, which is that I fear for our democracy in a segregated system.

John Payton, who led the NAACP Legal Defense Fund, Inc. used to say that the future of our democracy...

...depends on our ability to see and experience each other as peers in a shared enterprise.

Democracy requires that "all the people" be included in "we the people."

As peers.

Not as haves and have nots.

Not as victims and saviors.

But as equals, as people with ideas and culture and strength and resilience to share with the world.

I worry not only about what we are doing to our black and brown children with segregation.

I'm worried about what we are *teaching* white children.

I'm worried about segregated white schools that breed a *false sense of superiority and entitlement*...

...because they've never had to measure themselves against students from

...Newark and East Orange and Irvington.

They've never seen what other students can do.

The American Federation of Teachers in a brief they filed in *Brown* in 1952, wrote the following, which I am partly paraphrasing...

Segregation is "a barrier to the teaching of basic values of truth, beauty and justice.

For if justice is relative and depends on race or color, how can we teach that ours is a government of laws and not of men (people)?

If justice is relative and considers race and color, then a different flag waves over [black and brown] schools ...

..and the pledge of allegiance to the flag must mean different things.

The one nation is really not one nation but at least two; it is divisible, and liberty, like justice, has *two* meanings.

So the segregated system, the AFT said, has deeply rooted evils.

It leads to underresourced schools for black students and deprives those students of an important element of the educational process.

The damage to the Black student is material both as to *quantity* and *quality*.

The damage to the white child is more subtle.

In a moral and spiritual sense that child is corrupted, while the other is corroded.

The material advantage is purchased at the cost of an uneasy spirit.
That's what the American Federation of Teachers said in 1952.

It's still true in 2019.

Thank you again for your time and attention.