

# PROMISE ZONES, POVERTY, AND THE FUTURE OF PUBLIC SCHOOLS: CONFRONTING THE CHALLENGES OF SOCIOECONOMIC INTEGRATION & SCHOOL CULTURE IN HIGH- POVERTY SCHOOLS

*Maurice R. Dyson\**

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Wouldn't it be refreshing to hear someone say that 'eliminating poverty in America is the civil rights issue of our day?' Since poverty is the single most reliable predictor of poor performance in school, poor health, poor attendance, dropping out, and almost every negative indicator, wouldn't it be wonderful to hear some of the politicians addressing the root cause of inequality?

Diane Ravitch.<sup>1</sup>

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\* J.D., Columbia Law School; A.B., Columbia College, Columbia University; Associate Professor of Law, Thomas Jefferson School of Law. Special thanks to Professors Kristi Bowman, Daniel Weddle, the Michigan State University College of Law as well as UMKC School of Law for sponsoring this symposium. I would also like to thank William J. Cox and Matthew C. Piccolo of the *Michigan State Law Review* for their thoughtful and diligent efforts.

1. Diane Ravitch, *Is Education the Civil Rights Issue of Our Day?*, DIANE RAVITCH'S BLOG (Aug. 30, 2012), <http://dianeravitch.net/2012/08/30/is-education-the-civil-rights-issue-of-our-day/>.

## INTRODUCTION

Perhaps just as important as what subjects and skills students are taught in the classroom are the manner, motivations, expectations, and environment in which they are taught. Too often these concerns are overlooked, and too often we realize they are more outcome determinative of academic success. In the zealous embrace of standards and mandated testing and assessment, it would seem educators and policymakers have believed in an education reform that embraced measurement and assessment as a panacea for all of the United States' public education ills.<sup>2</sup> Yet on the sixtieth anniversary of the *Brown v. Board of Education*<sup>3</sup> decision, many of our nation's schools remain academically deficient and racially unequal,<sup>4</sup> and still millions of school-age children live in poverty.<sup>5</sup>

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2. No Child Left Behind Act of 2001, Pub. L. No. 107-110, § 1205, 115 Stat. 1425, 1548 (2002) (codified as amended at 20 U.S.C. § 6365 (2006)). See generally Maurice R. Dyson, *Leave No Child Behind: Normative Proposals to Link Educational Adequacy Claims and High Stakes Assessment Due Process Challenges*, 7 TEX. F. ON C.L. & C.R. 1 (2002); Philip T.K. Daniel & Maurice R. Dyson, *Bringing Every Child Forward: Lessons Learned Under No Child Left Behind and a Roadmap for Obama's Educational Reform*, 19 TEMP. POL. & CIV. RTS. L. REV. 63 (2009).

3. 347 U.S. 483 (1954).

4. See NAT'L ASSESSMENT OF EDUC. PROGRESS STATISTICS SERVS. INST., ACHIEVEMENT GAPS: HOW HISPANIC AND WHITE STUDENTS IN PUBLIC SCHOOLS PERFORM IN MATHEMATICS AND READING ON THE NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS, at iii-v (2011), available at <http://nces.ed.gov/nationsreportcard/pdf/studies/2011459.pdf>; RICHARD ROTHSTEIN, CLASS AND SCHOOLS: USING SOCIAL, ECONOMIC, AND EDUCATIONAL REFORM TO CLOSE THE BLACK-WHITE ACHIEVEMENT GAP 13-14 (2004); Geoffrey D. Borman, *How Can Title I Improve Achievement?*, 60 EDUC. LEADERSHIP 49, 49 (2003), available at <http://www.ascd.org/publications/educational-leadership/dec02/vol60/num04/How-Can-Title-I-Improve-Achievement.aspx>; AMY H. RATHBUN, LIZABETH M. REANEY & JERRY WEST, THE WORLD AROUND THEM: THE RELATIONSHIP BETWEEN KINDERGARTNERS' SUMMER EXPERIENCES AND THEIR GENERAL KNOWLEDGE 4 (2003), available at <http://files.eric.ed.gov/fulltext/ED476916.pdf>; JAEKYUNG LEE, THE CIVIL RIGHTS PROJECT, TRACKING ACHIEVEMENT GAPS AND ASSESSING THE IMPACT OF NCLB ON THE GAPS: AN IN-DEPTH LOOK INTO NATIONAL AND STATE READING AND MATH OUTCOME TRENDS 10 (2006), available at [www.civilrightsproject.ucla.edu/research/](http://www.civilrightsproject.ucla.edu/research/).

5. NAT'L CTR. FOR EDUC. STATISTICS, U.S. DEP'T OF EDUC., THE CONDITION OF EDUCATION 2014, at 20 (2014), available at <http://nces.ed.gov/pubs2014/2014083.pdf> ("In 2012, approximately 11.1 million school-age children, or children 5 to 17 years old, were in families living in poverty. The percentage of school-age children living in poverty in 2012 (21 percent) was higher than it was two decades earlier in 1990 (17 percent), even though the poverty rate for school-age children was lower in 2000 (15 percent) than in 1990."); see also

Poverty rates also reflect and correlate with racial identity.<sup>6</sup> Many more of the nation's schools have become increasingly racially isolated than ever before, particularly for African-Americans and Latinos.<sup>7</sup> To be sure, if neighborhoods are permeated with poverty, crime, undereducation, and unemployment, parental support becomes difficult to provide when local neighborhood conditions

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U.S. CENSUS BUREAU, POVERTY THRESHOLDS FOR 2012 BY SIZE OF FAMILY AND NUMBER OF RELATED CHILDREN UNDER 18 YEARS (2013), *available at* <http://www.neded.org/files/research/threshold.pdf>.

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In 2012, approximately 16.0 million, or 22 percent, of all children under the age of 18 were in families living in poverty; this population includes the 11.1 million 5- to 17-year-olds and 5.0 million children under age 5 living in poverty. The percentage of children under age 18 living in poverty varied across racial/ethnic groups. In 2012, the percentage was highest for Black children (39 percent), followed by American Indian/Alaska Native children (36 percent), Hispanic children (33 percent), Pacific Islander children (25 percent), and children of two or more races (22 percent). The poverty rate was lowest for White children (13 percent) and Asian children (14 percent). In 2012, among Hispanics the percentage of children under age 18 living in poverty ranged from 19 percent for South American children to 35 percent each for Mexican and Puerto Rican children and 38 percent for Dominican children.

NAT'L CTR. FOR EDUC. STATISTICS, *supra* note 5, at 22-23.

7. *See generally* GARY ORFIELD, THE CIVIL RIGHTS PROJECT, SCHOOLS MORE SEPARATE: CONSEQUENCES OF A DECADE OF RESEGREGATION (2001), *available at* <http://files.eric.ed.gov/fulltext/ED459217.pdf>; Gary Orfield, Erica D. Frankenberg & Chungmei Lee, *The Resurgence of School Segregation*, 60 EDUC. LEADERSHIP 16 (2003); ERICA FRANKENBERG & CHUNGMEI LEE, RACE IN AMERICAN PUBLIC SCHOOLS: RAPIDLY RESEGREGATING SCHOOL DISTRICTS (2002), *available at* <http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/race-in-american-public-schools-rapidly-resegregating-school-districts/frankenbergrapidly-resegregating-2002.pdf>; Sean F. Reardon, John T. Yun & Tamela McNulty Eitle, *The Changing Structure of School Segregation: Measurement and Evidence of Multiracial Metropolitan-Area School Segregation, 1989-1995*, 37 DEMOGRAPHY 351 (2000); GARY ORFIELD & JOHN T. YUN, RESEGREGATION IN AMERICAN SCHOOLS (1999), *available at* <http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/resegregation-in-american-schools/orfield-resegregation-in-american-schools-1999.pdf>; Gary Orfield et al., *Deepening Segregation in American Public Schools: A Special Report from the Harvard Project on School Desegregation*, 30 EQUITY & EXCELLENCE EDUC. 5 (1997); GARY ORFIELD ET AL., THE GROWTH OF SEGREGATION IN AMERICAN SCHOOLS: CHANGING PATTERNS OF SEPARATION AND POVERTY SINCE 1968 (1993), *available at* <http://files.eric.ed.gov/fulltext/ED366689.pdf>; GARY ORFIELD & FRANKLIN MONFORT, STATUS OF SCHOOL DESEGREGATION: THE NEXT GENERATION (1992), *available at* <http://files.eric.ed.gov/fulltext/ED415291.pdf>; CHARLES T. CLOTFELTER, AFTER *BROWN*: THE RISE AND RETREAT OF SCHOOL DESEGREGATION (2004).

undermine students' academic success.<sup>8</sup> Indeed, the values and support structures that are necessary to build the foundation for positive school behavior have been found to decrease as a neighborhood's social disorganization increases.<sup>9</sup>

### I. IT TAKES A VILLAGE: ENTER THE PROMISE ZONES INITIATIVE

However, recently we are seeing a return to an "it takes a village to raise a child"-wraparound-services-community-based-economic approach that places the student as the focus center of education. It would seem we have come back to the realization that struggling schools, high unemployment, substandard housing, persistent crime, and other challenges that contribute to and perpetuate each other behoove an integrated approach so students can reach their full potential. In that vein in 2010, the Obama Administration began to address "place-based approach[es]" to helping distressed communities "transform themselves into neighborhoods of opportunity" by creating the Neighborhood Revitalization Initiative (NRI), which engages several federal agencies "in support of local solutions to . . . transform neighborhoods."<sup>10</sup> Since NRI, over "\$350 million has been in[fused] in[to] more than 100 high-poverty communities, through programs like Promise Neighborhoods[,] . . . Choice Neighborhoods grants, . . . Byrne Criminal Justice Innovation grants[,] and the Building Neighborhood Capacity Program" (BNCP).<sup>11</sup> These reforms,

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8. Natasha K. Bowen, Gary L. Bowen & William B. Ware, *Neighborhood Social Disorganization, Families and the Educational Behavior of Adolescents*, 17 J. ADOLESCENT RES. 468, 483 (2002).

9. *Id.*

10. See Office of Urban Affairs, *Neighborhood Revitalization Initiative*, WHITE HOUSE, <http://www.whitehouse.gov/administration/eop/oua/initiatives/neighborhood-revitalization> (last visited Sept. 22, 2014).

11. CTR. FOR THE STUDY OF SOC. POLICY, PROMISE ZONES (2013), available at <http://www.cssp.org/policy/2013/Promise-Zones.pdf>; see also *Programs: Promise Neighborhoods*, U.S. DEP'T EDUC., <http://www2.ed.gov/programs/promiseneighborhoods/index.html> (last visited Sept. 22, 2014); *Choice Neighborhoods*, U.S. DEP'T HOUSING & URB. DEV., [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/cn](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/cn) (last visited Sept. 22, 2014) ("The Choice Neighborhoods program supports locally driven strategies to address struggling neighborhoods with distressed public or HUD-assisted housing through a comprehensive approach to neighborhood transformation. Local leaders, residents, and stakeholders, such as public housing authorities, cities, schools, police, business owners, nonprofits, and private developers, come together to create and implement a plan that transforms distressed

drawing on comprehensive wraparound services that employ school–community collaboration, have been proposed by this author nearly two decades ago to address the public education crisis, particularly in high-poverty areas.<sup>12</sup> In fact, these latest reforms can be seen as a continuation of President Lyndon Johnson’s War on Poverty and Great Society initiatives, where the government’s role in education similarly expanded as did poverty reduction strategies that reflected similar approaches from Franklin D. Roosevelt’s New Deal.<sup>13</sup> But if we are not careful, we may see a substitute of one reform for another without adequately heeding the lessons learned from the past or meeting the challenges of the present. This Article takes a closer examination of the Promise Zones initiative with an eye to understanding its implication for high-poverty, predominantly minority schools. In so doing, I hope also to shed further light on the promise and pitfalls of which policymakers should be mindful as the nation moves forward to gradually embrace these models.

The Promise Zones initiative is part of a large interagency collaboration by the U.S. Department of Education, the Department

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HUD housing and addresses the challenges in the surrounding neighborhood. The program is designed to catalyze critical improvements in neighborhood assets, including vacant property, housing, services and schools.”); *Byrne Criminal Justice Innovation (BCJI) Program*, BUREAU JUST. ASSISTANCE, [https://www.bja.gov/ProgramDetails.aspx?Program\\_ID=70](https://www.bja.gov/ProgramDetails.aspx?Program_ID=70) (last visited Sept. 22, 2014); *About Us*, BUILDING NEIGHBORHOOD CAPACITY PROGRAM RESOURCE CENTER, <http://www.buildingcommunitycapacity.org/> (last visited Sept. 22, 2014); CTR. FOR THE STUDY OF SOC. POLICY, *ALIGNING RESOURCES AND RESULTS: HOW POLICYMAKERS AND COMMUNITIES CAN COLLABORATE TO IMPROVE NEIGHBORHOOD OUTCOMES* (2013), available at [http://www.cssp.org/policy/Aligning-Resources-and-Results\\_How-Policymakers-and-Communities-Can-Collaborate-to-Improve-Neighborhood-Outcomes\\_2013.pdf](http://www.cssp.org/policy/Aligning-Resources-and-Results_How-Policymakers-and-Communities-Can-Collaborate-to-Improve-Neighborhood-Outcomes_2013.pdf) (“The goal of BNCP is to help neighborhoods develop the capacity they need to enable residents, civic leaders, the public and private sectors and local organizations to identify neighborhood needs and implement sustainable solutions. A key tenet of this program is that neighborhoods cannot do this work alone. Though BNCP is designed to build the capacity of a particular neighborhood, it incorporates a city-wide cross-sector partnership. This cross-sector partnership includes broad representation from local government, philanthropy, education, business, housing and other sectors. The partnership provides neighborhoods with access to resources, including the opportunity to meet with and hear from civic leaders and policymakers. BNCP is currently in eight neighborhoods across four cities: Flint, MI, Fresno, CA, Memphis, TN and Milwaukee, WI.”).

12. See generally Maurice R. Dyson, *Rethinking School-Community Collaboration: The Role of Nonprofit Mergers and Joint Ventures in Remedial Education and Social Service Delivery*, 16 NAT’L BLACK L.J. 35 (1998).

13. The War on Poverty policy initiative remains in federal programs such as Head Start, Volunteers in Service to America, TRIO, and Job Corps.

of Housing and Urban Development, the Department of Justice, and the Department of Agriculture within the Obama Administration.<sup>14</sup> The initiative's aim is to enhance economic development in high-poverty communities.<sup>15</sup> More specifically, the Promise Zones Initiative endeavors to "revitalize high-poverty communities across the country by creating jobs, increasing economic activity, improving educational opportunities, reducing serious and violent crime, [and] leveraging private capital."<sup>16</sup> Although funds are not provided directly, the initiative will assist local leaders in navigating the federal bureaucracy.<sup>17</sup> In return, "[a]ll Promise Zones will continuously track those outcomes, and have committed to sharing data across their community partners . . . [to enhance] improvement and accountability."<sup>18</sup> So far five recipients have been chosen for the designation.<sup>19</sup> San Antonio,<sup>20</sup> Philadelphia,<sup>21</sup> Los Angeles,<sup>22</sup>

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14. See U.S. DEP'T HOUSING & URB. DEV., 2013 RURAL/TRIBAL PROMISE ZONE APPLICATION GUIDE 1 (2013), available at <https://www.onecpd.info/onecpd/assets/File/Promise-Zones-Rural-Tribal-Application-Guide-2013.pdf>.

15. *Id.*

16. U.S. DEP'T HOUSING & URB. DEV., SECOND ROUND PROMISE ZONE APPLICATION GUIDE: RURAL/TRIBAL 1 (2014), available at [http://portal.hud.gov/hudportal/documents/huddoc?id=PZ\\_R2\\_App\\_Guide\\_Rural.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=PZ_R2_App_Guide_Rural.pdf).

17. See U.S. DEP'T HOUSING & URB. DEV., *supra* note 14, at 1.

18. See Press Release, The White House, Fact Sheet: President Obama's Promise Zones Initiative (Jan. 8, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/01/08/fact-sheet-president-obama-s-promise-zones-initiative>.

19. See Michael D. Shear, *Obama Announces 'Promise Zones' in 5 Poor Areas*, N.Y. TIMES (Jan. 9, 2014), [http://www.nytimes.com/2014/01/10/us/politics/obama-announces-promise-zones-in-5-stricken-areas.html?\\_r=0](http://www.nytimes.com/2014/01/10/us/politics/obama-announces-promise-zones-in-5-stricken-areas.html?_r=0); see also Alex Newman & Ehab Zahriyeh, *Mapping Obama's Recovery Promise Zones*, ALJAZEERA AMERICA (Jan. 27, 2014, 7:00 AM), <http://america.aljazeera.com/multimedia/2014/1/mapping-the-promisezones.html>.

20. See Press Release, The White House, *supra* note 18 ("The City of San Antonio's key strategies include: [f]ocusing on job creation and training, including through a partnership with St. Philip's College, in key growth areas including energy, health care, business support, aerospace/advanced manufacturing, and construction[; e]mpowering every child with the skills they need by increasing enrollment in high quality pre-K programs; installing a STEM focus in the local school district; expanding enrollment in Early College Programs; . . . improving adult education opportunities[;] [e]xpanding public safety activities to facilitate neighborhood revitalization; improved street lighting and demolishing abandoned buildings; and integrated public safety activities with social resources.").

21. *Id.* ("The City of Philadelphia's key strategies include: [p]utting people back to work through skills training and adult education; classes on small business development to support entrepreneurs; loans and technical assistance for small resident-owned businesses; and the development of a supermarket providing both jobs and access to healthy food[; i]mproving high-quality education to prepare

Southeastern Kentucky,<sup>23</sup> and the Choctaw Nation<sup>24</sup> in Oklahoma were all tapped recently by President Barack Obama to be the first

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children for careers, in partnership with Drexel University and the William Penn Foundation, through increasing data-driven instruction that informs teacher professional development; developing school cultures that are conducive to teaching and learning; mentoring middle and high school youth with focus on college access and readiness; . . . increasing parent engagement[;] [and p]reventing and reducing crime in order to attract new residents and long-term investments, through strategies such as focused deterrence, hot spots policing, and foot patrol.”).

22. *Id.* In the neighborhoods of Pico Union, Westlake, Koreatown, Hollywood, and East Hollywood, key strategies in Los Angeles, CA are proposed. *Id.* (including strategies of “[i]ncreasing housing affordability by preserving existing affordable housing and partnering with housing developers to increase the supply of affordable new housing to prevent displacement[;] e]nsuring all youth have access to a high-quality education, and are prepared for college and careers through its Promise Neighborhoods initiative, by partnering with the Youth Policy Institute and L.A. Unified School District to expand its Full Service Community Schools model from 7 schools to all 45 Promise Zone schools by 2019[;] e]nsuring youth and adult residents have access to high-quality career and technical training opportunities that prepare them for careers in high-growth industries through partnerships with career and technical training schools and the Los Angeles Community College District[;] [i]nvesting in transit infrastructure including bus rapid transit lines and bike lanes, and promoting transit-oriented development (TOD) that attracts new businesses and creates jobs[;] [and c]harging its Promise Zone Director and Advisory Board with eliminating wasteful and duplicative government programs”).

23. *Id.* (“In Southeastern Kentucky, the Kentucky Highland’s Investment Corps’ key strategies include: [i]mplementing a sustainable economic effort across eight counties in the Kentucky Highlands region, focused on diversifying Southeastern Kentucky’s economy to make it more resilient[;] c]reating jobs and growing small businesses by leveraging \$1.3 million of private sector funds in a revolving loan fund targeted within the Promise Zone[;] c]reating leadership and entrepreneur training for youth and industry-specific re-training opportunities for local skilled workforce, through the University of Kentucky Economic Development Initiative, the East Kentucky Concentrated Employment Program, and the Kentucky Highlands Investment Corporation[;] [and i]n order to ensure all youth have access to a high-quality education Berea College will run evidence-based college and career readiness programs for high school students in the Zone, while Eastern Kentucky University will expand technical education programs.”).

24. *Id.* (“The Choctaw Nation of Oklahoma’s key strategies include: [i]mproving skills for tomorrow’s jobs, through workforce training for skilled trades and professionals and more rigorous summer and after-school programs[;] [l]everaging its role as the largest employer in southeastern Oklahoma to create a strong base for economic revitalization by working with partners, like Oklahoma State University, Eastern Oklahoma State College, and the Kiamichi Technology Center to improve workforce training for skilled trades and professionals, with a focus on providing nationally-recognized STEM certifications[;] i]nvesting in infrastructure that lays the foundation for economic growth, including water and sewer infrastructure; these infrastructure challenges have been identified as impediments to investment in an area with otherwise strong growth potential[;]

areas designated as “Promise Zones,” and each zone has set ambitious plans.<sup>25</sup> The five Promise Zones announced are proposed as part of the twenty that will be selected from submitted applications around the nation over the next three years.<sup>26</sup>

It remains to be seen which Education Department competitions will receive an advantage in the designated Promise Zones, but speculation suggests there will be special consideration for the similarly named “Promise Neighborhood” competition that disburses up to \$6 million a year in “planning” and “implementation” grants for five years in wraparound services to various communities.<sup>27</sup> The Promise Neighborhoods program was “established under the legislative authority of the Fund for the Improvement of Education Program (FIE), [and] provides funding to . . . nonprofit organizations, . . . faith-based nonprofit organizations, . . . institutions of higher education, and . . . Indian tribes.”<sup>28</sup> The program hoped to replicate the success of the Harlem Children’s Zone (HCZ) that has coupled education reform with local community-based initiatives designed to address high-poverty conditions surrounding the school and affecting enrolled families using various nonprofits.<sup>29</sup> However, this targeted approach of the

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[i]mproving educational outcomes by working across 85 school districts throughout the region to share data for continuous improvement, and bolster early literacy and parent support programs[; and p]ursuing economic diversification by utilizing natural, historic, and cultural resources to support growth, including evaluation of market capacity for local farmers’ markets, as well as implementation of technology-enhanced ‘traditional’ farming and ranching, and large-scale greenhouses and specialized training in business plan development, marketing, and financing to support the development of women-owned businesses in the Promise Zone.”).

25. *See id.*

26. *Id.*

27. Alyson Klein, *What Exactly Do Obama’s Zones Have to Do with Education, Anyway?*, EDUC. WEEK (Jan. 9, 2014, 2:52 PM), [http://blogs.edweek.org/edweek/campaign-k-12/2014/01/what\\_exactly\\_do\\_obamas\\_zones\\_h.html](http://blogs.edweek.org/edweek/campaign-k-12/2014/01/what_exactly_do_obamas_zones_h.html). Such wraparound services include early childhood education. *Id.* The planning grants usually precede the larger implementation grants and are meant to help finance an assessment to determine what a community needs in terms of education, social services, and economic development, and how to implement these services and support structures. *See, e.g., Programs Target Poverty in Obama’s 5 ‘Promise Zones,’* NPR (July 6, 2014, 6:48 PM), <http://www.npr.org/2014/07/06/329257721/programs-target-poverty-in-obamas-five-promise-zones> [hereinafter *Programs Target Poverty*].

28. *Programs: Promise Neighborhoods*, *supra* note 11.

29. *Programs Target Poverty*, *supra* note 27. “[N]onprofits in at least three of the five Promise Zones actually already have Promise Neighborhood

Promise Zones and Promise Neighborhoods is not a new one and in many ways reflects the model of “settlement houses” that operated as community-center hubs attached to a broad array of services that the federal government established in high-poverty neighborhoods over a century ago.<sup>30</sup> The HCZ similarly operates as a cradle to graduation program in New York City.<sup>31</sup> As one commentator explained, these comprehensive approaches are as ambitious as they are necessary, but are part and parcel of a gradual process.<sup>32</sup>

“[HCZ] focused very explicitly on children, and they didn’t invent the intervention all at once—they plugged away at it over decades,” says Margery Turner, a senior vice president at the Urban Institute. Since then, Turner says, place-based initiatives have taken off. She says that the reason we should tackle poverty in place is that when people live in deeply poor and distressed neighborhoods, conditions in those neighborhoods really undermine people’s chances of success. “If we don’t tackle those conditions, other strategies we use that supplement income or provide educational opportunities or work opportunities, they’re going to be less effective.” . . . “Persistent intergenerational poverty is a complicated problem. There are a lot of big forces . . . .”<sup>33</sup>

The need to address the conditions of poverty that impact attendance, matriculation, graduation, and career readiness are indeed compelling. This is perhaps even more so as the courts have constitutionally de-linked the nexus between efforts at school-equity reforms and their surrounding neighborhoods.<sup>34</sup> But as states seek to address these issues, they should be mindful that just handing cash out to poor communities is not sufficient,<sup>35</sup> or perhaps even ideal,

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Implementation grants. And at least one has a ‘planning’ grant.” Klein, *supra* note 27.

30. *Programs Target Poverty, supra* note 27.

31. *Id.*

32. *Id.*

33. *Id.*

34. *See generally* Milliken v. Bradley, 433 U.S. 267 (1977); Missouri v. Jenkins, 515 U.S. 70 (1995); Freeman v. Pitts, 503 U.S. 467 (1992); Bd. of Educ. v. Dowell, 498 U.S. 237 (1991); CARL L. BANKSTON III & STEPHEN J. CALDAS, A TROUBLED DREAM: THE PROMISE AND FAILURE OF SCHOOL DESEGREGATION IN LOUISIANA 42 (2002); JOHN HOPE FRANKLIN & EVELYN BROOKS HIGGINBOTHAM, FROM SLAVERY TO FREEDOM: A HISTORY OF AFRICAN AMERICANS 492-93 (9th ed. 2010).

35. *See generally* Maurice Dyson, *The Death of Robin Hood? Proposals for Overhauling Public School Finance*, 11 GEO. J. ON POVERTY L. & POL’Y 1 (2004); Maurice R. Dyson, *A Covenant Broken: The Crisis of Educational Remedy for New York City’s Failing Schools*, 44 HOW. L.J. 107 (2000).

without greater mental, cultural, and community-wide transformation.<sup>36</sup>

The Promise Neighborhoods Program,<sup>37</sup> coming with a price tag of \$60 million, “was initially pretty popular in Congress”<sup>38</sup> and had a laudable goal “to significantly improve the educational and developmental outcomes of children and youth in our most distressed communities, and to transform those communities.”<sup>39</sup> The vision of the program is to promote universal “access to great schools and strong systems of family and community support that will prepare [students] to attain [a top-rated] education and successfully transition to college and a career” through a series of simultaneous strategies designed to empower communities.<sup>40</sup> Some Promise Zone awardees

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36. *Programs Target Poverty*, *supra* note 27. “Cash benefits certainly [are] a really important part of a solution, [but] for families in these really distressed neighborhoods . . . it’s not enough.” *Id.* (alteration in original) (quoting Margery Turner, senior vice president of the Urban Institute).

37. *Programs: Promise Neighborhoods*, *supra* note 11 (“In 2010, the Promise Neighborhoods program awarded one-year grants to support the development of a plan to implement a Promise Neighborhood in 21 communities across the country . . . . At the conclusion of the planning grant period, grantees should have a feasible plan to implement a continuum of solutions that will significantly improve results for children in the community being served. In 2011, the Department awarded a second round of planning grants and a first round of implementation grants. The five implementation grants and 15 planning grants will reach an additional 16 communities throughout the United States in order to help revitalize disadvantaged neighborhoods. Promise Neighborhoods is now in 18 states and the District of Columbia. In 2012, a third round of planning grants and a second round of implementation grants were awarded. The 7 implementation grants and 10 planning grants will reach an additional 11 new communities throughout the country. Promise Neighborhoods is now in 20 states and the District of Columbia. In subsequent years, contingent on the availability of funds, the Department intends to conduct competitions for new implementation and planning grants. While all eligible entities will be able to apply for implementation grants, eligible entities that have effectively carried out the planning activities described in the Notice Inviting Applications, whether independently or with a Promise Neighborhoods planning grant, are likely to be well positioned with the plan, commitments, data, and demonstrated organizational leadership and capacity necessary to develop a quality application for an implementation grant.”).

38. Klein, *supra* note 27.

39. *Programs: Promise Neighborhoods*, *supra* note 11.

40. *Id.* The Promise Neighborhood Initiative proposed to support desirable educational outcomes and local-community development by five key strategies. *See id.* (“1. Identifying and increasing the capacity of eligible entities that are focused on achieving results for children and youth throughout an entire neighborhood; 2. Building a complete continuum of cradle-to-career solutions of both educational programs and family and community supports, with great schools at the center; 3. Integrating programs and breaking down agency ‘silos’ so that solutions are

have already previously won Promise Neighborhood grants and have been busy expending those dollars on various initiatives.<sup>41</sup> Many of these initiatives are certainly promising, but we should also be mindful to focus on initiatives that have proven to be positive in eliminating the root causes of poverty and academic failure in predominantly minority schools. These include increasing prenatal care; providing early literacy intervention; retaining highly qualified and engaged teachers; and providing accelerated, dynamic, and culturally relevant lessons and non-core extracurricular activity that engages students in learning and decreases student dropouts.<sup>42</sup> The wheel need not be entirely reinvented as the Promise Zone Initiatives may best be implemented by capitalizing on these evidence-based approaches that can only enhance its effectiveness in educating the whole child and transforming high-poverty schools.

## II. GENTRIFICATION & INTEGRATION: CHALLENGES & ALTERNATIVES TO THE PLACE-BASED APPROACH

While there are significant benefits to addressing the comprehensive needs of communities where high-poverty schools are located, there are significant challenges on the horizon. First, despite these notable goals, there has been in recent times some

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implemented effectively and efficiently across agencies; 4. Developing the local infrastructure of systems and resources needed to sustain and scale up proven, effective solutions across the broader region beyond the initial neighborhood; and 5. Learning about the overall impact of the Promise Neighborhoods program and about the relationship between particular strategies in Promise Neighborhoods and student outcomes, including through a rigorous evaluation of the program.”).

41. According to some reports, the use of grant funds has been wide and varied. See Klein, *supra* note 27 (“Los Angeles, Calif. is planning a partnership between the Youth Policy Institute and the Los Angeles Unified School District to expand its ‘Full Service Community School’ program from 7 to 45 schools by 2019. Berea College in Kentucky, which is part of the Southeastern, Kentucky Promise Zone is aiming to run an evidence-based college- and career-readiness program. And United Way of San Antonio & Bexar County, Inc. also got an ‘implementation’ grant for the department’s Promise Neighborhood initiative. Their proposal includes a new on focus on instruction of science, technology, engineering, and mathematics in pre-kindergarten through high school. . . . Plus, Universal Community Homes, a non-profit in Philadelphia has won a ‘planning’ grant, which help [sic] neighborhoods think through how they want to structure social services, arts programs, education, and other programs to further a variety of goals, including bolstering graduation rates and closing the achievement gap. Philadelphia’s Promise Zone plan includes using data to improve teacher training, and expanding mentorship programs for at-risk kids.”).

42. See generally Dyson, *supra* note 2.

reluctance in Congress to fully commit funding to the program due to speculation about the wisdom to award planning grants (grants that subsidize the planning of anti-poverty strategies) that might not be implemented.<sup>43</sup> Second, it is not clear how and whether neighborhoods undergoing transformation, often vis-à-vis gentrification, will benefit poor students and their families as the programs were intended to do.<sup>44</sup> Revitalization that produces gentrification, where higher rents force out the very low-income students and families that are the most in need of quality neighborhood schools, is a serious concern.

In the past, particularly in the case of school finance litigation, all too often well-to-do families have co-opted federal and state dollars that were intended to benefit low-socioeconomic students.<sup>45</sup> On the other hand, evidence reveals that low-socioeconomic students who attend middle-class or affluent schools tend to do much better than poor students concentrated in predominantly high-poverty schools.<sup>46</sup> For this reason, some proponents have proposed socioeconomic integration.<sup>47</sup> Social science research shows that economic integration in schools has positive educational effects for low-performing students, such as higher test scores, higher graduation rates, an increased chance of attending college, and

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43. It has been reported that most communities that have received “planning grants” have yet to successfully reach the implementation stage. Klein, *supra* note 27. Perhaps based on these concerns and other priorities, the Senate Appropriations Committee voted to reduce a proposed \$43 million increase for the program and earmark it instead to special education. *Id.*

44. See Alex Dobuzinskis, *Los Angeles Urban Swath to Test Obama’s ‘Promise Zone’ Plan*, REUTERS (Mar. 6, 2014, 3:33 PM), <http://www.reuters.com/article/2014/03/06/us-usa-promisezone-losangeles-idUSBREA251ZK20140306> (“But gentrification already taking root there may prove a test for the plan, which taps existing federal funds for job training, affordable housing and public safety. Some urban planning experts warn that it may hike rents and displace the poor rather than create prosperous working class neighborhoods.”).

45. See generally Maurice R. Dyson, *Playing Games with Equality: A Game Theoretic Critique of Educational Sanctions, Remedies, and Strategic Noncompliance*, 77 TEMP. L. REV. 577 (2004).

46. UNC CTR. FOR CIVIL RIGHTS, THE SOCIOECONOMIC COMPOSITION OF THE PUBLIC SCHOOLS: A CRUCIAL CONSIDERATION IN STUDENT ASSIGNMENT POLICY I (2005), <http://www.law.unc.edu/documents/civilrights/briefs/charlottereport.pdf>.

47. Richard D. Kahlenberg, *Socioeconomic School Integration*, 85 N.C. L. REV. 1545, 1546-47 (2007); Molly S. McUsic, *The Future of Brown v. Board of Education: Economic Integration of the Public Schools*, 117 HARV. L. REV. 1334, 1335 (2004).

success in the employment and housing markets.<sup>48</sup> Yet this phenomenon should not be used as a justification to marginalize low-income or low-socioeconomic students from benefitting primarily from the comprehensive wraparound services that are needed in racially isolated, high-poverty schools. Moreover, there are other potential alternatives. For instance, geography-based integration was pioneered by the Berkeley Unified School District (USD).

In order to comply with the stringent mandate of California's Prohibition Against Discrimination or Preferential Treatment (Proposition 209),<sup>49</sup> Berkeley USD adopted its plan well before the Supreme Court's decision striking down voluntary racial balancing in the absence of de jure segregation in *Parents Involved*.<sup>50</sup> Its geography-based integration model permitted parents to select their top school choices provided that their selections would result in school racial/ethnic and socioeconomic diversity remaining reflective of the attendance-zone average.<sup>51</sup> However, when school demographics would deviate significantly from the attendance-zone average, students could be assigned to campuses on the basis of their neighborhood's "diversity index" rather than their individual characteristics.<sup>52</sup>

The plan recently survived a challenge to its constitutionality in *American Civil Rights Foundation v. Berkeley Unified School District*.<sup>53</sup> The plan was challenged on the grounds that it was racially discriminatory in violation of § 31 of the California Constitution.<sup>54</sup> But for the reason that the plan evidenced no partiality to race, the plan demonstrated it would also likely survive

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48. See generally Kahlenberg, *supra* note 47.

49. See CAL. CONST. art. I, § 31(a) (prohibiting public institutions from using individual race/ethnicity and sex in education and hiring matters).

50. *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 747-48 (2007); see also *Meredith v. Jefferson Cnty. Bd. of Educ.*, 547 U.S. 1178 (2006) (decided with *Parents Involved*).

51. Gary Orfield, *Foreword* to LISA CHAVEZ & ERICA FRANKENBERG, *INTEGRATION DEFENDED: BERKELEY UNIFIED'S STRATEGY TO MAINTAIN SCHOOL DIVERSITY*, at iv (2009), available at <http://escholarship.org/uc/item/78c5z7dv>.

52. *Id.* at iv-v. Berkeley USD divides the district into 445 neighborhood "planning areas," which is assigned a diversity index that is calculated as a weighted function of the percentage of students of color, median household income, and mean level of adult education, using data from the U.S. Census 2000 and district K-12 data. *Id.* at 6.

53. 90 Cal. Rptr. 3d 789, 792 (Ct. App. 2009).

54. *Id.* at 793. The First District Court of Appeal ruled that Berkeley USD's plan did not exhibit any partiality according to an individual student's race, noting that all students in each neighborhood were treated equally. *Id.* at 792.

the Supreme Court's *Grutter*<sup>55</sup> and *Gratz*<sup>56</sup> holdings as well. Berkeley USD's plan has received recognition as an example of stable integration while preserving parental school of choice.<sup>57</sup> Since shifting from a race-based to a geography-based integration plan, the National Center for Education Statistics Common Core of Data confirms segregation rates are maintained at extremely low levels.<sup>58</sup> But perhaps socioeconomic integration and geographic-based integration with socioeconomic-diversity considerations indirectly target another key factor that is responsible for academic success. When lower-socioeconomic students attend higher-quality public schools, not only is there academic growth,<sup>59</sup> but a recent study also found that

students entering low-[socioeconomic] schools are about 4 years behind students who enter high-[socioeconomic] schools. It also means that at the end of 4 years of high school, students in low-[socioeconomic] high schools have lower achievement levels, on average, than students in high-[socioeconomic] high schools had before they started high school!<sup>60</sup>

But there may also be social growth, which, according to group socialization theory, purports that children's behaviors, values, and goals are the result of their genetic composition, peer influence, and the social norms of those groups.<sup>61</sup> Therefore, if a student attends a

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55. *Grutter v. Bollinger*, 539 U.S. 306 (2003).

56. *Gratz v. Bollinger*, 539 U.S. 244 (2003).

57. See CHAVEZ & FRANKENBERG, *supra* note 51, at 11-15.

58. See JOHN ICELAND, DANIEL H. WEINBERG & ERIKA STEINMETZ, U.S. CENSUS BUREAU, RACIAL AND ETHNIC RESIDENTIAL SEGREGATION IN THE UNITED STATES: 1980-2000, at 3-4 (2002).

59. Russell W. Rumberger & Gregory J. Palardy, *Does Segregation Still Matter? The Impact of Student Composition on Academic Achievement in High School*, 107 TCHRS. C. REC. 1999, 2003 (2005) ("Our findings suggest that segregation still matters, but it is the socioeconomic composition, not the racial composition, of high schools that impacts student achievement. We also find that the effects of socioeconomic segregation can largely be explained by its association with such school characteristics as academic climate and teacher expectations. We further find that students attending the most affluent schools (those with the highest socioeconomic composition) receive the greatest academic benefits, which raises questions about the political and individual will to integrate schools in order to achieve equality of educational opportunity.").

60. *Id.* at 2017.

61. See Molly S. McUsic, *The Future of Brown v. Board of Education: Economic Integration of the Public Schools*, 117 HARV. L. REV. 1334, 1356 (2004) (citing JUDITH RICH HARRIS, *THE NURTURE ASSUMPTION: WHY CHILDREN TURN OUT THE WAY THEY DO* 198 (1998); Mary B.W. Tabor, *Comprehensive Study Finds Parents and Peers Are Most Crucial Influences on Students*, N.Y. TIMES, Aug. 7, 1996, at A15)).

school that successfully stresses the academic excellence of their student body, it is likely that child would emulate those ideals as well. To achieve this goal, higher-quality, high-socioeconomic schools should apportion a percentage of seats to low-socioeconomic students, allowing students at an early age access to adequate education that high-socioeconomic students receive.

However, when it comes to understanding why high-socioeconomic status matters for students' academic success, few scholars have been able to provide explanations that are predicated on evidence-based research. Russell Rumberger and George Palardy's study of socioeconomic effects on high school achievement reveals that academic climate and the culture of teacher expectations may be instrumental through four school process variables that were significant in contributing to student success. They are "1. [t]eachers' expectations about students' ability to learn[;] 2. [t]he average hours of homework that students completed per week[;] 3. [t]he average number of advanced (college prep) courses taken by students in the school[; and] 4. [t]he percentage of students who reported feeling unsafe at school."<sup>62</sup> Indeed, after controlling for teacher expectations and the academic climate, Rumberger and Palardy found that the socioeconomic composition of a school has no significant discernible impact upon student learning.<sup>63</sup> Thus, where teachers have high expectations of their student's ability to succeed, students are given greater instruction reinforced through more completed homework assignments, advanced or accelerated class offerings, and where students feel safe, they performed significantly better academically.<sup>64</sup> Quite interestingly, popular educational reforms, "such as teacher collegiality, supportive leadership, and shared decision-making, . . . were found to have no direct impact on [enhancing] student achievement."<sup>65</sup> Consequently, in the quest to replicate success, it becomes paramount to separate fad from fact in order to examine the actual underpinnings that meet the academic needs of high-poverty minority students.

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62. *Id.* at 2016.

63. *Id.* at 2021.

64. *Id.* at 2016.

65. *Id.*

## III. THE QUEST TO REPLICATE SUCCESS

Thus far, it has been difficult to replicate the success of the HCZ or the HCZ model.<sup>66</sup> Moreover, it makes better sense to look to the school model that has been replicated on the broadest scale to date nationwide. This undoubtedly is the Knowledge is Power Program (KIPP) Charter Schools model. As of the 2012–2013 school year, 125 KIPP schools are in operation in twenty different states and the District of Columbia around the nation that are often racially isolated and located in high-poverty areas.<sup>67</sup> Students in poverty attending a KIPP school have significant, positive academic-growth

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66. See NAT'L ASS'N OF CHARTER SCH. AUTHORIZERS, NACSA CHARTER SCHOOL REPLICATION GUIDE: THE SPECTRUM OF REPLICATION OPTIONS 2 (2010) *available at* [http://www.qualitycharters.org/assets/files/images/stories/publications/Issue\\_Briefs/Replication\\_BriefNo1\\_Replication\\_Options\\_Aug10.pdf?q=images/stories/publications/Issue\\_Briefs/Replication\\_BriefNo1\\_Replication\\_Options\\_Aug10.pdf](http://www.qualitycharters.org/assets/files/images/stories/publications/Issue_Briefs/Replication_BriefNo1_Replication_Options_Aug10.pdf?q=images/stories/publications/Issue_Briefs/Replication_BriefNo1_Replication_Options_Aug10.pdf) (“When education reformers speak of charter school replication, they generally mean recreating an entire program, not merely elements of it. If a school were, for example, to develop a unique curriculum or method of training teachers or delivering instruction, such elements could be utilized again and again in numerous programs. While this is a way to share best practices, it is not replication per se. For example, Direct Instruction and Core Knowledge are specialized curricular packages that are key components of some replicated schools designs, but are not, in and of themselves, school replications. School replication is a package deal that includes all of the elements necessary to allow a freestanding charter school to reproduce its core features in a distinctly separate context. That work may fall to the founders or leaders of a particular school, or to an educational service provider (ESP) – generally a for-profit education management organization (EMO) or a non-profit charter management organization (CMO). It is not always easy to draw a firm line between borrowing elements from a successful program and replicating the program itself, though. When core elements and, in some respects, the ‘essence’ of a successful charter school model are planted in a new location, it is tempting to see this as a replication, even though there are plenty of aspects that differ from the template. Noble Street, for example, is a CMO that has achieved strong academic results and is consistently adding new schools to its network in Chicago. Although there are similarities in each Noble Street school, each also contains unique programs and/or supports depending on the characteristics and demographics of each particular school community. Principals have substantial discretion in defining their schools, within certain fixed parameters (including a core curriculum). Staffing, class size, and ancillary supports and programs vary school by school. In this case, Noble Street, and other ESPs with similar educational philosophies, defines replication as recreating the underlying culture or ‘feel’ of its existing schools.”).

67. CHRISTINA CLARK TUTTLE ET AL., KIPP MIDDLE SCHOOLS: IMPACTS ON ACHIEVEMENTS AND OTHER OUTCOMES, at xiii (2013), *available at* [http://www.kipp.org/files/dmfile/KIPP\\_Middle\\_Schools\\_Impact\\_on\\_Achievement\\_and\\_Other\\_Outcomes1.pdf](http://www.kipp.org/files/dmfile/KIPP_Middle_Schools_Impact_on_Achievement_and_Other_Outcomes1.pdf).

effects in both math and reading subjects, and more notably, the positive effect in math is large enough that it completely cancels out the negative effect associated with being in poverty.<sup>68</sup> This result challenges the notion that the Promise Zones approach, while laudable, is not the key to academic success it may be touted as because poverty students who attend KIPP schools on average grow as much in math as non-poverty students attending traditional public schools.<sup>69</sup>

The academic progress for English Language Learner (ELL) students is also noticeable, though the findings are somewhat mixed for those in KIPP schools. For instance, it has been found that “[i]n reading, ELL students attending non-KIPP charter schools had stronger growth than ELL KIPP students. Both types of charter students had stronger growth when compared to traditional public school ELL students. KIPP ELL students had stronger growth in math than both traditional public school and non-KIPP students.”<sup>70</sup> Yet there are operational and financing differences that make it hard to replicate KIPP’s success. For instance, KIPP estimates that for its program’s longer school day and longer school year, KIPP receives an estimated \$6,500 more per pupil in revenues from public or private revenues sources, spending approximately \$457 more per pupil than local school districts.<sup>71</sup> However, research also shows that besides extended instructional time on core subjects, the KIPP school approach toward student behavior and school culture appears key.

Indeed, what is revealing is the common focus that KIPP charter schools (mostly middle schools) share with Rumberger and Palardy’s socioeconomic study findings of high schools. They both include increased student instruction, homework completion, high

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68. *See id.* at xiii-xvi.

69. *Id.* at xvii. The results in reading are not as strong as in math but, in any case, are large.

70. JAMES L. WOODWORTH & MARGARET E. RAYMOND, CHARTER SCHOOL GROWTH AND REPLICATION, VOLUME II (2013), available at <https://credo.stanford.edu/pdfs/CGAR%20Growth%20Volume%20II.pdf>.

71. GARY MIRON, JESSICA L. URSCHER & NICHOLAS SAXTON, WHAT MAKES KIPP WORK? A STUDY OF STUDENT CHARACTERISTICS, ATTRITION, AND SCHOOL FINANCE, at ii (2011), available at <http://www.edweek.org/media/kipstudy.pdf> (“As a whole, KIPP districts spend more per pupil in total current expenditures (\$10,558) than do other charter school districts (\$8,492), slightly more than their host districts (\$10,101) and more than the national average for all schools (\$10,121). KIPP spends more on instruction (\$5,662) than the average for charter schools (\$4,617) but less than the national average (\$6,196) or KIPP host districts (\$5,972).”).

teacher expectations, a rigorous curriculum, and a safe, supportive school climate. Once again, these school characteristics suggest they are significant factors that should be examined more closely in educational reforms that aim to enhance academic success for minority students in high-poverty areas. Yet KIPP's selective admission and dismissal of African-American male students that shape its student body should also give us pause when considering replicating its model nationwide.<sup>72</sup> School policies and practices that harm students, particularly African-American and Latino male student achievement such as lowered teacher expectations, teacher referrals to special education, ability grouping (tracking), and punitive student discipline and referral to the juvenile justice system (or school-to-prison pipeline) create a harmful school-wide culture and climate.<sup>73</sup> These collective policies that create a harmful school-wide culture must be addressed if initiatives such as socioeconomic integration, Promise Zones, or the recently announced My Brother's Keeper Initiative (targeted at males of color) are to be truly successful in high-poverty minority schools.<sup>74</sup>

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72. *Id.* ("KIPP schools have substantially higher levels of attrition than do their local school districts. Our analysis revealed that on, average, approximately 15% of the students disappear from the KIPP grade cohorts each year. Between grades 6 and 8, the size of the KIPP grade cohorts drop by 30%. The actual attrition rate is likely to be higher since some of the KIPP schools do fill in some of the vacated places after grade 6. When these figures are further broken out by race and gender, we can see that a full 40% of the African American male students leave KIPP schools between grades 6 and 8. Overall a higher proportion of African American students than other ethnic groups leave the KIPP schools, and girls are much more likely remain in the KIPP schools across all ethnic groups.").

73. See generally Maurice R. Dyson, *Are We Really Racing to the Top or Leaving Behind the Bottom? Challenging Conventional Wisdom and Dismantling Institutional Repression*, 40 WASH. U. J.L. & POL'Y 181 (2012).

74. See *My Brother's Keeper*, WHITE HOUSE, <http://www.whitehouse.gov/my-brothers-keeper> (last visited Sept. 22, 2014); see also Press Release, The White House, Fact Sheet: Opportunity for All: President Obama Launches My Brother's Keeper Initiative to Build Ladders of Opportunity for Boys and Young Men of Color (Feb. 27, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/02/27/fact-sheet-opportunity-all-president-obama-launches-my-brothers-keeper> ("The Task Force will work across executive departments and agencies to: [a]ssess the impact of Federal policies, regulations, and programs of general applicability on boys and young men of color, so as to develop proposals that will enhance positive outcomes and eliminate or reduce negative ones; [r]ecommend, where appropriate, incentives for the broad adoption by national, State, and local public and private decision makers of effective and innovative strategies and practices for providing opportunities to and improving outcomes for boys and young men of color; [c]reate an Administration-wide 'What Works' online portal to disseminate successful programs and practices that improve outcomes for boys and

#### IV. THE HARMFUL IMPACT OF SCHOOL-WIDE CULTURE IN HIGH-POVERTY & MINORITY SCHOOLS

Improving school culture requires not just implementing positive reforms, but also to stop reinforcing harmful ones. More specifically, “KIPP’s impact on student achievement is larger in schools where principals report a more comprehensive school-wide behavior system. . . . Under comprehensive school-wide behavior systems, schools have clearly defined and consistently enforced rewards for good behavior and consequences for negative behavior.”<sup>75</sup> This last point cannot be stressed enough. While much of this author’s previous works have defined positive school-wide behavioral rewards and culture,<sup>76</sup> we too often fail to appreciate the psychological struggles of our youth and the impact educational policies have that exacerbate those struggles. Policies that label and stigmatize students based on academic deficiencies, disabilities, or language proficiency are more often found in low-income, high-poverty, or predominantly minority, racially segregated school cultures.<sup>77</sup> We often see predominantly minority schools evidence a school culture that is hyper-criminalized through zero tolerance policies and the stifling, retraining, or controlling of student energy.

In contrast, school culture in predominantly white schools promotes the creative challenging of students’ energies and their natural curiosity. A school culture that is primarily test-prep oriented; rigidly authoritarian; segregated by race and class; one that shames students not conforming to the dress code or assigns demerits for slouching or not making eye contact with teachers when

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young men of color[; d]evelop a comprehensive public website, to be maintained by the Department of Education, that will assess, on an ongoing basis, critical indicators of life outcomes for boys and young men of color in absolute and relative terms[; w]ork with external stakeholders to highlight the opportunities, challenges, and efforts affecting boys and young men of color[;] [and r]ecommend to the President means of ensuring sustained efforts within the Federal Government and continued partnership with the private sector and philanthropic community as set forth in the Presidential Memorandum.”).

75. TUTTLE ET AL., *supra* note 67, at xx.

76. See, e.g., CHRISTINA CLARK TUTTLE ET AL., STUDENT CHARACTERISTICS AND ACHIEVEMENT IN 22 KIPP MIDDLE SCHOOLS, at xi-xii (2010), available at [http://www.mathematica-mpr.com/~media/publications/PDFs/education/kipp\\_fnl rpt.pdf](http://www.mathematica-mpr.com/~media/publications/PDFs/education/kipp_fnl rpt.pdf).

77. See Robert A. Garda Jr., *The New IDEA: Shifting Educational Paradigms to Achieve Racial Equality in Special Education*, in OUR PROMISE: ACHIEVING EDUCATIONAL EQUALITY FOR AMERICA’S CHILDREN 449, 458-61 (Maurice R. Dyson & Daniel B. Weddle eds., 2009).

speaking; or that is heavily critical, disciplinary, or punitive replicates the social stigmas minority youth face. Placing minority youth in alternative-learning centers that are beset with low expectations, high juvenile delinquency, and high student dropouts only exacerbates low academic outcomes and low self-esteem. These educational settings reflect the most destructive of school cultures that are the least conducive to student well-being and academic performance. We would do well to see that children are not treated as interchangeable widgets but rather as direct products of their environment and the culture that inculcates values in a child. One poem illustrates this phenomenon quite aptly:

If children live with criticism, they learn to condemn.

If children live with hostility, they learn to fight.

If children live with fear, they learn to be apprehensive.

If children live with pity, they learn to feel sorry for themselves.

If children live with ridicule, they learn to feel shy.

If children live with jealousy, they learn to feel envy.

If children live with shame, they learn to feel guilty.

If children live with encouragement, they learn confidence.

If children live with tolerance, they learn patience.

If children live with praise, they learn appreciation.

If children live with acceptance, they learn to love.

If children live with approval, they learn to like themselves.

If children live with recognition, they learn it is good to have a goal.

If children live with sharing, they learn generosity.

If children live with honesty, they learn truthfulness.

If children live with fairness, they learn justice.

If children live with kindness and consideration, they learn respect.

If children live with security, they learn to have faith in themselves and in those about them.

If children live with friendliness, they learn the world is a nice place in which to live.<sup>78</sup>

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78. DOROTHY LAW NOLTE, CHILDREN LEARN WHAT THEY LIVE (1972), reprinted in DOROTHY LAW NOLTE & RACHEL HARRIS, CHILDREN LEARN WHAT THEY LIVE: PARENTING TO INSPIRE VALUES, at vi-vii (1998).

Just as important as it is to understand the positive benefits of school cultures that are conducive to student well-being and learning, such as those the KIPP schools endorse, we must take a critical look at policies that negatively shape school cultures and that are harmful to student psychological esteem, well-being, and academic success. These policies operate within and beyond the classroom in minority communities. So when students are placed in detention centers, in handcuffs, or in orange prison jump suits before being tried or found guilty, all of which leave an indelible psychological impact, students become coached into patterns of self-marginalization. Is it no wonder that we find that students who are stopped and frisked frequently or harassed by officers of law enforcement begin to subconsciously emulate or take on the subordinated roles that society would impose upon them? It should come as no surprise then that we see youth confess to offenses and crimes they could not have possibly committed when officers are legally permitted to fabricate false incriminating evidence just to secure confessions.<sup>79</sup>

The logic that people do not confess to crimes or offenses they have not committed does not hold sway based on the psychological evidence that demonstrates holes in that assumption.<sup>80</sup> The subconscious mind is subject to and extremely amenable to suggestion.<sup>81</sup> It is not predicated on logic but the mental and emotional acceptance of a proposition as a belief.<sup>82</sup> Once accepted as a belief, the subconscious mind proceeds to invoke the internal biochemistry, behaviors, self-image, and actions that are consistent with the belief held, otherwise known as the placebo effect.<sup>83</sup> This phenomenon resulting from a firmly held belief may also help explain why the notion that teacher expectations and beliefs of their students' ability to learn and succeed may have significant measurable effects on student achievement, as Rumberger and Palardy found.<sup>84</sup> As with their research findings, the placebo effect

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79. See *New Study Finds False Confessions More Likely Among Juveniles*, INNOCENCE PROJECT (Oct. 22, 2013, 3:40 PM), [http://www.innocenceproject.org/Content/New\\_Study\\_Finds\\_False\\_Confessions\\_More\\_Likely\\_Among\\_Juveniles.php](http://www.innocenceproject.org/Content/New_Study_Finds_False_Confessions_More_Likely_Among_Juveniles.php).

80. See *Understand the Causes: False Confessions*, INNOCENCE PROJECT, <http://www.innocenceproject.org/understand/False-Confessions.php> (last visited Sept. 22, 2014).

81. See generally Maj-Britt Niemi, *Placebo Effect: A Cure in the Mind*, SCI. AM. MIND, Feb./Mar. 2009, at 42 (explaining the placebo effect).

82. See generally *id.*

83. See generally *id.*

84. Rumberger & Palardy, *supra* note 59, at 2003.

also demonstrates individuals may rise or fall based on clearly held expectations.<sup>85</sup> Conversely, when students are administered tests that invoke stereotypes and racially derogatory questions, these exams implicitly express beliefs that only further perpetuate within the minds of minority youth roles of racial subordination that may also impact student performance.<sup>86</sup> Recently, the third-grade math question invoking the imagery of whiplashes a slave endures is just such an example.<sup>87</sup> Consider also the example set by the Austin Independent School District's (AISD) policy promoted as test preparation in many of its high-minority Title I elementary schools. According to Diane Ravitch, methods of the school district are known by mental health experts as factors that contribute to mental illness, criminality, and chronic stress usually by the age of six to eight, when used for conditioning and shaping behavior.<sup>88</sup> "The most common symptoms begin with signs of desensitization, anxiety, loss of imagination, loss of spontaneity, loss of humor, regression, irritability, self injury, inability to concentrate, and dissociation."<sup>89</sup> The potentially harmful AISD policy is administered as follows:

Any child with unfinished homework on any given day is singled out in the cafeteria during their lunch, in front of their school community, as punishment for not having completed their work. This method of shaming and humiliating a child during their lunch, in front of their peers, teachers, mentors, school staff, parents, and others, is a method known to cause psychological harm to children. It causes scapegoating and social isolation, and causes a child to become labeled as an "offender". Many of the younger children cry when forced to sit in isolation by themselves in front of everyone in the cafeteria. Some of their peers show signs of sympathy, while others make sarcastic comments or looks, and others fear the same could happen to them. Most of the children see the injustice, and

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85. See Niemi, *supra* note 81, at 42-49.

86. *What Is Stereotype Threat?*, REDUCING STEREOTYPE THREAT, <http://www.reducingstereotypethreat.org/definition.html> (last visited Sept. 22, 2014).

87. Laura Hibbard, *Slavery Examples Used in Georgia School Worksheet Upsets Parents (VIDEO)*, HUFFINGTON POST (Jan. 8, 2012, 2:45 PM), [http://www.huffingtonpost.com/2012/01/08/examples-of-slavery-in-school-worksheet\\_n\\_1192512.html](http://www.huffingtonpost.com/2012/01/08/examples-of-slavery-in-school-worksheet_n_1192512.html); Olivia Katrandjian, *Teacher Who Assigned Math Homework with Slavery Question Resigns*, ABC NEWS (Jan. 21, 2012, 8:51 PM), <http://abcnews.go.com/blogs/headlines/2012/01/teacher-who-assigned-math-homework-with-slavery-questions-resigns/>.

88. See Diane Ravitch, *A Terrifying Report About Child Abuse in Texas Schools—and in Your State Too*, DIANE RAVITCH'S BLOG (Oct. 16, 2013), <http://web.archive.org/web/20131016112857/http://dianeravitch.net/2013/10/16/a-terrifying-report-about-child-abuse-in-texas-schools-and-in-your-state-too/>.

89. *Id.*

feel helpless and sad for the victims. This method of humiliating children causes strong emotions of shame, anger, and resentment for both the victim and the bystanders. By using this method, teachers are modeling negative behavior of “bullying”, while presenting it to the child as “good discipline.”<sup>90</sup>

This policy, which also publicly posts the child’s behavior for all to see, has been said to cause a child shame, anger, and punishment—along with the concerns of punishment from home—and often without regard to the challenges many at-risk students already face in their personal lives.<sup>91</sup> Shaming policies like these not only violate the Family Educational Rights and Privacy Act (FERPA), but they also reinforce a “badge of inferiority” that was at the crux of the *Brown v. Board of Education* rationale in striking down segregation in public schools, finding a correlation between low self-esteem and academic achievement as further reinforced through its famous footnote eleven citation to the Kenneth Clark Doll test.<sup>92</sup> Of course, whether legal segregation in public schools was the cause of black children selecting the white doll that was their stated preference or conception of the “nice doll” or “the pretty doll”

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90. *Id.*

91. That there appears to be a disregard of the challenges many at-risk students already face in their personal lives is evidenced by the following excerpted passage describing AISD’s policy:

The child who suffered the most punishment with this method last year due to chronic homework problems, was also a victim of impoverished family circumstances. Her name is XXXXX, and she is the oldest of five siblings. Her mother is intellectually handicapped. As a forth grader, XXXXX had assumed the role of parenting her younger siblings. They were a homeless family and had slept on the floor of a friend’s two room shed for two years. XXXXX spent time in cafeteria isolation on a regular basis. She was the victim of a cruel method which only increased her social isolation and distrust for her teacher/caregiver, and enhanced her feelings of helplessness and worthlessness.

*Id.*

92. See *Brown v. Bd. of Educ.*, 347 U.S. 483, 494 n.11 (1954) (citing KENNETH B. CLARK, EFFECT OF PREJUDICE AND DISCRIMINATION ON PERSONALITY DEVELOPMENT: CONFIDENTIAL DRAFT FOR THE USE OF THE TECHNICAL COMMITTEE ON FACT FINDING (1950)); see also *The Clark Doll Experiment*, ABAGOND (May 29, 2009), <http://abagond.wordpress.com/2009/05/29/the-clark-doll-experiment/> (“In the experiment Clark showed black children between the ages of six and nine two dolls, one white and one black, and then asked these questions in this order: ‘Show me the doll that you like best or that you’d like to play with,’ ‘Show me the doll that is the ‘nice’ doll,’ ‘Show me the doll that looks ‘bad’,’ ‘Give me the doll that looks like a white child,’ ‘Give me the doll that looks like a coloured child,’ ‘Give me the doll that looks like a Negro child,’ ‘Give me the doll that looks like you.’”).

has been subject to debate,<sup>93</sup> but it nonetheless shows the pervasive and powerful impact that psychological suggestion has on the conscious or subconscious identity one has of him or herself.

The sixtieth anniversary of *Brown v. Board of Education* has thus been a very telling milestone in the true measure of our commitment to egalitarian merit and opportunity without regard to race. Although the shortcomings of our public education system have been well documented, not enough has been said and done to hold the actors, policymakers, and policies that have led to such a past accountable despite government agencies and non-profits dedicated to challenging the same. Thus, the time has come to put aside the veil of our fallacious discourse to reveal the true nature of our society's true commitment to educating our youth. We need not resort to looking to the nature of a tree's root to assess the health of a tree. The true health of a tree can be seen by the fruit it produces.<sup>94</sup> Likewise, the true health of our education system can be seen by the student graduates it produces. It is an education system that has produced an underclass and the perpetuation of the classes, rather than operating as the great equalizer, despite the laudable goals of *Brown*. It is an education system that has failed to attend to the whole child's development and meet the minimum standard of an adequate education. As one court defines it:

[A]n efficient [or adequate] system of education must have as its goal to provide each and every child with at least the seven following capacities: (i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization; (ii) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices; (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation; (iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness; (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (vi) sufficient training or preparation for

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93. See Gordon J. Beggs, *Novel Expert Evidence in Federal Civil Rights Litigation*, 45 AM. U. L. REV. 1, 14-15 (1995); see also Raymond Wolters, *Race and Science: A Review Essay Assessing the Debates of the 1950s and 1960s in the Light of Subsequent Research*, OCCIDENTAL Q., Summer 2007, at 1, 5 (challenging the conclusion that segregation harmed African-American self-esteem).

94. The fruit as a metaphor of the roots is hallowed concept. See *Matthew 7:16-20* (New King James) ("You will know them by their fruits. Do men gather grapes from thornbushes or figs from thistles? Even so, every good tree bears good fruit, but a bad tree bears bad fruit. A good tree cannot bear bad fruit, nor can a bad tree bear good fruit. Every tree that does not bear good fruit is cut down and thrown into the fire. Therefore by their fruits you will know them." (emphasis added)).

advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and (vii) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.<sup>95</sup>

## CONCLUSION

While community-targeted approaches like the Promise Zones Initiative will continue to populate the reform landscape, as this Article demonstrates, segregation, gentrification, and poverty may best be addressed in part through practices and policies that provide for a school-wide culture and behavioral reinforcements that foster positive, rather than harmful, psychological and pedagogical outcomes of a minimally adequate education system within and beyond the classroom in order to be successful. This is consistent with research discussed herein, which demonstrates that after controlling for the effects of school policies as well as practices that impact teacher expectations and the academic climate, the socioeconomic composition of a school has no significant impact on student learning. These counterintuitive findings suggest that anti-poverty campaigns such as the Promise Zones Initiative, socioeconomic-integration reforms, or specialized task forces like My Brother's Keeper must address the key factors that impact student learning, as empirical evidence would suggest is key in middle school and high school academic performance. Anti-poverty campaigns should not focus exclusively or primarily on monetary distribution but more on eradicating counterproductive school policies and practices that create a harmful school-wide culture and climate such as low teacher expectations, ability grouping (tracking), punitive student discipline, and inappropriate teacher over-referrals to special education and to the juvenile justice system (or school to prison pipeline).<sup>96</sup> As the evidence herein also suggests, a concentration on quality prenatal and neonatal care, early literacy intervention and accelerated learning in kindergarten, and early primary schooling can also reverse the impact of high-poverty conditions and greatly benefit academic outcomes in later years. We would do well to avoid the pitfalls of the past by focusing less on bureaucratic programs and punitive measures without adequately

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95. *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 212 (Ky. 1989).

96. See generally OUR PROMISE: ACHIEVING EDUCATIONAL EQUALITY FOR AMERICA'S CHILDREN, *supra* note 77; Dyson, *supra* note 73.

examining policies that both benefit and harm student well-being and academic success. It is time to address the structural concerns as issues such as teacher development, curriculum development, high-quality preschool education, and healthcare for poor students are still left unaddressed by the No Child Left Behind Act.<sup>97</sup>

Accordingly, the path forward must begin with placing greater emphasis on attracting and retaining quality human capital, such as visionary, highly capable teachers and leaders, and honoring our students through cultural and behavioral models that support their well-being and aspirations and by extension reinforce true quality educational achievement. In a society that is becoming increasingly more segregated we must begin addressing

the difficulties and complexity of any solution derive[d] from the premise that our society is committed to overcoming, not merely inequalities in the distribution of educational *resources* (classrooms, teachers, libraries, etc.), but inequalities in the opportunity for educational *achievement*. This is a task far more ambitious than has even been attempted by any society: – not just to offer, in a passive way, equal access to educational resources, but to provide an educational environment that will free a child's potentialities for learning from the inequalities imposed upon him by the accident of birth into one or another home and social environment.<sup>98</sup>

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97. See Linda Darling-Hammond, *Evaluating 'No Child Left Behind,'* NATION (May 21, 2007), <http://www.thenation.com/article/evaluating-no-child-left-behind>.

98. James S. Coleman, *Toward Open Schools*, PUB. INT., Fall 1967, at 20, 20-21.











