# DEMOCRACY LEFT BEHIND

## HOW RECENT EDUCATION REFORMS UNDERMINE LOCAL SCHOOL GOVERNANCE AND DEMOCRATIC EDUCATION

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## Executive Summary

Local control has historically been a prominent principle in education policymaking and governance. Culminating with the passage of No Child Left Behind (NCLB), however, the politics of education have been nationalized to an unprecedented degree, and local control has all but disappeared as a principle framing education policymaking.

This brief examines what the eclipse of local control means for our democracy. It distinguishes two dimensions of democracy that are at issue—democratic policymaking and democratic education—and concludes that the effect of NCLB has been to frustrate our democracy along both of these dimensions. The following recommendations are then offered as guidelines for future federal education policy:

- **Move from a punitive model to a participatory model for engaging local communities in reform efforts.** Rather than threatening to withhold funding from struggling schools, provide additional support and incentives for staff, parents, and other community members to get involved in deliberating about educational problems and their solutions.

- **Encourage the adoption by states and locales of curriculum standards that include a conscious and substantive focus on developing the deliberative skill and dispositions required of democratic citizenship,** while de-emphasizing high-stakes testing of "the basics" (reading, writing, mathematics).

- **Curtail the privatization of public resources through Supplemental Education Services (SES) and school choice.** Keep individuals and organizations that receive public funds accountable to the public through democratic procedures; support elected school boards, which are the bodies best positioned to exercise discretion in allocating education funding within firm guidelines based on democratic principles.

- **Seek ways to integrate schools to ensure access to equal educational opportunities and the diverse context of learning that all students need for the inculcation of democratic character.**

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## Introduction

Jeffrey Henig observes that in the arena of education policy at the present time, the notion that "localism is obsolete" is taken for granted by Democrats and Republicans alike.[1] This stance developed over a 50-year period that saw notable expansions of the federal role through the 1958 National Defense Education Act (NDEA), the 1965 Elementary and Secondary Education Act (ESEA), and its 1994 reauthorization. ESEA was initially driven by equity concerns but subsequently evolved to emphasize accountability. This crystallized in the passage of No Child Left Behind, the most recent reauthorization of ESEA, which represents the single largest expansion of the federal government's role in education in U.S. history. As political scientist Patrick McGuinn notes, "Though the funding and day-to-day administrative control of U.S. public schools remain decentralized the politics of education has been nationalized to a degree unprecedented in the country's history, and the federal government's influence over education has never been greater."[2] Local control has been further diminished by the increased role of the states in interpreting and implementing NCLB and, now, Race to the Top. Though the role of states has been steadily increasing for other reasons, most notably as a result of funding equalization litigation, federal accountability policy is now a major cause of the states' increased reach.

What does the diminution of local control of public education driven by changed views about the proper role and the acceptable reach of the federal government mean for our democracy? In this brief, we distinguish between two dimensions of democracy that are at issue: democratic policymaking and democratic education. We argue that the effects of NCLB have been to frustrate our democracy—along both of these dimensions. We then offer several recommendations. We frame our analysis in terms of the normative theory of democracy, now ascendant, that has its roots in the works of John Dewey and currently goes by the name *deliberative democracy*. Deliberative democracy is particularly useful for our purpose here because its intent is to wed political theorizing to public policymaking.

## Deliberative Democracy

In her seminal book *Democratic Education,*[3] Amy Gutmann begins with the premise that in the contemporary United States, democracy is the political framework in which educational theory is to be embedded. In a democracy, citizens should not be relegated to the role of passive bystanders in "social reproduction" but should be capable of actively

engaging in the kind of "*conscious* social reproduction" associated with democratic deliberation. Public education should prepare future citizens for this participatory role. Gutmann adds to this idea of democratic citizenship the central premise that democracy may only be legitimately constrained in its own name. That is, any constraints placed on democratic deliberation must be justified on the grounds that they are needed to protect its continued existence. From this point of departure, Gutmann arrives at three general principles constraining democratic deliberation about educational policy: *non-repression, non-discrimination,* and *the democratic threshold.*

The principle of non-repression "prevents the state and any group within it from using education to restrict rational deliberation of competing conceptions of the good life and the good society."[4] The principle of non-repression is expansive. It ensures not just freedom *from* interference, but also freedom *to* engage in deliberations associated with conscious social reproduction.

The principle of non-discrimination is an extension of the principle of non-repression. It prevents the "selective repression" associated with "excluding entire groups of children from schooling or by denying them an education conducive to deliberation among

> *By its nature, democracy presumes the value of local control. Democracy trusts in the people to rule themselves, based on their collective judgment, freed from externally imposed dictates.*

competing conceptions of the good life and the good society."[5] Discrimination is a more general and typically less overt, "passive," form of repression. It is the form that has been most prominent in schools with respect to girls and children of color. The passive form is distinct from overt discrimination. It is often subtle, the result of attitudes and beliefs that remain hidden within institutional contexts.[6]

The democratic threshold is an educational equality standard.[7] It is "democratic" because it is defined in terms of the knowledge, skills, and dispositions people need to participate effectively in a deliberative context protected by non-repression and non-discrimination. It is a "threshold" because it is a standard of equality below which no child should fall but that, once reached, does not require further equalization efforts. For example, the current adult citizenry is not permitted to deny future generations an education that would instill in them the capacities associated with the democratic threshold, even if it did so within the bounds of the principles of non-repression and non-discrimination as applied to their own participation.

Local control refers to the power of communities, made up of individuals bound together by common geography, resources, problems and interests, to collectively determine the policies that govern their lives. In the realm of schooling, this typically refers to control by elected school boards and their constituents. By its nature, democracy presumes the value of local control. Democracy trusts in the people to rule themselves, based on their collective judgment, freed from externally imposed dictates. Gutmann's view is no

exception on this point. Indeed, like all deliberative democratic theorists, she attributes greater value to local control than do "vote-centric" views that place little emphasis on dialogical political participation.[8] Nevertheless, while there is a presumption in favor of local control it must sometimes be overridden in democracy's own name. This is a premise of constitutional democracies like our own and it is the justification for the kinds of boundary principles with which Gutmann limits democratic discretion. The use of local control to justify racial segregation, for instance, violates the principles of non-discrimination and the democratic threshold, as well as the Fourteenth Amendment, and thus cannot be defended on democratic grounds. The same reasoning can be extended to the spectrum of educational law and policy that followed in the wake of the Supreme Court's *Brown* decision regarding income, disability, gender, and language. It follows that the diminution of local control in education policymaking in the wake of NCLB is not undemocratic *per se*; whether it is depends on its rationale and results.

## NCLB and Democratic Policymaking

### Localism as Obsolete

In order to understand how federal education policy has become antithetical to democracy, it is important to understand the history and nature of the *accountability regime*[9] and its embodiment in NCLB. With states acting as the conduit for implementing NCLB, local school systems have become the loci of accountability for educational performance, to the near exclusion of attention to social, cultural, and economic conditions. While local school systems are accountable for performance, performance itself is measured in terms of scores on standards-based tests developed and enforced from afar.[10] The diminution of local control is thus part and parcel of the accountability regime. As we shall discuss in greater detail below, the accountability regime has arisen in part in response to the belief among reformers that local community control of schools is itself a problem to be overcome.

Throughout the 19th century, local community control was not so much an organizational preference or political stand as it was a material necessity and unquestioned matter of fact. In 1831, after Alexis de Tocqueville had traveled throughout the U.S. and made the observations that he subsequently published in *Democracy in America*,[11] he remarked that the most common topic of discussion at town hall meetings and other local gatherings was education. Citizens debated how schools were to be organized and what was to be taught in them.

Historian of education David Tyack writes that at that time, "Teachers knew to whom they were accountable: the school trustees who hired them, the parents and other taxpayers, the children whose respect—and perhaps affection—they needed to win."[12] Such high levels of citizen participation contributed to the diversity of schooling in America, as local

idiosyncrasies and perceived needs dictated choices about organization. Tyack states that, "The 'curriculum' of the rural school was often whatever textbooks lay at hand," and so "schooling" could mean fairly different things in different places.[13] In the late 19th century, for a variety of reasons—accommodating the large influx of immigrants foremost among them—this diversity came to be seen as a problem to be solved, and a number of reformers who became known as the "administrative progressives" worked to standardize, professionalize, and centralize schooling in the U.S., to transform it into what Tyack later christened "the one best system."[14]

While they met with a good deal of resistance from teachers, administrators, and communities at the local level, the decades-long efforts of reformers did change the face of public education in the U.S. to a remarkable extent. But the move to greater centralization was not spurred by any democratic impulse. Indeed, leading reformers of the day in the mold of Ellwood Cubberley, Lewis Terman and Edward Thorndike were not committed to furthering educational equality as the foundation for democracy. Rather, they were technocrats who sought to apply science to public education, whose goal they considered to be the preparation of students to fit into their predetermined social and vocational niches. As Cubberley, inaugural dean of the Stanford School of Education, remarked,

> We should give up the exceedingly democratic idea that all are equal and that our society is devoid of classes. The employee tends to remain an employee; the wage earner tends to remain a wage earner . . . One bright child may easily be worth more to the National Life than thousands of those of low mentality.[15]

By the mid-20th century, however, the role of centralized authority had changed. It was now equity-minded reformers who adopted it as a tool of education reform, shifting the focus from curriculum and the adequacy of management in schools to the elimination of unequal access and resources in order to foster the conditions of a more democratic society. The Supreme Court's 1954 *Brown* decision was the watershed, inaugurating what McGuinn refers to as the *equity regime*.[16] The new focus was particularly embodied in 1965's ESEA, most recently reauthorized as NCLB.

Alongside the increased intervention of the federal government in education in the decades following the *Brown* decision, new advocacy for local community control emerged from two very different types of constituencies. Conservatives invoked local community control as they resisted racial desegregation in public schools, initially in the South and later in the North as well. School choice emerged as a policy instrument that legitimated continuing segregation in the name of local community control. Thus, education scholar Diane Ravitch states that, "During the 1950s and 1960s, the term 'school choice' was stigmatized as a dodge invented to permit white students to escape to all-white public schools or to [private] all-white segregation academies."[17] For equity-minded reformers, school choice was associated with both local obstructionism and racism.

Another source of support for local community control, explicitly equity-minded and at odds with the conservatives, were Black and Latino/a communities, especially in the urban centers of the North. The civil rights movement had mobilized minority groups to resist

inequity and injustice in American institutions. From the mid-1960s, the growing militancy, which was captured for many Black Americans by the phrase "Black Power," advocated communal autonomy and self-sufficiency as paths to empowerment and equity for the historically marginalized and disadvantaged. In cities like New York and Chicago, grassroots movements advocating local community control led to increased decentralization of school governance that, at least in some cases, supported increased public participation in determining and implementing education policy.[18]

In the early 1980s, as various constituencies experimented with developing local community control as an equity-oriented reform in its own right,[19] a trend emerged in national politics that would prove extremely important in undercutting such community-based efforts. The equity regime that had dominated federal policy, justifying instruments

> *Despite Obama and Duncan's rhetorical support for greater local control of schools, the reform instruments that their policies are based on are clearly antithetical to it.*

such as desegregation busing and affirmative action, began to be eclipsed. In May 1983 the U.S. Department of Education released *A Nation at Risk*.[20] This report, which was followed by several more with similar messages, portrayed public education in the U.S. as contributing to "a rising tide of mediocrity" that threatened the country's economic competitiveness. The report held that while education had long been considered primarily an issue to be addressed at the state and local levels, the crisis in education now made it an issue of national significance.[21] If this crisis was not addressed, the report warned, the U.S. role as a global economic and political superpower was in jeopardy.

During the Reagan years and beyond, rhetoric concerning the perceived crisis of achievement came to dominate discussions of education policy. By the mid-1990s a much increased emphasis on holding local districts accountable to state and federal authorities provided the context in which Democrats and Republicans alike discussed education policy issues. This culminated in NCLB, which completed the shift from the *equity regime* to a new *accountability regime*. Equity was not eliminated as a concern in education policy—for example, attention continued to be focused on the "achievement gap." But the goal of educational equity was diminished in overall importance and subsumed under the principle of raising the performance of all students, rather than focusing special attention on those most in need.[22] And, as indicated before, much more emphasis was placed on the accountability of local schools for educational performance, independent of the social, cultural, and economic conditions in which they operate. The role of the federal government in education became one of ensuring that schools were held accountable for teaching all students basic skills, especially those thought to enable them to participate productively in the workforce and keep the U.S. economy competitive in the global marketplace. Here one can detect echoes of administrative progressivism, minus its overt racism.

The accountability regime was in tension with conservatives' historical resistance to encroachments by the federal government on local control of education and, no doubt, still is. This resistance takes two general forms, which in turn produce two ways of accommodating a federal role. The first form was advanced by conservative critics of federal welfare programs in the 1980s, who held the view that social problems, rather than arising from a history of unequal economic and social opportunity structures, as equity-minded reformers claimed,[23] actually resulted from flaws in the character or culture of the communities and individuals that make up the American "underclass." Ironically, such flaws were held to be exacerbated by the very social programs designed to benefit those in need.[24] Applied to education, this perspective depicts the failure of schools to improve student achievement as a failure of effort or will in students and communities. Schools, in this view, cannot help children overcome the "culture of poverty"[25] within a system led by bureaucratic school administrators with a vested interest in preserving the status quo and characterized by a corps of teachers shielded by union-protected privileges.[26] Accordingly, such critics believe that federal intervention in education can only do good if it addresses the cultural or moral problems that are deemed responsible for poor school performance. They assert that what is needed is the enforcement of standards and sanctions upon students and education professionals (teachers and administrators) alike in order to force them to do what they ought to do, and to hold them responsible for failure. As Oakes, Rogers, and Lipton explain,

> No Child Left Behind seeks to increase adult expectations, motivation, and effort—it assumes that inequality is the result of a lack of commitment by the people who live or work in low-income communities of color. Thus, the key policy lever to promote educational equity is not better resources more fairly distributed, but rather behavioral prompts in the form of public exposure followed by incentives or (more likely) punishments.[27]

The second form of conservative resistance to federal intervention, neoliberalism, is of more recent vintage, dating from the 1990s. The influential thesis advanced by Chubb and Moe on school choice in *Politics, Markets, and America's Schools*[28] is quite hostile to government intervention, including standards-based testing and accountability. Despite Chubb and Moe's use of the concept of "scholarships" to characterize their plan, it is a voucher plan, and voucher plans have yet to become a serious policy option. Charter schools have become far and away the most prominent form of school choice in the U.S., with significant support from the federal government, including substantial financial allocations.[29]

Though opposed to governmental intervention, Chubb and Moe are not advocates of local control, at least not *democratic* local control. Indeed, they are openly dismissive of it. Instead of democratic local control, they wish to see educational policy guided by market mechanisms, minimally overseen by government. Chubb and Moe's fundamental principle is not give-and-take deliberation, but consumers voting with their feet. Insofar as charter schools deploy the same basic market rationale,[30] they too are dismissive of local democratic control (if only implicitly). Though Chubb and Moe do not endorse government-sanctioned standards and testing, other supporters of market mechanisms in

education assert that the information derived from testing is very useful to parents in the process of choosing schools.

## Testing and Choice under NCLB

The NCLB accountability regime incorporates two preeminent policy instruments: *standards-based testing* and *public school choice*. Testing is mandated for all schools in districts receiving Title I funds and functions as the basis for sanctions and rewards. Among the sanctions is the requirement of schools to provide Supplemental Educational Services (SES), which is a precursor to the requirement to provide a choice of alternative schools. In particular, after two consecutive years of failure to make Adequate Yearly Progress, schools must use a portion of their Title I funds to allow students' parents to purchase tutoring or other supplemental services from private providers (e.g., Sylvan Learning Center, Education Online, etc.). If a school fails to improve for a third consecutive year, the school must offer a choice of alternative schools.

School choice is viewed by many as a way to improve schools by making them subject to market competition. This market rationale has increasingly won adherents among both Democrats and Republicans.[31] Paul Manna explains the dual rationale for the choice and SES provisions in NCLB:

> In theory, NCLB school choice and supplemental education services can empower parents and students, providing students who are attending struggling schools with opportunities to improve their academic fortunes. Simultaneously, both mechanisms offer a form of "exit," through which parents' choices can put pressure on struggling schools to change. Thus, these two remedies can serve not only the individual students who use them, but also those who remain in schools that respond to parents' signals.[32]

While NCLB's combination of public school choice and SES does allow for a form of accountability from below, and thus a form of local control, it is not a democratic form of control. School choice has the potential to foster democracy by helping to ensure that disempowered communities have a real voice in policy deliberations concerning their schools, and we do not doubt that some choice schools foster democracy in this way. However, school choice most often does nothing to foster democracy and sometimes frustrates it. First, it does not advance democracy in those cases in which the opportunity for parents to "exit" cannot be exercised because no better schools are available.[33] Second, school choice frustrates democracy when it fails to ensure that groups that have historically been subjected to discrimination are protected from it and permits the potential of school choice to foster democracy to be "hijacked"[34] by parents with power who seek to further advantage their children.[35] The accumulated evidence on school choice, with charter schools being the most heavily represented, indicates that school choice does little if anything to boost achievement overall and may actually increase the

achievement gap. It also exacerbates the segregation of African American and Latino/a children, as well as children with disabilities.[36]

Not all communities and school districts have been affected by NCLB sanctions in the same ways or to the same extent. A report from the independent Center on Education Policy found that urban districts were identified disproportionately as "in need of improvement."[37] Although only 27% of schools receiving federal funds through Title I were located in urban districts, urban schools constituted about 90% of those facing NCLB sanctions. One reason cited by researchers for this disproportionate focus on urban schools was the higher percentage of students of non-dominant groups associated with their "race/ethnicity, income, language background, or disability status." In her study of four schools in the Chicago area, Pauline Lipman observes that "patterns of racial subjugation are clear" when one considers "the demographics of schools on probation."[38]

The discrepancy Lipman documents can also be observed through inter-state comparisons. Nichols, Glass, and Berliner[39] conducted an analysis of accountability in 25 large U.S. states. They found a statistically significant correlation between increased accountability demands and the growth of minority populations in individual states during the period of 1980 to 2000. The authors postulate that accountability systems are adopted *in response* to growing ethnic minority populations. States with growing minority populations adopt more intense and punitive accountability systems, and the schools and districts in those states where such students are concentrated are more likely to have experienced NCLB sanctions than are districts made up of students belonging to the majority population. Glass puts the point bluntly: "There appears to be a link between accountability and ethnicity. Where highly punitive education accountability systems are installed, there one finds the politically weak and vulnerable members of society."[40]

It is not surprising that students in traditionally under-served districts and schools perform more poorly on standardized tests than their more advantaged majority-group peers. The relatively heavy burden of punitive interventions borne by disadvantaged students was predictable and has had consequences for them that are educationally far-reaching. A consortium of six policy agencies found that increased accountability has contributed to an increase in dropouts, suspensions and expulsions nationwide, feeding the so-called "School-to-Prison-Pipeline."[41] Test-based accountability creates a perverse incentive for schools to allow or even encourage low-performing students to leave. Combined with "zero tolerance" school discipline policies, "effects have been particularly severe for students of color and students with disabilities."[42] In pointed language, Lipman characterizes the accountability regime as a "highly racialized discourse of deficits."[43] Its top-down imposition of standards and sanctions "is a form of colonial education governed by powerful (primarily White) outsiders. It signals that communities affected have neither the knowledge nor the right to debate and act together with educators to improve their child's education."[44] Thus, one of the most significant results of NCLB is that, "Schools in low-income neighborhoods of color are the least in charge of their own destiny."[45]

If, in the years following the implementation of school choice and SES, schools fail to attain pre-set levels of mean test scores, NCLB mandates that they take "corrective action":

firing staff and administrators, adopting a new curriculum, even reconstituting schools as state or district charters, or placing them under private management. As the severity of sanctions escalates, decision-making power is taken out of the hands of the communities most affected and is increasingly concentrated in the hands of business interests (SES providers and EMOs) and wealthy philanthropic organizations (the Gates Foundation, the Walton Family Foundation, and the Broad Foundation, to name three of the most important players), despite their mixed track record of improving achievement.[46] Public school choice and SES sanctions thus provide a door through which private business interests and philanthropists enter public education reform. Kenneth Saltman coined the term "disaster capitalism" to characterize this transfer of power in which the declaration of schools as "failing" and of the public education system as "broken" provide the pretext for deregulated privatization.[47] As a consequence, NCLB has fostered the "deregulation and commodification of public schooling" and has served to "undermine democratic governance over this crucial public sphere."[48]

Skeptics of the accountability regime have argued that the failure of NCLB to achieve its goals was, from the outset, predictable.[49] As time has passed the number of Title I schools failing to achieve the requisite improvement has rapidly grown,[50] and policymakers and government officials have had to publicly acknowledge that NCLB will not succeed in achieving its stated aims. In February 2012 the Obama administration granted Colorado, Florida, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, Oklahoma and Tennessee waivers exempting them from some of the provisions of NCLB. By mid-August 2012, the total number of waivers granted had reached 33;[51] by mid-September, 11 more states plus the District of Columbia had applied.[52]

Secretary of Education Arne Duncan explained the move to grant waivers using the language of increased local and state participation in reform: "Rather than dictating educational decisions from Washington, we want state and local educators to decide how to best meet the individual needs of students."[53] Yet while states that receive these waivers are exempted from the requirements to calculate AYP and implement sanctions according to the NCLB timetable, the commitment to the accountability regime remains firmly in place. According to President Obama, waivers give states "the opportunity to set higher and more honest standards."[54] In practice, the conditions attached to the waivers harden the basic tenets of the accountability regime and ensure that states will not discard testing and choice remedies, and many states have recently tied teacher accountability to student test performance. For example, Colorado, praised by Duncan[55] and historically at the forefront of implementing the accountability regime, stipulated in its waiver application that SES and school choice will be implemented simultaneously, after a school is designated for "turnaround" or "priority improvement" by the state accountability system in any given year.[56] The accountability regime has been reinforced—indeed, expanded—through the Race to the Top competition, a $5-billion provision of the 2009 economic stimulus bill, which seeks to induce states to expand testing and choice measures through financial incentives. Race to the Top awards points to states for expanding their charter sector or including student test scores as a substantial portion of teacher evaluation.[57]

Despite Obama and Duncan's rhetorical support for greater local control of schools, the reform instruments that their policies are based on are clearly antithetical to it. They are not based upon and do not foster democratic deliberation at the local level. Testing measures have become almost uniformly unpopular with teachers, students, and parents. A 2008 poll by *Education Next* found that 69% of those surveyed wanted the testing provisions of NCLB substantially altered, and teachers were far more likely to disapprove of NCLB than the general public.[58] Prominent examples of school reconstitution have met with local opposition and, in some cases, community organizing and active resistance.[59] When imposed against such opposition, NCLB's provisions violate the democratic principle of non-repression. As one San Diego teacher subject to accountability reforms said of her experience, "We felt reform was being done *to* us, not *with* us."[60] As argued above, NCLB also violates the principle of non-discrimination in those cases in which it diminishes the opportunities available to members of certain communities to participate in decision-making about education policymaking in ways associated with their income and race.

## NCLB and Democratic Education

Segregation is both a cause and an effect of discrimination.[61] In this mix, it also compromises the ability to instill *democratic character* as called for by the democratic threshold. Recall that the democratic threshold sets an educational equality standard requiring that all students be afforded the opportunity to learn the skills, knowledge and dispositions required for effective political participation—the elements of the democratic character.[62] This requirement that students master the elements of democratic character, at least up to the democratic threshold, sets limits on what education policies may be adopted. It also has important implications for both the content and context of education. This is because NCLB testing requirements exert pressure on educators to focus instruction on content that appears on the tests and on test-taking skills, excluding much of the content essential to democratic character. As indicated above, there is also substantial evidence supporting the conclusion that school choice has increased segregation among schools,[63] and this reduces opportunities for students to develop democratic character because of the deleterious effects on the context of education.[64]

### The Content of Education

Since NCLB took effect in 2002, a majority of districts have significantly increased the time spent on math and English instruction in both elementary and middle schools, at the expense of other subjects and activities.[65] In middle schools, the Center for Education Policy found an average increase in time spent on math and English of 42%. This increased focus on "the basics" means that other subjects have had to give. At the elementary level, 44% of districts reduced time in one or more subjects or activities, including social studies,

science, art and music, physical education, lunch, and recess. Predictably, the impact has been greatest on districts and schools identified as requiring improvement under NCLB.[66]

John Dewey, the foremost champion of democratic education, observed, "(T)he field of experience is very wide and it varies in its contents from place to place and from time to time. A single course of study for all progressive schools is out of the question."[67] Dewey's observation is quite germane to our increased contemporary recognition of the multi-cultural, multi-racial nature of our society. And it is a central in work such as the *Save Our Schools* initiative, which argues against the kind of standardization promoted by NCLB and explicitly calls for more local control of curriculum decisions:

> Today's curriculum, which is the result of the unintended consequences of NCLB, has diverted America's schools from their mission of providing children with a good and meaningful education. In a country as diverse as our fifty states are it stands to reason that local communities can best decide the curriculum that their own students need.[68]

It has been a commonplace since the ancient Greeks that citizens are not born, but must be made. And while not everything that counts as citizenship education occurs in schools, surely schools have, or should have, a significant role to play. What curricular content, then, is required to develop democratic character? To be sure, literacy and numeracy are

*Increasingly, a consensus is emerging that what is needed to improve schools is an active citizenry, invested in solving educational problems through public deliberation.*

important, as are many other parts of the standard curriculum, including science and math beyond numeracy. But these aspects of the curriculum are not sufficient. The *sine qua non* of democratic character is skill in defining and jointly deliberating about the public's common problems. Unlike an aristocratic society such as that described in Plato's *Republic*, democracy requires that all of the nation's citizens possess this skill, not just those belonging to the ruling class. Although NCLB does not explicitly rule out attention to the development of skill in democratic deliberation, it hardly encourages it.

It is difficult to find evidence that speaks directly to the question of NCLB's effects on democratic education, but there are a number of relevant findings and arguments. Diane Ravitch, an early and influential supporter of testing and choice policies, eventually came to see NCLB as "a measurement strategy that has no underlying educational vision at all."[69] With its narrow focus on standardized tests of reading and math, perhaps the most widely observed consequence of the policy has been "teaching to the test," a narrowing of the curriculum in which attention is focused only on those subjects taught and on test-taking skills to the exclusion of other skills and content. Under NCLB, "The goal of testing [is] higher scores, without regard to whether students [acquire] any knowledge of history, science, literature, geography, the arts, or other subjects that [are] not important for accountability purposes."[70] Regarding history, in particular, Ravitch remarks that a critical

education in history is required to foster the skills of deliberation needed for political participation.[71]

In this vein, Richard Neumann counsels:, "Effective citizenship requires critical habits of mind and the ability and inclination to deliberate and debate conscientiously on matters of social importance."[72] Such habits and inclinations ought to be part-and-parcel of civics education, which is usually situated within the broader field of social studies.[73] While certainly important in their own right, disputes over the appropriate content of social studies—for example whether it ought to involve a traditional discipline-focused approach or a more problem-centered, activist progressive approach—need not be resolved in order for us to see that NCLB diminishes the place of civics education in any curriculum.

Finally, the Southern Poverty Law Center (SPLC) published a recent study of the state of civil rights education in the United States.[74] Only 2% of 2010 high school seniors had the most general and rudimentary knowledge of the *Brown* decision: that it had to do with segregation in the schools. This is "no surprise," according to the study, for, "across the country, state educational standards virtually ignore our civil rights history."[75] The findings indicated that most states do not view the civil rights movement as an essential subject for all American citizens to be conversant with; rather, it is viewed as a topic primarily of interest to African American students. The SPLC findings provide a dramatic indicator of a profound lack of understanding of and commitment to citizenship education in U.S. education policy today.

## The Context of Education

In a complex and diverse society such as ours, deliberation necessarily involves negotiating disagreement while tolerating difference.[76] Indeed, truly democratic deliberation requires that all recognize the legitimate claims of fellow citizens across cultural, social, political, and other differences,[77] in what Robert Kunzman calls "civic multilingualism."[78] The dispositions and attitudes necessary for such deliberation are considerably more difficult to teach directly than are customary academic knowledge and skills.[79] Much depends on how the context is set up so as to introduce, hone, and reinforce constructive interaction, including, especially, dialogue across differences. When it comes to ways in which individuals are disposed towards those different from themselves, nothing is so formative as personal contact with others, at least if it occurs under certain conditions.[80] Gordon Allport famously hypothesized that when intergroup interaction occurs under conditions of institutional support, role equality, and frequent cooperative contact with acquaintance potential, such contact reduces the prevalence of prejudice, stigmatization, discrimination, and anxiety in intergroup relations.[81] Recent meta-analysis has shown strong support for this contact hypothesis, as applied to numerous categories of difference.[82]

Many efforts at desegregation in the post-*Brown* era did not meet all of Allport's criteria—role equality was not always available to Black students enrolling in previously all-White schools[83]—and within-school tracking often reduced opportunities for cooperative contact

with acquaintance potential.[84] Even so, adult graduates report that they valued the experience of attending integrated high schools and that it prepared them for coping with life in a diverse society.[85] The outcomes of previous efforts at racial integration suggest that integration helps to sustain a democratic society, since citizens with experience working in diverse settings are "more responsive to the rights, needs, and concerns of diverse citizens rather than catering to the interests or perspectives of one or a very few sections of society."[86] The likelihood that citizens of all backgrounds will come to possess genuine democratic character traits is increased within a diverse context of learning.

In keeping with political philosopher Elizabeth Anderson's argument that racial integration is an imperative of justice and democratic politics, recent analysis shows that racial integration of schooling was in fact the most effective reform effort for closing the achievement gap.[87] Black students made gains as a result of desegregation efforts, while White students' test scores held steady. As David L. Kirp, a professor of public policy at UC Berkeley observes, "Between 1970 and 1990, the black-white gap in educational attainment shrank—not because white youngsters did worse but because black youngsters did better."[88] Another Berkeley professor, Rucker C. Johnson, has demonstrated in a recent study that these gains persisted into the next generation: the children of students who attended integrated schools in the 1960s and 1970s do better academically than do the children of their counterparts who remained in segregated schools.[89]

In the years since NCLB was enacted, schools in the U.S. have become increasingly stratified by race, socio-economic status, ability status, and even by religious and political affiliation.[90] Gary Orfield, a professor at UCLA and researcher with The Civil Rights Project, observed in 2009: "Fifty-five years after the Brown decision, blacks and Latinos in American schools are more segregated than they have been in more than four decades."[91] In a recently released report, in September 2012, Orfield and his associates have documented that segregation has since grown worse.[92] While this cannot wholly or largely be attributed to NCLB, it is clear that the law has failed to address, much less reverse, the trend of increasing segregation, which was already in evidence when the act was written and became law. On the contrary, NCLB's encouragement of unconstrained choice policies have contributed to increased stratification among as well as within schools.[93]

Warnings about the deleterious effects of stratification have often been dismissed on the grounds that they are an inevitable product of freedom of association.[94] Certainly, freedom of association is an important democratic principle, and there is no reason to believe that some forms of school choice can't complement the creation and maintenance of diverse contexts for learning. As Linn and Welner point out, "The key for realizing the potential of these policies to achieve racial diversity to any significant degree is the inclusion of enrollment constraints, such as race-conscious policies, as part of the school choice policy."[95]

Desegregation of schools on its own does not ensure greater academic achievement, nor is it sufficient for the inculcation of democratic character.[96] It is, however, an aid to the former and a necessary condition for the latter. Serious attention to the role of the context of learning in inculcating democratic character in order to enable students to reach the

democratic threshold suggests that choice policies that increase stratification by socially significant categories of difference can, and indeed ought to, be constrained in democracy's own name.

## Conclusion and Recommendations

In *Democracy in America,* Tocqueville observed that the vibrancy of democracy in the 19th century United States depended upon popular participation at the local level.[97] He worried that American democracy was compromised by the predominance of the market, with its attendant individualistic, self-interested economic activity, in American life. Too much of this activity, in his view, lacked the motivation of "self-interest well understood"—that is, the understanding that one's own welfare is bound up with the welfare of others and of society as a whole.[98] Today, rereading Tocqueville's words in light of the growing marketization of formerly public sectors such as education should give us pause.

At the same time, Tocqueville worried that our democracy might one day fall prey to a "soft despotism" in which citizen participation in public life yielded to the notion of government as a "tutelary power," a benevolent yet unaccountable administrator distributing goods on their behalf. What Tocqueville feared was not so much that such a despot would infringe on individual liberties, but rather that the virtues necessary for citizenship would become rare due to diminishing opportunities to practice them in deliberation at the local level.

Today Tocqueville's stress on the importance of local deliberation for sustaining democracy and the threats to such deliberation from both reactionary and otherwise progressive forces perhaps explain why his text provides a favorite touchstone for liberals and conservatives alike.[99] Indeed, on the issue of restoring local participation in education reform we find a rare point of convergence between conservatives and liberals, traditionalists and progressives. Increasingly, a consensus is emerging that what is needed to improve schools is an active citizenry, invested in solving educational problems through public deliberation.[100]

The contribution of deliberative democratic theory to this discussion is that it allows us a principled way to differentiate between legitimate and illegitimate constraints. When conservatives use the rhetoric of local community control what they often mean is a market-driven, individualistic form of school choice that lacks grounding in any robust theory of democratic politics.[101] Therefore, while conservatives sometimes oppose the accountability regime and NCLB on the grounds that these involve federal overreach, they do not acknowledge the ways that school choice can also undermine local community control and democratic education. This is a vital issue that policymakers must address: local community control of schools matters a great deal for public education and democracy, and yet NCLB-style sanctions are not designed to mobilize the marginalized to become more engaged in school reform efforts, nor are they likely to have such an effect.

In recent years, scholars and researchers have joined activists in calling for greater attention to the role of schools in cultivating citizenship and in highlighting the need for a revitalization of local participation in reform.[102] The evidence surveyed in this brief suggests that contemporary reforms run afoul of democratic principles in several critical ways. Democratic reform should involve local stakeholders, especially marginalized members of society,[103] because inclusion is a democratic value that increases not only the likelihood that policies will be just, but also the likelihood that reform will succeed. Such inclusion also helps create the conditions in which *all* students can attain the democratic threshold.

If the future reauthorization of ESEA is to safeguard and strengthen democracy, it should make education for democracy a fundamental aim of public education. Federal legislation should reassert the legitimate and, at times, historic role of the federal government in promoting principles of non-repression, non-discrimination, and the democratic threshold in public education.[104] The following are some recommendations for steps that can be taken in this direction:

- **Move from a punitive to a participatory model for engaging local communities in reform efforts.** Rather than threatening to withhold funding from struggling schools, provide additional support and incentives for staff, parents, and other community members to get involved in deliberating about educational problems and their solutions.

- **Encourage the adoption by states and locales of curriculum standards that include a substantive focus on (as opposed to mere lip service to) the knowledge, skills, and dispositions necessary for effective participation in a democratic society,** and de-emphasize high-stakes testing of "the basics" as the exclusive focus of accountability measures.

- **Curtail the privatization of public resources through Supplemental Education Services (SES) and school choice.** Keep the individuals and organizations receiving public funds accountable to the public through democratic procedures and support elected school boards, the entities best positioned to exercise proper discretion in allocating education funding within firm guidelines based on democratic education's three limiting principles.

- **Seek ways to promote integrated schools in order to ensure access to equal educational opportunities and the diverse context of learning that all students need for the inculcation of democratic character**—for instance, include enrollment constraints based on socially significant categories such as race as part of school choice policy.[105]

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Howe, K. (2010). Educational equality in the shadow of the Reagan era. Part II, in G. Hayden (Ed.). *Equality and Education*, New York: Continuum, 71-95.

105 For an excellent collection of essays dealing with the practical implications in both legal and policy terms of racial integration as a legitimate educational goal, see
Frankenberg, E. & Debray, E. (eds.) (2011). *Integrating Schools in a Changing Society: New Policies and Legal Options for a Multiracial Generation*. Chapel Hill, NC: University of North Carolina Press.