

**New York Advisory Committee to the U.S. Commission on Civil Rights
Civil Rights Impact of Education Funding in the State**

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**Written Statement¹
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Good morning. My name is Kara Finnigan and I am a professor of educational policy and leadership at the Warner School of Education of the University of Rochester. I have conducted research and evaluations of K-12 educational policies and programs at the local, state, and federal level for more than 25 years. My expertise is in the areas of urban schools, school/district improvement, accountability policy, desegregation, and educational equity.

I would like to thank the NY State Advisory Committee to the U.S. Commission on Civil Rights for inviting me to speak with you today. The Committee is taking important steps to ensure that our State is not violating the civil rights of students and I am honored to be here to provide my perspective.

Today I will discuss the following four key points:

- ⇒ **Number 1. Students do not have equal access to a sound basic education in NY because of racial and socioeconomic segregation between districts.**
- ⇒ **Number 2. State and federal policies have exacerbated these inequities.**
- ⇒ **Number 3. Addressing segregation is critical for improved outcomes, resource equity and preparing students for their future.**
- ⇒ **Number 4. A new approach to policy and funding equity must occur to reverse these trends and ensure that the State of NY is, in fact, providing a “sound basic education” to all students.**

Much of what I will share today is in my recent book *Striving in Common: A Regional Equity Framework for Urban Schools* co-authored with Jennifer Jellison Holme.²

Number 1. Students do not have equal access to a sound basic education in NY because of racial and socioeconomic segregation between districts.

We are here today to discuss whether New York State is depriving students of color of equal access to a constitutionally mandated “sound basic education”. Governor Cuomo recently insisted that local school districts must make sure funding reaches the poorest schools, suggesting that the local distribution of aid was what was critical to ensuring equity.³ Yet to ensure *adequate* and *equitable* funding, there is a great deal of evidence that suggests more money could, in fact, better address student needs.⁴ In addition, given changing demographics and enrollment patterns many who testify at these hearings will point to the fact that it is time to update the metrics used in the aid formula.

But I’d like to suggest to you that there is an even more critical aspect of these issues to consider as part of the discussion of civil rights violations and that is **the concentration of need that has resulted from high levels of segregation in our State’s school system.** Attention to these broader issues is urgent given that in 2014 NY was singled out by UCLA’s Civil Rights Project as the state with the most segregated schools.⁵ As the authors stated then, “New York’s record on school segregation by race and poverty is dismal now and has been for a very long time.”⁶ A high concentration of poverty within a school has shown to adversely affect student achievement, regardless of individual student’s race or socioeconomic status.⁷

Although current levels of segregation are reminiscent of the pre-*Brown* era, its configuration has changed fundamentally since the landmark decision. Decades ago, students from different racial, ethnic and economic backgrounds resided within the same district but were taught in separate school buildings.⁸ While this still occurs in NYC as illustrated recently in the media, I want to call attention to the broader trend happening across the State in places like Rochester, Syracuse, and Buffalo. In these areas, the expansion of suburban development has led to students from different racial, ethnic and economic backgrounds increasingly residing in separate school districts entirely although they live just a few miles apart in the same metro area. This phenomenon of ‘between district’ segregation must be considered in terms of civil rights violations of students from Black and Latinx communities.

Number 2. State and federal policies have exacerbated these inequities.

It’s important to recognize policies that got us to where we are today. As the Federal Housing Administration in 1934 and the Veterans Administration in 1944 insured private banks against loss and encouraged long-term, low cost home purchase loans, families of color were excluded from suburban options and unable to secure a loan in the city due to unfavorable neighborhood ratings.⁹ These VA and FHA policies fueled disinvestment in urban cores and created deep and lasting racial wealth disparities. Another significant policy development was around annexation. Previously cities had annexed territory as their population grew outward but by the early 20th century suburbs fought back, incorporating into autonomous jurisdictions.¹⁰ In New York legislation passed in the 1960s removed annexation powers from cities and solidified the boundaries we are faced with

today.¹¹ The resulting multiple governments created a system of competition between municipalities for residents, businesses, and tax base.¹² More affluent areas have ‘zoned in’ higher income housing, through such regulations as a prohibition on multifamily housing; lower income municipalities with little power must impose high tax rates to provide basic services, leaving them unable to lure businesses or middle-income residents. White and middle class flight, along with deindustrialization and the exodus of manufacturing jobs resulted in a steadily dropping tax base. The end result is that students of color often live, attend school, and work within environments that are stacked against them. Because of this, no matter how creative or committed the superintendent and educators within districts like Rochester are, they cannot overcome these underlying structural and racial inequities.

Educational policy at the state level has largely ignored segregation and its impact on schools (with the exception of John King’s use of federal School Improvement Grant funds to reduce socioeconomic isolation for a short time period) to the detriment of these communities. Instead, there has been a ‘doubling down’ on the technical reform approach that conceives of the problem of school ‘failure’ as the fault of those within school systems: bureaucratic inefficiency, inadequate standards, inefficient resource allocation, and poor teaching. By misattributing the problem in this way, the policy solution has been putting additional pressures on low performing schools (which serve primarily Black and Latinx students) for years, leading to greater degrees of crises rather than improvements.

It is undeniable that a child’s access to a “sound basic education” is determined by that child’s zip code, but what gets lost in this reality is that this is the result of decades of policies (within and outside of education) that have created an unequal system of education in our State. And if policy can get us into this inequitable situation, policy can get us out of it.

Number 3. Addressing segregation is critical for improved outcomes, resource equity and preparing students for their future.

Segregation and concentrated poverty negatively affect the achievement level of students, even after controlling for a host of school quality and student background factors.¹³ The concentrated need associated with segregation can generate much higher demands on school resources and personnel, strains that can then diminish the capacity of a school to improve.¹⁴ It is for these reasons that educators have difficulty ‘reforming’ their way out of these problems; high poverty schools that are successful are often called ‘beat the odds’ schools because the deck is stacked so heavily against them.

But desegregation also means creating more diverse and integrated learning environments. As John Powell has noted, segregation is about the isolation of historically marginalized students from opportunity.¹⁵ By isolating the privileged from the marginalized, segregation sets in motion powerful political and economic forces that propel inequality. As the NAACP recognized in the cases leading up to and including *Brown*, it is for these political reasons that separate is very difficult to be made ‘equal,’ as politics and power will almost always work against segregated schools.¹⁶

Research points to the positive effect of diverse learning environments on student and family outcomes from decreased dropout rates and increased graduation rates to improved earnings and increased access to better paid jobs.¹⁷ Positive outcomes for all students in diverse environments include exposure to different viewpoints, increased problem-solving skills, and increased comfort in interracial settings.¹⁸ These skills are the same reason that organizations seek diversity to encourage creativity and innovation. These are necessary to succeed in college or careers and thus are critical to ensuring a “sound basic education” for students in our State.

I have discussed 3 key points so far, documenting **1) that students do not have equal access to a sound basic education because of segregation between districts, 2) that state and federal policies exacerbated these inequities, and 3) that addressing segregation is critical for improved outcomes, resource equity, and preparing students for their future.**

Now I will discuss my 4th point as far as recommendations to reverse these trends.

Number 4. A new approach to policy and funding equity must occur to reverse these trends and ensure that the State is, in fact, providing a “sound basic education” to all students.

What is required is a new way of thinking about the problems that I have described to disrupt the advantages and disadvantages baked into our systems and structures that work against Black and Latinx students across the State. A multi-faceted approach is needed that includes tax base sharing, place-based investments, mobility policies, and a regional governance structure. In my testimony, and which is elaborated more in my book *Striving in Common*, I draw upon legislation from Nebraska that targeted the inequities in the Omaha region to provide an example of how this could be done.¹⁹ This example is useful in thinking about state-level legislative solutions as it is the only state educational policy that has attempted to directly tackle these complex dynamics resulting from segregation between districts. Importantly, although the model in Omaha has been dismantled in many ways, as there are strong political forces that work against equity, while in place it was beginning to show promising results and can serve as a model for developing strategies at the state level, using a combination of incentives and mandates to tackle some long-standing inequities and encouraging districts’ cooperation to address students’ needs throughout a region.²⁰

Strategy 1: Tax Base Sharing and Resource Redistribution

While many state aid programs provide money to localities to compensate for low tax bases, these programs often fail to fully address the inequities and are politically vulnerable, subject to cuts in lean economic times thereby creating further inequities. Tax base sharing, on the other hand, is based on the premise that all residents in a metro area should benefit from regional growth and involves pooling and then redistributing taxes

across a metro area. The Nebraska Legislature put this into place years ago as part of the The Learning Community of Douglas and Sarpy Counties. As originally designed, it pooled all local tax resources designated for education from 11 school districts in a two-county area for the purpose of creating school funding equity across a region.²¹ Funds were redistributed to local districts based upon a state funding formula that took into account student need. Connecting the fate of communities in terms of tax resources is a critical element in altering the competitive dynamics that undermine equity between school systems. While it requires everyone involved to re-think how aid is allocated, it is one of the only approaches that has the potential to impact the strong local political dynamics that we discuss in great detail in our book, dynamics that serve to maintain – rather than disrupt - our inequitable school system.

Strategy 2: “In-Place” Investment Policies Funded by Regional Resources

The second strategy is what civil rights lawyer John Powell calls “*in place*” strategies, because these focus on directing investment and resources into high poverty and traditionally marginalized communities. In Omaha a portion of the regional tax mentioned above went toward early childhood learning centers that were located in the highest poverty neighborhoods and provided social and academic support services. In education, place-based strategies have been long exemplified in the ‘community schools’ movement, a movement aimed at transforming schools into community hubs.²² Community schools are intended to address both educational inequity and serve as a tool for broader neighborhood investment and development.²³

While education policy has been more receptive to these types of in-place investments, as we have seen in our own State, scholars like David Rusk and Patrick Sharkey point out that focusing on the (re)development of isolated communities alone does not tackle the underlying causes of that isolation.²⁴ As Rusk notes this “allows powerful institutions to shirk once gain their responsibility to confront racial and economic segregation.”²⁵ As such, in-place strategies in highly segregated areas must always be linked with other policies like the strategies discussed here that involve resource redistribution and mobility across district boundaries.

Strategy 3: Mobility Policies

The third component of the policy framework we propose includes ‘mobility’ strategies, which seek to break down patterns of segregation by allowing students to move across district boundaries and give them the opportunity to attend more diverse and integrated schools. While we have a small inter-district integration program like this in Rochester, it does not have some key elements in place to ensure it tackles the economic and racial isolation it was meant to solve (for example, by incentivizing participation of districts, operating two ways, i.e., into and out of the Rochester City School District, using metro-area demographic targets, or incorporating regional magnet schools). In Nebraska to ensure the desired impact, both priority assignment and transportation were given to students who altered the socioeconomic balance of a school building. The ultimate goal of the program was to ensure that each school in all 11 school districts had the same proportion of low-income students as the metro-wide average. In addition to this cross-district mobility, the Learning Community included inter-district (non-selective) magnets designed to attract and enroll students from across all districts in the metro area. The

legislation provided an incentive through additional per pupil funding for students in these schools as well as capital funds. Mobility programs like these are often used as a first step to bring districts closer to their metro level demographics and can help to provide new programmatic opportunities in city school districts through inter-district magnets. However, because they allow the underlying competitive dynamics to remain in place they should be part of a multi-faceted policy that involves the additional resource redistribution and place-based investments that I outlined above to have a long-term impact.

Strategy 4: Regional Governance

The three strategies described above form what one of our interviewees in Omaha called “three legs of a stool.” Continuing this analogy, the “seat” of the stool is oversight of implementation through a regional governing body, consisting of representatives who are elected from across the entire region. The Learning Community has a two-tier structure: an elected governing council oversees regional equity goals, while local school boards have autonomy over other key decisions. A regional body like this must be given authority to make decisions on key equity issues and be able to enforce compliance given the local political dynamics.²⁶

Urban school districts like Rochester and the low-income students of color they serve will continue to struggle unless these structures of segregation are tackled and without doing so I believe we are violating the civil rights of Black and Latinx students. We are at an important moment in time where leadership and policy development at the state level is required given the increased inequities in our State. While some changes to the funding formula might help, more complex strategies are needed given the local political dynamics I have described. Policies that include tax base sharing, paired with place-based investments and mobility approaches and overseen to ensure compliance with equity goals, have the potential to disrupt the long-term patterns that we have in place. And as I mentioned since policy got us into this it is time for policy to get us out of it. Thank you.

¹ Note: This is an expansion upon my oral statement of June 13, 2019 (available here: <https://youtu.be/WSM6h05ICqQ?t=3809>) to provide some additional details and clarification.

² Holme, J. J., & Finnigan, K. S. (2018). *Striving in common: A regional equity framework for urban schools*. Cambridge, MA: Harvard Education Press.

³ Amin, R. (2018). Defiant, Cuomo invites ire resisting more New York State funding for schools, *Chalkbeat* Retrieved from <https://www.chalkbeat.org/posts/ny/2018/12/17/192411/>

⁴ See, for example, Jackson, C. K.’s recent unpublished paper “Does school spending matter? The new literature on an old question” for more details. Retrieved from https://works.bepress.com/c_kirabo_jackson/38/

⁵ Kuscera, J., & Orfield, O. (2014). New York State’s extreme school segregation: Inequality, inaction and a damaged future. Los Angeles, CA: Civil Rights Project/Proyecto Derechos Civiles. Retrieved from <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/ny-norfler-report-placeholder/Kuscera-New-York-Extreme-Segregation-2014.pdf>

⁶ Ibid, p. iii.

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- ⁷ Kahlenberg, R. D. (2012). From all walks of life: New hope for school integration. *American Educator*, Winter 2012-13. Retrieved from <https://www.aft.org/sites/default/files/periodicals/Kahlenberg.pdf>; Rumberger, R.W., & Palardy, G. J. (2005). Does segregation still matter? The impact of student composition on academic achievement in high school, *Teachers College Record*, 107(9), 1999-2045.
- ⁸ Clotfelter, C. T. (2004). *The rise and retreat of school desegregation*. Princeton, NJ: Princeton University Press.
- ⁹ Massey, D. S., & Denton, N.A. (1993). *American apartheid: Segregation and the making of the underclass*. Cambridge, MA: Harvard University Press. Note: These practices had been encoded into federal policy by the federal Home Owners Loan Corporation that had been established in 1933.
- ¹⁰ These laws were first enacted in the mid-1800s, when many states adopted laws that allowed cities to incorporate relatively easily by establishing rules for incorporation that meant that cities did not have to appeal individual cases to the states as they had in the past.
- ¹¹ Hevesi, A. G. (2006). Outdated municipal structures: Cities, towns and villages – 18th century designations for 21st century communities, *Local Government Issues in Focus*, 2(3). Retrieved from <https://www.osc.state.ny.us/localgov/pubs/research/munistructures.pdf>
- ¹² Orfield, M. (2002). *American metropolitics: The new suburban reality*. Washington, DC: The Urban Institute Press.
- ¹³ reardon, s. f. (2016). School segregation and racial academic achievement gaps, *The Russell Sage Foundation Journal of the Social Sciences*, 2(5), 24-57. Retrieved from <https://www.rsjournal.org/content/2/5/34.full>;
- Borman, G., & Dowling, M. (2008). Schools and inequality: A multilevel analysis of Coleman's equality of educational opportunity data", *Teachers College Record* 112(5), 1201-1246; Rumberger, R.W., & Palardy, G. J. (2005). Does segregation still matter? The impact of student composition on academic achievement in high school, *Teachers College Record*, 107(9), 1999-2045.
- ¹⁴ Bryk, A. S., Sebring, P. B., Allensworth, E., Luppescu, S., & Easton, J. (2010). *Organizing schools for improvement: Lessons from Chicago*. Chicago: University of Chicago Press.
- ¹⁵ powell, j. a. (2008). Race, place, and opportunity, *The American Prospect*, September 22.
- ¹⁶ Ryan, J. E. (2010). *Five miles away, a world apart: One city, two schools, and the story of educational opportunity in modern America*. New York: Oxford University Press.
- ¹⁷ Guryan, J. (2004). Desegregation and Black dropout rates, *American Economic Review*, 94(4): 919-943; Johnson, R. C. (2015). Long-run impacts of school desegregation and school quality on adult attainments, *National Bureau of Economic Research* (Working Paper No. 16664). Retrieved from <https://www.nber.org/papers/w16664>; Orley Ashenfelter, O., Collins, W. J., & Yoon, A. (2006). Evaluating the role of *Brown vs. Board of Education* in school equalization, desegregation, and the income of African Americans, *American Law and Economics Review*, 8, 213–48; Crain, R. L., & Strauss, J. (1985). *School desegregation and Black occupational attainment: Results from a long-term experiment*. Baltimore: Johns Hopkins University, Center for Social Organization of Schools.
- ¹⁸ Chang, M. J., Denson, N., Saenz, V. & Misa, K. (2006). The educational benefits of sustaining cross-racial interaction among undergraduates, *Journal of Higher Education*, 77, 430–55; Hess, D. (2009). *Controversy in the classroom: The democratic power of discussion*. New York: Routledge; Phillips, K. W. (2014). How diversity makes us smarter," *Scientific American*, October 1. Retrieved from <https://www.scientificamerican.com/article/how-diversity-makes-us-smarter/>; Wells, A. S., Holme, J. J., Revilla, A. T., & Atanda, A. K. (2009). *Both sides now: The story of school desegregation's graduates*. Berkeley: University of California Press.
- ¹⁹ The Learning Community of Douglas and Sarpy Counties (the Omaha metropolitan area) was enacted through LB 641 in 2007 and LB 1154 in 2008 and established in 2009. For more details see Finnigan, K. S., Holme, J. J., Orfield, M., Luce, T., Diem, S., Mattheis, A., & Hylton, N. (2014). Regional educational policy analysis: Rochester, Omaha, and Minneapolis' inter-district arrangements, *Educational Policy*, 29(5), 780-814.
- ²⁰ Although no full-scale evaluation was conducted some promising results particularly around early childhood were documented. See Holme, J. J., Diem, S. (2015). Regional governance in education: A case study of the metro area learning community in Omaha, Nebraska, *Peabody Journal of Education*, 90(1), 156-177. Note: a goal or benchmark used in Omaha was the metropolitan area demographics and requiring that each district within the region work toward more integrated school environments that reflect the entire metro area's racial/ethnic and socio-economic breakdown. However, it is also critical that policy design attends to other related areas are part of an overall equity agenda, including ensuring access to a diverse teaching force, requiring culturally responsive teaching practices, and documenting within school practices to ensure that classrooms are also integrated.

²¹ For more details see Holme, J. J., Diem, S., & Mansfield, K. C. (2009). *Using regional coalitions to address socioeconomic isolation: A case study of the Omaha metropolitan agreement*. Cambridge, MA: Charles Hamilton Houston Institute for Race and Justice, Harvard Law School. Retrieved from http://charleshamiltonhouston.org/wp-content/uploads/2013/06/OmahaMetroAgreement_Smaller.pdf Note: The resources generated from Strategy 1 are used to support Strategies 2 and 3.

²² Holme, J. J., Castro, A., Barnes, M. C., Haynes, M., Germain, E., Sikes, C. (2017). *Studying the implementation of the federal Full-Service Community Schools grant program*. Paper prepared for presentation at the Annual Meeting of AERA, April 2017.

²³ Maier, A., Daniel, J., Oakes, J., & Lam, L. (2017). *Community schools as an effective school improvement strategy: A review of the evidence*. Palo Alto, CA: Learning Policy Institute. Retrieved from https://learningpolicyinstitute.org/sites/default/files/product-files/Community_Schools_Effective_REPORT.pdf

²⁴ See Rusk, D. (2001). *Inside game, outside game: Winning strategies for saving urban America*. Washington DC: Brookings Institution Press; Sharkey, P. (2013). *Stuck in place: Urban neighborhoods and the end of progress toward regional equity*. Chicago: The University of Chicago Press.

²⁵ Rusk, p. 18.

²⁶ Holme, J. J., Diem, S. (2015). Regional governance in education: A case study of the metro area learning community in Omaha, Nebraska, *Peabody Journal of Education*, 90(1), 156-177. Note: An alternative to a newly elected regional structure, as we discuss in our book, is to utilize existing infrastructures, such as metropolitan planning organizations like the Genesee/Finger Lakes Regional Planning Council or the Boards of Cooperative Educational Services (BOCES) of NY State, to serve in this type of regional equity oversight role.