Consolidation Versus Fragmentation: The Relationship Between School District Boundaries and Segregation in Three Southern Metropolitan Areas

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ABSTRACT

School district boundary lines are a central driver of segregation and educational inequality. Most metropolitan areas are fragmented by multiple school systems that differ widely in their racial and socioeconomic makeup, as well as students' access to educational resources. This Article explores the impact of school district consolidation and fragmentation processes in three metropolitan areas that represent a continuum of inclusion and exclusion: Louisville-Jefferson County, Kentucky; Memphis-Shelby County, Tennessee; and Birmingham-Jefferson County, Alabama. It focuses on how district boundary arrangements help shape the implementation of school desegregation over time, particularly from 1960–2012. Each of the selected metropolitan areas analyzed in this Article is in the southern region of the United States. The South, with its system of legally sanctioned apartheid, became the most integrated region for students after the full weight of the federal government began to enforce *Brown v. Board of Education*. Additionally, metropolitan school desegregation efforts are more common in the South, in part because a handful of southern states operate under laws that facilitate city-suburban mergers.

This Article's exploration of school district boundaries, segregation, and opportunity helps illuminate key strategies and stumbling blocks related to contemporary efforts to overcome the divisive impact of school district boundary lines.

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INTRODUCTION

On August 5, 2013, roughly 150,000 students began their first day of class in the newly merged Memphis City and Shelby County, Tennessee, school system. The consolidation of these two Tennessee districts represented a potentially significant first step towards ameliorating stark patterns of segregation between city and suburb—and related inequities—that continue to define many metropolitan area communities. Yet shortly after consolidating, six suburban municipalities in the county evaded the merger by creating their own districts. Those six new districts opened doors to students in the fall of 2014.

The configuration of school district boundary lines varies across the country, and numerous places have gone in the opposite direction of Memphis City and Shelby County, Tennessee.[1] Rather than pursuing a unified metropolitan school district, these communities consist of multiple fragmented districts that differ markedly in terms of their racial and socioeconomic makeup and access to critical resources. Indeed, the decision to define school communities either broadly or narrowly has extremely important implications for the distribution of equal educational opportunity.[2]

This Article explores the impact of school district consolidation and fragmentation processes in three metropolitan areas that represent a continuum of inclusion and exclusion: Louisville-Jefferson County, Kentucky; Memphis-Shelby County, Tennessee; and Birmingham-Jefferson County, Alabama. It focuses on how district boundary arrangements help shape the implementation of school desegregation over time, particularly from 1960–2012. Each of the selected metropolitan areas analyzed in this Article is in the southern region of the United States. The South, with its system of legally sanctioned apartheid, became the most integrated region for students after the full weight of the federal government began to enforce *Brown v. Board of Education*.[3] Additionally, metropolitan school desegregation efforts are more common in the South, in part because a handful of southern states operate under laws that facilitate city-suburban mergers.

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1. *See generally* Jennifer Jellison Holme & Kara S. Finnigan, *School Diversity, School District Fragmentation and Metropolitan Policy*, 115 TCHRS. C. REC., no. 11, 2013.

2. *See generally* Gary Orfield, *Metropolitan School Desegregation: Impacts on Metropolitan Society*, 80 MINN. L. REV. 825 (1996).

3. Brown v. Bd. of Educ., 347 U.S. 483 (1954).

In a time of rising inequality and rapid racial diversification, providing all students with equal educational opportunities is increasingly urgent. This Article's exploration of school district boundaries, segregation, and opportunity helps illuminate key strategies and stumbling blocks related to contemporary efforts to overcome the divisive impact of school district boundary lines.

I. SCHOOL DISTRICT BOUNDARY LINES, SEGREGATION, AND OPPORTUNITY

School district boundary lines are a central driver of segregation and educational inequality. Most metropolitan areas are fragmented by multiple school systems that differ widely in their racial and socioeconomic makeup, as well as students' access to educational resources. Political boundaries separating school districts communicate crucial information to families and stakeholders about the related domains of school quality, property taxes, and housing prices.[4] People moving across or into a metropolitan area with numerous school districts thus face a series of racialized choices about where to send their children to school. It stands to reason, then, that school segregation levels are higher in more fragmented regions of the country.[5]

Today, six decades after the landmark *Brown* ruling, separate education remains systematically unequal. Racially isolated minority schools are linked to lower levels of student achievement and graduation, higher rates of faculty and staff turnover, fewer critical learning resources, and less challenging curricula than other types of school settings.[6] Moreover, non-diverse schools do not offer students the opportunity to learn and work across lines of difference, an essential set of skills in an increasingly multiracial society.[7]

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4. JONATHAN ROTHWELL, HOUSING COSTS, ZONING, AND ACCESS TO HIGH-SCORING SCHOOLS 21–22 (2012); *see* Holme & Finnigan, *supra* note 1, at 6. *See generally* JAMES E. RYAN, FIVE MILES AWAY, A WORLD APART (2011).

5. Kendra Bischoff, *School District Fragmentation and Racial Residential Segregation: How Do Boundaries Matter?*, 44 URB. AFF. REV. 182, 201–06 (2008).

6. *See, e.g.*, NAT'L ACAD. OF EDUC., RACE-CONSCIOUS POLICIES FOR ASSIGNING STUDENTS TO SCHOOLS: SOCIAL SCIENCE RESEARCH AND THE SUPREME COURT CASES 15–17 (Robert L. Linn & Kevin G. Welner eds., 2007); Gary Orfield, Erica Frankenberg & Liliana M. Garces, *Statement of American Social Scientists of Research on School Desegregation to the U.S. Supreme Court in* Parents v. Seattle School District *and* Meredith v. Jefferson County, 40 URB. REV. 96, 106–07 (2008).

7. *See* Roslyn Arlin Mickelson & Mokubung Nkomo, *Integrated Schooling, Life Course Outcomes, and Social Cohesion in Multiethnic Democratic Societies*, 36 REV. RES. EDUC. 197, 225 (2012); john a. powell, *A New Theory of Integrated Education: True Integration*, *in* SCHOOL RESEGREGATION: MUST THE SOUTH TURN BACK? 281, 283–84 (John Charles Boger & Gary Orfield eds., 2005).

Despite ongoing educational inequities, the spatial nature of school segregation has shifted since *Brown*. In the past, most segregation could be attributed to the uneven distribution of students across schools within the *same* district.[8] Over the years, however, the vast majority of school segregation has occurred because of the distribution of students among schools in *different* school districts.[9] School district boundaries, in other words, have played a progressively more important role in structuring patterns of segregation.

Metropolitan patterns of development and discrimination that gave rise to primarily black central cities ringed by white suburban communities made district mergers central to the future of meaningful school desegregation efforts. Yet in 1974, a Supreme Court significantly altered by four Nixon appointees handed down a decision in *Milliken v. Bradley*[10] that protected the suburbs from school desegregation's reach—strengthening the significance of school-related boundary lines.[11] In the aftermath of the *Milliken* decision, desegregation typically occurred within urban districts. For families wishing to avoid school desegregation, the easy exit to nearby homogeneous suburban districts contributed to longstanding demographic patterns of whites migrating out from urban districts.[12]

Though rare, a number of different circumstances allowed some locales to circumvent *Milliken*. Past research from these communities consistently shows that stably integrated school and residential patterns are associated with comprehensive city-suburban school desegregation policies.[13] For instance, one study of 15 major metropolitan areas found

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8. *See* CHARLES T. CLOTFELTER, AFTER BROWN: THE RISE AND RETREAT OF SCHOOL DESEGREGATION 14 (2004).

9. *See id.* at 77; Sean F. Reardon & John T. Yun, *Integrating Neighborhoods, Segregating Schools: The Retreat from School Desegregation in the South, 1990-2000*, *in* SCHOOL RESEGREGATION: MUST THE SOUTH TURN BACK?, *supra* note 7, at 51, 53–55; Meredith P. Richards, Kori J. Stroub & Jennifer Jellison Holme, *Can NCLB Choice Work? Modeling the Effects of Interdistrict Choice on Student Access to Higher-Performing Schools*, *in* THE FUTURE OF SCHOOL INTEGRATION: SOCIOECONOMIC DIVERSITY AS AN EDUCATION REFORM STRATEGY 223, 240 (Richard D. Kahlenberg ed., 2012); Bischoff, *supra* note 5, at 189–91, 205; Jeremy E. Fiel, *Decomposing School Resegregation: Social Closure, Racial Imbalance, and Racial Isolation*, 78 AM. SOC. REV. 828, 841–42 (2013).

10. Milliken v. Bradley, 418 U.S. 717, 741–45 (1974).

11. *See* PETER IRONS, JIM CROW'S CHILDREN: THE BROKEN PROMISE OF THE *BROWN* DECISION 246 (2002); RYAN, supra note 4, at 90 –91.

12. Orfield, supra note 2; Robert L. Green & Thomas F. Pettigrew, *Urban Desegregation and White Flight: A Response to Coleman*, 57 PHI DELTA KAPPAN 399, 401 (1976).

13. *See* Erica Frankenberg, *The Impact of School Segregation on Residential Housing Patterns: Mobile, Alabama, and Charlotte, North Carolina*, *in* SCHOOL RESEGREGATION: MUST THE SOUTH TURN BACK?, *supra* note 7, at 164; Genevieve Siegel-Hawley, *City*

that stable and diverse neighborhoods were more common in regions that had city-suburban school desegregation programs than in metropolitan areas without regional school integration programs.[14]

The theory underlying such findings dates back to one of the founding principles of the United States government: the most effective way to combat the pursuit of insular political interests is to extend the boundaries of the community itself.[15] Metropolitan school desegregation plans follow that basic tenet by encompassing both the city and the suburbs, thereby linking the interests of families across a broad swath of a metropolitan area. Schools can then operate in service of a broader ideal that aims for a unified, integrated, and high-quality educational system benefitting all members of the community.[16] When school composition does not vary according to where families live in a metropolitan area, housing decisions (and prices) become disentangled from school choices. By contrast, communities that have not pursued city-suburban district mergers are much more likely to report a fractured housing market.[17] Moreover, in recent years, as suburban communities around the country have experienced rapid racial and socioeconomic changes,[18] a tendency towards white and middle class enclave-building has emerged in outlying parts of metropolitan areas.[19] The increasing fragmentation of suburbia only exacerbates the splintering that occurred in the aftermath of *Milliken* and *Brown*.[20]

Today, the United States has diverse city and suburban public school enrollments, particularly in our largest metropolitan areas, yet this diversity has not translated to more substantial school integration for students. White students account for less than half of students in central city districts in metropolitan areas of any size, and in the most populous

Lines, County Lines, Color Lines: The Relationship Between School and Housing Segregation in Four Southern Metro Areas, 115 TCHRS. C. REC., no. 6, 2013, at 19. *See generally* MYRON ORFIELD, INST. ON RACE & POVERTY, MINORITY SUBURBANIZATION, STABLE INTEGRATION, AND ECONOMIC OPPORTUNITY IN FIFTEEN METROPOLITAN REGIONS (2006).

14. ORFIELD, *supra* note 13, at 27.

15. See THE FEDERALIST NO. 10 (James Madison); Orfield, *supra* note 2, at 873.

16. *See* Orfield, *supra* note 2, at 828.

17. DIANNA PEARCE, NAT'L INST. OF EDUC., BREAKING DOWN THE BARRIERS: NEW EVIDENCE ON THE IMPACT OF METROPOLITAN SCHOOL DESEGREGATION ON HOUSING PATTERNS 29 (1980).

18. *See generally* Erica Frankenberg, *Understanding Suburban School District Transformation: A Typology of Suburban Districts*, *in* THE RESEGREGATION OF SUBURBAN SCHOOLS: A HIDDEN CRISIS IN AMERICAN EDUCATION 27 (Gary Orfield & Erica Frankenberg eds., 2012).

19. *See* Sarah Diem & Erica Frankenberg, *The Politics of Diversity: Integration in an Era of Political and Legal Uncertainty*, 115 TCHRS. C. REC., no. 11, 2013, at 13.

20. *See* Erica Frankenberg, *Splintering School Districts: Understanding the Link Between Segregation and Fragmentation*, 34 LAW & SOC. INQUIRY 869, 903 (2009).

urban centers, Latinos are by far the largest group.[21] Latino students outnumber black students in suburban districts as well, suggesting the multiracial nature of growing suburbanization.[22] Black and Latino students—even in the suburbs of large metros—have very low exposure to white students.[23] Suburban whites, on the other hand, have much higher exposure to other white students, attending schools that are, on average, at least 70 percent white.[24]

II. CASE SELECTION

This Article discusses three cases that have different histories of boundary configuration but similarities in demographics (primarily black-white metropolitan areas), desegregation histories (each subject to court ordered desegregation), and region (South) that provide leverage to investigate how boundaries shape segregation. These three cases include: (1) Louisville-Jefferson County, Kentucky, where a unified city-suburban metro district operates with an ongoing commitment to school desegregation; (2) Birmingham-Jefferson County, Alabama, where more than a dozen smaller districts have splintered away from the countywide system; and (3) Memphis-Shelby County, Tennessee, where a merger of the city and suburban system in 2013 represented one of the most large-scale consolidations in at least a decade, though six suburban areas eventually de-merged from the district.

A. Louisville-Jefferson County, Kentucky

Because segregation was found to still exist in the city of Louisville and Jefferson County, Kentucky, in 1974, a court order required both districts to merge into one, creating the Jefferson County Public Schools ("JCPS") district. At the time of the merger, only four percent of the student population in the Jefferson County, Kentucky, school system was black, while over half of the student population in the Louisville school system was black.[25] The following year, the district implemented a new countywide school desegregation plan establishing clusters of schools that were either majority white or black. Students were then bused

21. Gary Orfield & Erica Frankenberg, *Increasingly Segregated and Unequal Schools as Courts Reverse Policy*, 50 EDUC. ADMIN. Q. 718, 726 (2014).

22. *Id.*

23. *Id.* at 727.

24. *Id.*

25. U.S. COMM'N ON CIVIL RIGHTS, THE UNFINISHED BUSINESS: TWENTY YEARS LATER. . . 75 (1977).

between these clusters in order to achieve a racially balanced mix of students in schools.[26]

The creation of the newly formed JCPS district led to an increase in enrollment in Louisville's parochial schools as well as white flight to districts in counties surrounding Louisville.[27] Despite opposition to the district's desegregation plan, busing continued throughout the district, even after the court's active supervision of the plan ended in 1978. In the 1980s, JCPS revised the plan to add magnet schools to two high schools, and by the end of the decade, the district achieved racial balance in all of its schools for the first time since the plan's inception.[28]

In 1992, after conducting a year-long review of the desegregation plan, including public input, JCPS revised the plan so that it emphasized achieving integration through school choice rather than mandatory busing. Through this new managed choice plan, students could apply to programs or schools of their choice while the district made assignment decisions based on racial balance, capacity, and sometimes admissions criteria.[29] Four years later, the new plan was modified and required all schools to have a student population comprising 15 to 50 percent black students.[30]

JCPS found itself facing the first of several lawsuits against its desegregation plan in 1998, when six black parents requested the racial guidelines be thrown out because they limited the enrollment of black students at Central High School Magnet Academy.[31] Stating that the district's desegregation decree had to be completely dismissed before the racial guidelines could be contested in court, the judge rejected the

26. *See* Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1, 551 U.S. 701, 808–10 (2007); GEORGE K CUNNINGHAM & WILLIAM L. HUSK, JEFFERSON COUNTY EDUCATION CONSORTIUM, THE IMPACT OF COURT-ORDERED DESEGREGATION ON STUDENT ENROLLMENT AND RESIDENTIAL PATTERNS IN THE JEFFERSON COUNTY KENTUCKY PUBLIC SCHOOL DISTRICT, FINAL REPORT 66, 98–99 (1979).

27. Scott Cummings & Michael Price, *Race Relations and Public Policy in Louisville: Historical Development of an Urban Underclass*, 27 J. BLACK STUD. 615, 638 (1997) (citing Michael Wines, *Busing: 5 Years Later*, LOUISVILLE TIMES, May 12, 1980, at 1, 4).

28. *See* Cummings & Price, *supra* note 27, at 639; Kathryn A. McDermott, Erica Frankenberg & Sarah Diem, *The "Post-Racial" Politics of Race: Changing Student Assignment Policy in Three School Districts*, 29 EDUC. POL'Y 504, 532–33 (2015).

29. *See generally* Sheldon H. Berman, Recommendation to the Jefferson County Public School District Board of Education (May 28, 2008) (on file with author).

30. McDermott, Frankenberg & Diem, *supra* note 28, at 30 (citing *Timeline: Desegregation in Jefferson County Public Schools*, COURIER-JOURNAL (Sept. 4, 2005), http://archive.courier-journal.com/article/20050904/NEWS01/509040428/Timeline-Desegregation-Jefferson-County-Public-Schools).

31. *See* Hampton v. Jefferson Cnty. Bd. of Educ., 72 F. Supp. 2d 753, 756 (W.D. Ky. 1999).

parents' request.[32] In 2000, the plaintiffs returned to court and moved to disband the JCPS desegregation decree.[33] The court declared JCPS unitary and ordered the end of racial guidelines at Central High School Magnet Career Academy as well as a redesign of the admission procedures for the additional magnet schools in the JCPS district.[34]

As a result of the *Hampton v. Jefferson County Board of Education*[35] decision, 25 years of court-ordered desegregation ended in the JCPS district. However, after making modifications to the plan to reflect the court's ruling around magnet schools, the school board continued to implement its race-conscious plan.[36] Two years later, in *McFarland v. Jefferson County Public Schools*,[37] the district faced another challenge to its student assignment plan when white plaintiffs claimed that their children were denied enrollment and transfer requests because they were white, thus causing the district to be in violation of the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.[38] A U.S. federal district court judge ruled that the JCPS student assignment plan could still be used throughout the district, barring its use of separating magnet school applicants by race and gender.[39] The plaintiffs appealed the ruling, but the U.S. Sixth Circuit affirmed the district court's ruling. The U.S. Supreme Court eventually ruled in favor of the plaintiffs.[40] In doing so, the Court banned the consideration of race as the sole factor in assigning or denying individual students to schools.[41]

After the *Parents Involved in Community Schools v. Seattle School District*[42] ruling, JCPS moved forward with trying to devise a new student assignment plan that would be guided by a number of principles: diversity, quality, choice, predictability, equity, and stability. Eventually, the JCPS school board voted to implement a geography-based student assignment plan. The district was organized into two

32. *Id.* at 776–78; *see Timeline: Desegregation in Jefferson County Public Schools*, *supra* note 30.

33. Hampton v. Jefferson Cnty. Bd. of Educ., 102 F. Supp. 2d 358, 360 (W.D. Ky. 2000).

34. McDermott, Frankenberg & Diem, *supra* note 28.

35. Hampton v. Jefferson Cnty. Bd. of Educ., 102 F. Supp. 2d 358 (W.D. Ky. 2000).

36. *See* Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1, 551 U.S. 701, 710–12 (2007).

37. McFarland v. Jefferson Cnty. Pub. Sch., 330 F. Supp. 2d 834 (W.D. Ky. 2004).

38. *Id.* at 837–39.

39. *Hampton*, 102 F. Supp. 2d at 381; *McFarland*, 330 F. Supp. 2d at 862–64.

40. Meredith v. Jefferson County Bd. of Educ., 547 U.S. 1178 (U.S. 2006) (granting petition for writ of certiorari). The case was decided along with Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701 (2007).

41. McDermott, Frankenberg & Diem, *supra* note 28, at 2.

42. Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1, 551 U.S. 701 (2007).

geographic areas: (1) geographic area A, which included neighborhoods with more than 48 percent of students of color, average household incomes below the county's median, and average adult education levels ranging from less than a high-school diploma to some college; and (2) geographic area B, which included neighborhoods with lower-than-average populations of students of color, household incomes higher than the country's median, and higher than average adult levels of education. The district also established six contiguous clusters that contained proportions of geographic area A and B neighborhoods, and elementary schools had to draw between 15 and 50 percent of their students from geographic area A.[43]

At the beginning of the 2010–2011 school year, the JCPS school board hired consultants to evaluate issues that occurred during the implementation of the new student assignment plan. The consultants recommended a number of revisions to the plan, including replacing the six current elementary school clusters with 13 clusters; defining neighborhoods by census block groups; and categorizing the neighborhoods as 1, 2, and 3 instead of using geographic A and B areas. The proposed plan still used race, income, and education in creating the clusters and maintaining parental choices. For the 2012–2013 school year, the school board voted to retain the original six clusters but altered the definition of a neighborhood's diversity used in the plan in favor of the 1, 2, 3 categories. The plan also included kindergarten students in a school's diversity index as well as English as a Second Language ("ESL") students.[44] The school board subsequently modified the plan again and instituted the 13 clusters beginning in the 2013-2014 school year.

B. Birmingham-Jefferson County, Alabama

The Jefferson County, Alabama public school system began in 1819, the same year that Alabama became a state.[45] In 1901, the state adopted the Alabama Code, which permits any city with at least 5000

43. Antoinette Konz, *No Delay for JCPS Middle School Boundary Changes*, COURIER-JOURNAL 3 (Mar. 14, 2011), http://pqasb.pqarchiver.com/courier_journal/doc/856965292.html?FMT=ABS&FMTS=ABS:FT&date=Mar+14%2C+2011&author=Konz%2C+Antoinette&pub=Courier+-+Journal&edition=&startpage=&desc=No+delay+for+JCPS+middle+school+boundary+changes; McDermott, Frankenberg & Diem, *supra* note 28, at 32.

44. Antoinette Konz, *JCPS Board OKs Revised Student-Assignment Plan*, COURIER-JOURNAL 1 (Jan. 9, 2012), http://archive.courier-journal.com/article/20120109/NEWS01/301090062; McDermott, Frankenberg & Diem, supra note 28, at 9.

45. Frankenberg, *supra* note 20, at 880.

residents to form a municipal school district separate from the county school district. By that time, the city of Birmingham and the city of Bessemer, which sought to rival Birmingham as an industrial city, had already formed their own school districts. Fairfield, a company town comprised mostly of black residents, formed its own school system in the 1920s. Tarrant, an industrial suburb north of Birmingham, followed suit and formed its own school district in 1942.[46]

In line with the nation's post-World War II economic boom and subsequent suburbanization, middle and upper class residents of Birmingham began to move to suburbs forming southeast of Birmingham, including Mountain Brook in the 1940s, Vestavia Hills in the 1960s, and Hoover in the 1970s.[47] Also in the 1970s, Midfield became home to largely working-class residents, forming an inner-belt suburb on the western side of Birmingham.

Alabama was notoriously resistant to school integration following the *Brown* decision. In 1955, Birmingham experienced the first legal challenge to school segregation in Jefferson County, Alabama, in *Shuttlesworth v. Birmingham Board of Education*.[48] The court dismissed the initial challenge, but in 1960, a group of black plaintiffs again challenged Birmingham's student assignment policies. After a long delay, the U.S. Fifth Circuit Court of Appeals required that the school system create a desegregation plan and implement it in the 1963–1964 school year.[49] In 1963, a few black students in Birmingham were among the first in Alabama to attend formerly all-white schools. In 1965, the Jefferson County, Alabama, school district came under a court desegregation order, of which Bessemer and Fairfield soon followed. Still, initial desegregation efforts in Jefferson County, Alabama, occurred slowly, so much so that the circuit court in *United States v. Board of Education*[50] described Jefferson County districts' progress as moving at a "glacial" speed.[51]

There was a great deal of resistance to desegregation efforts by whites in Jefferson County, Alabama.[52] In 1959, the virtually all-white town of Mountain Brook had established its own school system separate from Jefferson County's. In both 1959 and 1964, prominent Birmingham and suburban community and business leaders sought to

46. *Id.* at 881.

47. *Id.*; Charles E. Connerly, *"One Great City" or Colonial Economy? Explaining Birmingham's Annexation Struggles, 1945-1990*, 26 J. URB. HIST. 44, 54 (1999).

48. Shuttlesworth v. Birmingham Bd. of Educ., 162 F. Supp. 372 (N.D. Ala. 1958).

49. Armstrong v. Bd. of Educ., 323 F.2d 333 (5th Cir. 1963).

50. United States v. Bd. of Educ., 396 F.3d 44 (5th Cir. 1968).

51. *Id.* at 48.

52. *See* Frankenberg, *supra* note 20, at 883.

consolidate five of the suburbs within the city limits of Birmingham in an attempt to keep a white voting majority, as had been done in numerous other southern cities.[53] However, suburbanites voted against it for fear of what the merger would mean for school integration, despite promises made by Birmingham that the suburbs could keep their schools.[54] In 1970 and 1971, respectively, the suburbs of Vestavia Hills and Midfield created their own school districts after reaching the threshold of 5000 residents in the 1970 census.[55] Homewood, which had met the population threshold earlier, joined them by forming its own district in 1971. All three of the cities were overwhelmingly white at that time. After 1970, the number of school systems in Jefferson County, Alabama, remained stable until the late 1980s. Then in 1988, Hoover created its own school system, followed by the Leeds school district in 2003 and the Trussville City schools in 2005.

Over time, court-ordered desegregation efforts in Jefferson County, Alabama, have faded. In the 1980s, courts refused the requests of Jefferson County, Alabama, students to attend different school systems outside their residences, and when Birmingham annexed a majority black neighborhood, the court ruled that the students living there had to transfer from their mostly white schools to ones within the mostly black Birmingham city school district. Both decisions relied on *Milliken* and reinforced the significance of boundary lines in determining school attendance, regardless of the impact on desegregation efforts. Yet courts never prohibited the creation of new school districts drawing students from Jefferson County, Alabama, even though it may have impeded the county district's efforts to achieve a unitary system.[56]

The overall enrollment of Jefferson County, Alabama, school districts declined more than 30 percent from 1968 to 2005, with sharp declines felt by the two largest districts, Jefferson County school system and Birmingham city system.[57] Birmingham city district's enrollment declined more than 50 percent, similar to other central districts in the country.[58] Additionally, the distribution of students shifted into the smaller splinter districts and away from the larger districts. Also mirroring national trends,[59] the white proportion of Jefferson County's

53. *Id.* at 883.
54. Connerly, *supra* note 47, at 58–59.
55. Frankenberg, *supra* note 20, at 884.
56. *Id.* at 885.
57. *Id.* at 888.
58. *Id.*; ERICA FRANKENBERG, CHUNGMEI LEE, & GARY ORFIELD, THE CIVIL RIGHTS PROJECT, A MULTIRACIAL SOCIETY WITH SEGREGATED SCHOOLS: ARE WE LOSING THE DREAM? 55 (2003).
59. FRANKENBERG, LEE & ORFIELD, *supra* note 58, at 55.

student enrollment has declined since the late 1960s; however, these trends vary by district.

C. Memphis-Shelby County, Tennessee

Memphis is located in Shelby County, Tennessee, which encompasses the city and six incorporated suburbs to the north and east. Memphis City Schools ("MCS"), the former school district that operated the city's public schools, maintained separate schools for whites and students of color from 1869 until the *Brown* decision declared the school system unconstitutional. These separate and unequal schools were a result of a city school charter that established the district's board of education and stated that the board provide and uphold separate school systems. Further, the city school district never consolidated with its neighboring county district, Shelby County, Tennessee, leaving two public school systems within the single metropolitan area: (1) a mostly white school system; and (2) a disproportionately black school system.[60] When the *Brown* decision came down, the Memphis city school district served approximately 80,000 students: 58 percent were white and 42 percent were black.[61]

Efforts to desegregate MCS did not occur until 1960 when the National Association for the Advancement of Colored People Legal Defense Fund ("LDF") filed a lawsuit, *Northcross v. Board of Education*.[62] The MCS school board allowed some desegregation to occur in the district and granted transfer requests for 15 black first graders to attend all white elementary schools.[63] In 1962, the court ruled that the state pupil assignment law did not work to desegregate the schools.[64] The district eventually instituted its own desegregation plan that would add a grade a year, admitting black or white students to formerly segregated schools in order to desegregate these schools. In 1966, the *Northcross* plaintiffs and the MCS school board settled on a plan that revised geographic zones within the district and allowed for free transfers subject only to space limitations.[65]

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60. *See* Daniel Kiel, *Exploded Dream: Desegregation in the Memphis City Schools*, 26 L. & INEQUALITY 261, 295–97 (2008).

61. *Id.* at 297–98.

62. Northcross v. Memphis Bd. of Educ., 302 F.2d 818 (6th Cir. 1962).

63. Kiel, *supra* note 60, at 272; Daniel Kiel, *A Memphis Dilemma: A Half-Century of Public Education Reform in Memphis and Shelby County from Desegregation to Consolidation*, 41 U. MEM. L. REV. 787, 793 (2011).

64. Roger Biles, *A Bittersweet Victory: Public School Desegregation in Memphis*, 55 J. NEGRO EDUC. 470, 474 (1986); Kiel, *supra* note 60, at 274.

65. Kiel, *supra* note 60, at 282–83.

By the end of the 1960s, MCS still remained highly segregated as over 80 percent of its schools had populations that were more than 90 percent black, while over a third of the schools remained entirely segregated by a single race.[66] Further, as the U.S. Supreme Court increasingly required districts to do more to desegregate,[67] the *Northcross* plaintiffs returned to court seeking modifications to the desegregation plan. The *Northcross* case eventually made it to the U.S. Supreme Court, which ruled that the Sixth Circuit Court of Appeals did not promote action to aid integration and instead needed to follow the directive of the *Alexander v. Holmes County Board of Education*[68] ruling to terminate dual (segregated) school systems. District Judge McRae eventually settled on a desegregation plan proposed by the MCS school board that would include the busing of 13,800 students across the city, which he believed necessary due to the city's racial residential patterns.[69] Within the first month of busing, over 7500 white students withdrew from the district. In May 1973, Judge McRae ordered a new plan for the following fall that would expand busing to almost 40,000 students. The following August, 29,000 students did not register for school at MCS.

Busing failed to have its intended effect in MCS as the vast majority of students were in highly segregated environments throughout the 1970s. Indeed, a majority of blacks were in schools that were more than 90 percent black, and a majority of whites were in schools that were more than 90 percent white.[70] The MCS desegregation plan remained in place until 1982. The revised plan eliminated busing in some areas where black students were being bused to predominately black schools, and brought in new busing routes to newly annexed and mostly white areas of Memphis. This plan remained in place for ten years, at which time the *Northcross* plaintiffs agreed to have the case put on inactive status. In 1999, the court formally dismissed the case.[71]

The recent merger of the Memphis and Shelby County, Tennessee, districts came about as a result of urban efforts to prevent the Republican-majority Tennessee Legislature and suburban politicians from altering the funding structure to allow more tax money to stay in the suburbs.[72] In December 2010, the Memphis city school district voted

66. Kiel, *supra* note 60, at 285; Kiel *supra* note 63, at 796.

67. Alexander v. Holmes Cnty. Bd. of Educ., 396 U.S. 1218 (1969); Green v. Cnty. Sch. Bd., 391 U.S. 430 (1968).

68. Alexander v. Holmes Cnty. Bd. of Educ., 396 U.S. 1218 (1969).

69. Kiel, *supra* note 60, at 288.

70. *Id.* at 285.

71. *Id.* at 296; Kiel, *supra* note 63, at 801.

72. Gabrielle Canon, *Memphis and Shelby County Schools Merger Prompts Battle over Politics, Race and Money*, HUFFINGTON POST (Mar. 15, 2011)

to surrender its school charter. A number of lawsuits ensued after the vote, and on March 8, 2011, Memphis voters approved the disbanding of the city school district, effectively turning it over to the county district, Shelby County Schools. In August 2011, a federal judge ordered the merger of the Memphis and Shelby County districts to begin July 2013,[73] at which time the new unified school district became Tennessee's largest school system and the 14th largest district in the United States.

Resistance to the merger quickly emerged from the six suburban cities located in Shelby County, Tennessee. In April 2013, the Tennessee Legislature approved a bill allowing the six Memphis suburban cities to create new municipal school districts. These majority white cities[74] began operating their new school systems in fall 2014, allowing them to avoid further years as a merged district with Memphis City Schools.[75]

III. DATA SOURCES AND METHODS

Because this Article's study focuses on the impact of school district consolidation and fragmentation in three metropolitan areas, it is necessary to utilize several sources of data. The study used the following data: (1) quantitative data for school segregation drawn from the National Center for Education Statistics ("NCES") Common Core of Data; and (2) historical data drawn from the Office of Civil Rights ("OCR") and desegregation cases. Additionally, this analysis relies on United States Census data from 1960–2012 for investigating the characteristics of municipalities within the three counties. These data provide the opportunity to examine how total population, including racial, economic, and educational characteristics, has changed over time in the school districts and in each metropolitan area. This Article uses several measures of segregation, including the exposure index and racial concentration, to investigate the nature of school segregation between and within districts across different boundary configurations.[76]

http://www.huffingtonpost.com/2011/03/15/memphis-shelby-county-schools-merger_n_836333.html.

73. Bd. of Educ. v. Memphis City Bd. of Educ., No. 11-2101, 2011 WL 3444059, at *60 (W.D. Tenn. Aug. 8, 2011).

74. *See infra* Table 2.

75. Jaclyn Zubrzycki, *Memphis Suburbs Moving Closer to Avoiding Merger*, EDUC. WK., Apr. 24, 2013, at 5, 5.

76. Douglas S. Massey & Nancy A. Denton, *The Dimensions of Residential Segregation*, 67 SOC. FORCES 281, 283 (1988). S*ee generally* Sean F. Reardon & Glenn Firebaugh, *Measures of Multigroup Segregation*, 32 SOC. METHODOLOGY 33 (2002).

The segregation analysis uses only "regular" schools within each of the districts in these three counties.[77] The study also did not include charter schools in Shelby County, Tennessee, because Kentucky currently does not permit the establishment of charter schools, and Alabama just passed a law in March 2015 allowing charter schools in the state, which made it impossible to make comparisons across the three sites. Finally, the tables and discussion do not include American Indian students because they constitute such a small share of enrollment, but those numbers are available by request from the authors.

A series of maps constructed using Geographic Information Systems ("GIS") helps illustrate spatial distribution of students by race and poverty-status across districts in the three locales. Prior studies have used GIS to communicate spatial information related to the segregating effects of neighborhood school policies,[78] school segregation across the metropolitan context,[79] and the relationship between private, magnet, and charter school usage and segregation in urban districts.[80] Regular primary school addresses were geocoded[81] and then linked to school-level racial and ethnic data and free and reduced-priced lunch data from the NCES Common Core of Data, for the school years 1992–1993, 1998–1999, and 2009–2010. The study emphasizes regular primary[82]

77. Regular schools are those district schools that do not have any particular criteria limiting who would attend the school. For example, the analysis did not include district alternative or special education schools since special criteria must be met by students attending such schools.

78. *See generally* Ellen Goldring et al., *Schooling Closer to Home: Desegregation Policy and Neighborhood Contexts*, 112 AM. J. EDUC. 335 (2006).

79. *See generally* Charlie H. Zhang & Margath A. Walker, *School Segregation in Jefferson County and the Affiliated Louisville Metropolitan* Area, USA, 8 J. MAPS 379 (2012).

80. *See generally* Salvatore Saporito & Deenesh Sahoni, *Coloring Outside the Lines: Racial Segregation in Public Schools and Their Attendance Boundaries*, 79 SOC. EDUC. 81 (2006).

81. We were unable to match a small percentage of regular primary school addresses in the different locales and across time periods. This is likely due to slight discrepancies or lack of updates in the shape files representing streets and roads. The percentage of successfully matched addresses follows. In Jefferson County, Alabama, 92% of regular primary school addresses were matched in 1992, 89% in 1998, and 96% in 2009. In Memphis City and Shelby County, Tennessee, 94% of regular primary school addresses were matched in 1992, 96% in 1998, and 91% in 2009. In Jefferson County, Kentucky, 92% of regular primary school addresses were matched in 1992, 94% in 1998, and 99% in 2009.

82. NCES Common Core of Data's "school level" variable defines primary schools as settings in which pre-K through third grade are present. See Public Elementary/Secondary School Universe Survey Data, NAT'L CTR. FOR EDUC. STAT., http://nces.ed.gov/ccd/pubschuniv.asp (last visited Feb. 11, 2015) (providing information and statistics on all public elementary and secondary schools in the country). This variable category was not available in 1992. For that year, we used the "lowest grade offered" variable.

schools—which closely correspond with elementary settings across the three time periods—due to their ability to offer insight into rising population trends.[83] Census Tiger Line shape files for the years 2000 and 2010 provided school district boundaries. The study also drew on primary sources such as newspaper articles, legal cases, and other district documents as applicable to supplement the quantitative and secondary analyses in each of these three sites.

IV. POPULATION, SCHOOL ENROLLMENT, AND SEGREGATION TRENDS

Part IV presents population data from 1960–2012, including racial, economic, and educational characteristics to paint a picture of both the larger demographic changes occurring within the communities over the 52 years examined and how the changes are related to consolidation and fragmentation. This Part also presents school- and district-level data to examine school consolidation and fragmentation in each of the three metropolitan areas. The findings show that smaller municipalities within the metropolitan areas examined have higher percentages of white residents, higher income and home values, and higher education levels. Not surprisingly, the school districts within these municipalities enroll larger percentages of white and more affluent students. These patterns are even more troubling because they have increased over time, exacerbating levels of segregation within these municipalities and their school districts and perpetuating the inequalities between central cities and surrounding suburbs.

A. Changing Population Characteristics Over Time

From 1960 to 2012, the increase in overall population was slight for Jefferson County, Alabama; moderate for Jefferson County, Kentucky; and most dramatic for Shelby County, Tennessee. In 1960, out of the approximately 600,000 residents living in Jefferson County, Alabama, 50 percent resided in Birmingham; in 2012, that percentage fell to 30 percent while dramatic population increases occurred in Vestavia Hills, Mountain Brook, and Homewood.[84] Vestavia Hills has consistently experienced an increase in its overall population since 1960, with its most substantial growth of an additional 10,000 residents occurring between 2000 and 2010.[85] Mountain Brook witnessed its highest levels of population growth from 1960 to 1970, during the years just after the

83. MYRON ORFIELD, AMERICAN METROPOLITICS: THE NEW SUBURBAN REALITY 53 (2002).

84. *See infra* Table 1.

85. *See infra* Table 1.

city established its only school district. This same phenomenon occurred in Hoover after the creation of its school district: the population grew by approximately 20,000 from 1980 to 1990; 23,000 from 1990 to 2000; and 19,000 from 2000 to 2012.[86]

In Jefferson County, Kentucky, 64 percent of the population resided in Louisville in 1960.[87] This percentage grew significantly between 2000 and 2010 in large part because of the creation of the Louisville Metro Council in 2003. The Council merged the city of Louisville and Jefferson County, Kentucky, and absorbed six of the municipalities.[88] In Shelby County, Tennessee, the city of Memphis was home to the majority of the county's residents from 1960 to 2012. However, the six additional suburban municipalities within the county have experienced increases in population, particularly in Germantown, Collierville, and Bartlett.[89]

86. *See infra* Table 1.
87. *See infra* Table 1.
88. *See infra* Table 1.
89. *See infra* Table 1.

Table 1. *Population in Jefferson County, Kentucky; Jefferson County, Alabama; and Shelby County, Tennessee, 1960–2012*

Municipality	1960	1970	1980	1990	2000	2010	2012
Jefferson County, KY	610,947	695,055	685,004	664,937	693,604	741,096	741,285
Louisville City	390,639	361,472	298,451	269,063	256,231	597,337	597,231
Jefferson County, AL	634,864	644,991	671,324	651,525	662,047	658,466	658,464
Bessemer City	33,054	33,428	31,729	33,497	29,672	27,456	27,516
Birmingham City	340,887	300,910	284,413	265,968	242,820	212,237	213,180
Fairfield City	15,816	14,369	13,040	12,200	12,381	11,117	11,135
Homewood City	20,289	21,245	21,412	22,922	25,043	25,167	25,123
Hoover City	-	1,393	19792	39,788	62,742	81,619	81,132
Midfield City	3,632	6,399	6,536	5,559	5,626	5,365	5,366
Mountain Brook City	12,680	19,474	19,718	19,810	20,604	20,413	20,398
Tarrant City	7,810	6,835	8,148	8,046	7,022	6,397	6,412
Vestavia Hills City	4,029	8,311	15,772	19,749	24,476	34,033	33,831
Shelby County, TN	627,019	722,014	777,113	826,330	897,472	927,644	929,437
Arlington City	620	1,349	1,778	1,541	2,569	11,517	11,108
Bartlett City	508	1,150	17,170	26,989	40,543	54,613	54,452
Collierville City	2,020	3,625	7,839	14,427	31,872	43,965	44,613
Germantown City	1,104	3,474	20,459	32,893	37,348	38,844	38,954
Lakeland City	-	-	612	1,204	6,862	12,430	12,218
Memphis City	497,524	623,530	646,356	610,337	650,100	648,889	651,050
Millington City	6,059	21,106	20,236	17,866	10,433	10,176	10,377

Note: Multiple municipalities were absorbed into Louisville Metro Government in 2003 and thus became included in the population figures.
Sources: U.S. Census, 1960, 1970, 1980, 1990, 2000, 2010; American Community Survey 5-Year Estimates, 2012

Changing racial demographics within the three counties[90] highlight an increase among the white population in the smaller municipalities while the black population has increased in the larger central cities. For example, in Jefferson County, Alabama, the populations in Vestavia

90. *See infra* Tables 2, 3.

Hills and Mountain Brook have remained almost entirely white since 1960, while the black populations in Birmingham, Bessemer, Fairfield, and Midfield have increased during the same period, comprising at least 73 percent black residents in 2012.[91] Fairfield, Tarrant, and Midfield have all experienced a rapid loss of white residents in just one or two decades. Birmingham, like many central cities, had a white population of 60.3 percent in 1960, and in 2010, this same population was only 22.8 percent.[92]

In Memphis, the white and black population reversed from 1960 to 2012, with the majority now being black. The other six municipalities in Shelby County, Tennessee, are majority white (68 percent or higher).[93] In Louisville as well as Jefferson County, Kentucky, the racial demographics have remained relatively stable, which may be linked to less fragmentation that has occurred in the county. Since 1960, there has been a slight decrease in the white population and a small increase among the black population.[94]

91. *See infra* Tables 2, 3.
92. *See infra* Tables 2, 3.
93. *See infra* Tables 2, 3.
94. *See infra* Tables 2, 3.

Table 2. *Percentage of White Population in Jefferson County, Kentucky; Jefferson County, Alabama; and Shelby County, Tennessee, 1960–2012*

Municipality	1960	1970	1980	1990	2000	2010	2012
Jefferson County, KY	87.1	86.0	83.2	81.9	77.4	72.7	73.6
Louisville City	82.0	76.0	71.1	69.2	62.9	70.6	71.5
Jefferson County, AL	65.4	67.8	66.2	64.2	58.1	53.0	53.5
Bessemer City	42.5	47.7	48.5	41.4	28.9	24.3	24.5
Birmingham City	60.3	57.8	43.9	36.0	24.1	22.3	22.8
Fairfield City	47.5	51.8	46.7	24.7	8.9	4.2	6.5
Homewood City	88.5	92.7	93.2	90.0	79.8	74.6	76.9
Hoover City	-	99.3	97.4	95.2	87.7	75.1	73.2
Midfield City	71.1	98.2	96.3	89.2	39.3	15.4	22.0
Mountain Brook City	98.8	99.4	99.3	99.0	98.6	97.2	96.6
Tarrant City	89.2	93.5	82.0	86.9	79.1	39.0	41.3
Vestavia Hills City	99.6	99.8	98.7	97.1	94.5	90.4	91.9
Shelby County, TN	63.6	62.8	57.3	55.1	47.3	40.6	41.4
Arlington City	-	60.1	60.6	65.0	74.2	81.2	83.0
Bartlett City	-	90.0	97.8	96.4	92.4	78.7	80.5
Collierville City	-	71.6	81.0	88.2	89.9	79.7	77.8
Germantown City	-	94.4	97.8	95.2	92.9	89.5	87.8
Lakeland City	-	-	-	90.7	91.6	83.3	83.6
Memphis City	62.9	60.8	51.6	44.0	34.4	29.4	30.6
Millington City	91.0	92.2	83.0	78.8	70.8	65.2	68.0

Note: Multiple municipalities were absorbed into Louisville Metro Government in 2003 and thus became included in the population figures.
Sources: U.S. Census, 1960, 1970, 1980, 1990, 2000, 2010; American Community Survey 5-Year Estimates, 2012

Table 3. *Percentage of Black Population in Jefferson County, Kentucky; Jefferson County, Alabama; and Shelby County, Tennessee, 1960–2012*

Municipality	1960	1970	1980	1990	2000	2010	2012
Jefferson County, KY	12.8	13.8	16.0	17.1	18.9	20.8	20.6
Louisville City	17.9	23.8	28.2	29.7	33.0	22.9	22.7
Jefferson County, AL	34.6	32.0	33.3	35.1	39.4	42.0	42.2
Bessemer City	57.4	52.2	51.3	58.4	69.6	71.2	73.5
Birmingham City	39.6	42.0	55.6	63.3	73.5	73.4	73.7
Fairfield City	52.4	48.0	52.9	75.0	90.2	94.6	90.7
Homewood City	11.2	7.0	5.7	8.2	15.3	17.3	17.9
Hoover City	-	0.1	1.7	3.3	6.8	14.8	14.0
Midfield City	28.9	1.8	3.4	10.0	59.5	81.6	76.9
Mountain Brook City	1.2	0.5	0.2	0.2	0.3	1.0	1.3
Tarrant City	10.8	6.4	17.8	12.8	18.7	52.3	53.4
Vestavia Hills City	0.4	-	0.3	1.1	1.9	3.8	2.8
Shelby County, TN	36.3	36.9	41.8	43.6	48.6	52.1	51.9
Arlington City	-	39.2	39.1	34.7	23.0	13.8	11.4
Bartlett City	-	9.6	1.4	2.4	4.9	16.1	14.2
Collierville City	-	28.4	18.7	11.1	7.3	10.9	12.5
Germantown City	-	5.5	0.9	1.9	2.3	3.6	4.5
Lakeland City	-	-	-	8.5	5.2	9.4	9.1
Memphis City	37.0	38.9	47.6	54.8	61.4	63.3	63.0
Millington City	8.2	5.7	12.0	15.8	22.1	25.6	26.2

Note: Multiple municipalities were absorbed into Louisville Metro Government in 2003 and thus became included in the population figures.
Sources: U.S. Census, 1960, 1970, 1980, 1990, 2000, 2010; American Community Survey 5-Year Estimates, 2012

In all three metropolitan areas, there is a distinct relationship between income and racial makeup. Median family income in Jefferson County, Alabama, varied dramatically between municipalities.[95] For example, the median family income in Mountain Brook was nearly three times higher than the county's median in 2010, whereas the municipalities with majority black populations reported lower than average incomes, and in some cases, such as in Tarrant, almost half as much as the county's median.[96] In Shelby County, Tennessee, there is also a significant difference in the median annual family income between

95. *See infra* Table 4.
96. *See infra* Table 4.

the five municipalities that are predominately white and Memphis and Millington, where the majority of the black population resides. These numbers are less dramatic in Jefferson County, Kentucky, where the median annual family income in Louisville is slightly lower than the county's median.[97]

Table 4. *Median Annual Family Income in Jefferson County, Kentucky; Jefferson County, Alabama; and Shelby County, Tennessee, 1960–2010 (in dollars)*

Municipality	1960	1970	1980	1990	2000	2010
Jefferson County, KY	5,796	9,819	19,960	33,226	49,161	61,217
Louisville City	5,280	8,564	15,981	25,805	36,696	57,273
Jefferson County, AL	5,103	8,562	18,862	31,609	45,95	58,813
Birmingham City	4,947	7,737	15,210	23,892	31,851	38,776
Bessemer City	3,755	6,548	14,448	21,013	28,230	38,345
Fairfield City	4,822	8,709	17,376	26,521	38,552	44,673
Midfield City	6,743	9,347	21,527	31,764	36,281	48,772
Homewood City	8,242	11,068	22,455	42,598	60,256	82,591
Hoover City	-	-	30,069	53,472	79,912	96,915
Mountain Brook City	14,689	21,263	42,389	80,366	122,647	163,542
Tarrant City	5,337	8,448	16,436	24,277	32,392	30,435
Vestavia Hills City	10,000+	16,816	33,544	61,182	89,746	115,458
Shelby County, TN	4,903	8,671	18,191	32,671	47,386	57,415
Arlington City	-	-	-	-	55,602	95,164
Bartlett City	-	-	45,851	49,013	69,962	83,656
Collierville City	-	8,278	22,336	51,682	84,830	113,957
Germantown City	-	16,794	64,714	71,958	103,726	127,216
Lakeland City	-	-	-	-	64,444	98,173
Memphis City	2,773	8,646	28,901	27,178	37,767	43,812
Millington City	3,734	6,366	22,347	25,356	44,495	53,092

Note: Multiple municipalities were absorbed into Louisville Metro Government in 2003 and thus became included in the population figures.
Sources: U.S. Census, 1960, 1970, 1980, 1990, 2000, 2010

Median home values show much of the same story in terms of differences between municipalities within the three counties. In Jefferson County, Alabama, the median home value in Mountain Brook is nearly four times higher than the county's median and over seven times higher than Tarrant, which has the lowest median home value in

97. *See infra* Table 4.

the county.[98] In Shelby County, Tennessee, the lowest median annual income and median home values are located in Memphis and Millington, again showing the clear relationship between race and the wealth in the county. In Jefferson County, Kentucky, the median home value in Louisville was lower than the median value in the county in 2010, but the gap has closed from over 20,000 dollars in 2000 to less than 9000 dollars in 2010.[99]

Table 5. *Median Home Values in Jefferson County, Kentucky; Jefferson County, Alabama; and Shelby County, Tennessee, 1960–2010 (in dollars)*

Municipality	1960	1970	1980	1990	2000	2010
Jefferson County, KY	11,800	15,400	36,600	55,500	103,000	147,900
Louisville City	10,400	12,500	26,900	33,900	82,300	139,100
Jefferson County, AL	9,500	13,500	39,600	58,700	90,700	141,700
Birmingham City	9,900	12,400	31,300	44,500	62,100	87,100
Bessemer City	6,900	10,200	28,600	40,500	56,400	86,800
Fairfield City	9,500	13,700	35,800	50,500	70,000	96,600
Midfield City	11,500	13,000	32,800	42,000	58,100	78,400
Homewood City	16,300	18,800	55,700	89,100	156,700	293,200
Hoover City	-	-	79,100	112,700	176,400	266,200
Mountain Brook City	30,700	39,800	113,800	190,800	332,000	541,700
Tarrant City	8,200	11,200	28,800	40,100	51,900	73,900
Vestavia Hills City	27,600	31,300	84,000	134,500	197,700	330,600
Shelby County, TN	10,500	14,400	38,600	66,200	92,200	135,500
Arlington City	-	-	-	-	160,100	231,400
Bartlett City	-	-	58,100	89,800	133,100	174,200
Collierville City	-	14,900	51,200	104,500	190,400	277,100
Germantown City	-	36,400	92,400	145,100	216,500	286,100
Lakeland City	-	-	-	-	146,300	232,000
Memphis City	10,300	14,000	35,200	55,000	72,800	99,000
Millington City	9,300	14,100	40,000	64,000	85,700	119,900

Note: Multiple municipalities were absorbed into Louisville Metro Government in 2003 and thus became included in the population figures.
Sources: U.S. Census, 1960, 1970, 1980, 1990, 2000, 2010

Clear relationships between educational level and racial makeup existed in each of the three metropolitan areas. In Jefferson County,

98. *See infra* Table 5.
99. *See infra* Table 5.

Alabama, municipalities with higher percentages of college graduates are located in the suburbs, are predominately white, and have higher levels of income (for example, Mountain Brook and Vestavia Hills); whereas Tarrant and the western suburbs (such as Bessemer, Fairfield, and Midfield)—most of which had earlier established school districts—had fewer college graduates than the countywide percentage in 2010.[100] In Shelby County, Tennessee, the municipalities with the lowest percentages of college graduates in 2010 were Memphis and Millington, where the black population is highest and the median annual family income is the lowest.[101] By contrast, the highest percentages of college graduates were in Germantown and Collierville, where the percentage of the black population is among the lowest in the county and income levels are the highest.[102] In Jefferson County, Kentucky, the percentage of college graduates in Louisville in 2010 was 26 percent, just slightly under the county's average.[103]

100. *See* Frankenberg, *supra* note 20, at 881.
101. *See infra* Table 6.
102. *See infra* Table 6.
103. *See infra* Table 6.

Table 6. *Percentage of Residents Age 25 and Older with Bachelor's Degrees or Higher in Jefferson County, Kentucky; Jefferson County, Alabama; and Shelby County, Tennessee, 1960–2010*

Municipality	1960	1970	1980	1990	2000	2010
Jefferson County, KY	7.1	9.7	15.3	19.3	24.8	29.2
Louisville City	4.1	8.3	13.3	17.2	21.3	26.0
Jefferson County, AL	7.1	9.5	15.8	19.9	24.6	29.0
Birmingham City	6.5	7.4	13.0	16.2	18.5	21.3
Bessemer City	3.4	4.2	7.0	7.2	9.2	12.4
Fairfield City	7.0	8.3	11.2	17.1	20.0	20.1
Midfield City	6.6	4.1	6.8	5.5	8.9	20.5
Homewood City	22.6	25.0	35.3	42.0	54.2	59.3
Hoover City	-	-	37.3	45.8	52.6	55.3
Mountain Brook City	38.9	45.0	59.3	67.4	77.3	82.9
Tarrant City	1.7	4.0	4.1	4.4	8.9	12.7
Vestavia Hills City	29.7	34.9	41.3	53.2	60.8	67.3
Shelby County, TN	6.5	9.9	15.9	20.8	25.3	28.7
Arlington City	-	-	-	-	16.9	45.1
Bartlett City	-	-	22.7	23.5	28.2	33.0
Collierville City	-	7.3	14.8	25.6	41.2	50.7
Germantown City	-	34.2	45.6	53.5	60.0	63.0
Lakeland City	-	-	-	-	34.1	42.8
Memphis City	2.2	12.7	14.6	17.5	20.9	23.1
Millington City	5.4	6.3	8.5	10.1	14.3	16.6

Note: Multiple municipalities were absorbed into Louisville Metro Government in 2003 and thus became included in the population figures.
Sources: U.S. Census, 1960, 1970, 1980, 1990, 2000, 2010

The population characteristics for the three metropolitan areas over time illustrate a number of trends. In all of the major cities in each county—Louisville, Birmingham, and Memphis—the white population is lower today than it was over 50 years ago. Birmingham and Memphis report fewer than half as many white residents, while the decline is not as striking in Louisville, in part because of the way the census calculates population figures for the new Louisville metropolitan area. Since 2003, when the city of Louisville and Jefferson County, Kentucky, merged their governments, the city has shared the same boundaries with the county, which is interesting given that the school district also incorporates the city and county. Further, Birmingham and Memphis, when compared to the other municipalities in their counties, have the

lowest median family incomes, lower median home values (Memphis is the lowest in Shelby County, Tennessee), and lower educational levels. It is evident from these figures that huge discrepancies exist between the central cities and surrounding suburbs in terms of racial makeup, economic prosperity, and education levels.

B. School Enrollment Patterns in 1992–2010

District consolidation and fragmentation relate to enrollment size across each of the three locales. Jefferson County, Alabama, which contained anywhere from 10–12 school districts depending on the year, reported numerous small school systems alongside several larger ones.[104] At approximately 30,000 to 35,000 students, the Birmingham City and Jefferson County, Alabama, districts account for the largest enrollments by far, though both have experienced declining enrollments since 2001.[105] The creation of new school systems that splintered off from their larger counterparts has likely affected both districts. The remaining districts in the locale have varied in size but tend to be much smaller (between 1000 and 20,000 students); some report relatively stable enrollments while others are experiencing declines.

In Memphis City and Shelby County, Tennessee, the urban school system has consistently enrolled many more students (about 115,000) than the surrounding suburban school system (approximately 60,000).[106] Both systems, however, are larger than the more fragmented Jefferson County, Alabama districts.

Louisville-Jefferson County, Kentucky, the only consolidated district, enrolled roughly 105,000 students at its peak and is currently at about 100,000 students.[107] As such, it falls in between the larger Memphis City district and the smaller Shelby County, Tennessee, district, but enrolls many more students than the fragmented Jefferson County, Alabama, school systems. While Louisville-Jefferson County, Kentucky, has experienced some variations in student enrollment over time, either a steady or a modest increase in the student enrollment has characterized the most recent years. This time period corresponds with the post-*Parents Involved* shifts to student assignment policy, which do not appear to relate to a precipitous drop off in student enrollment.

104. *See infra* Figure 1.
105. *See infra* Figure 1.
106. *See infra* Figure 2.
107. *See infra* Figure 3.

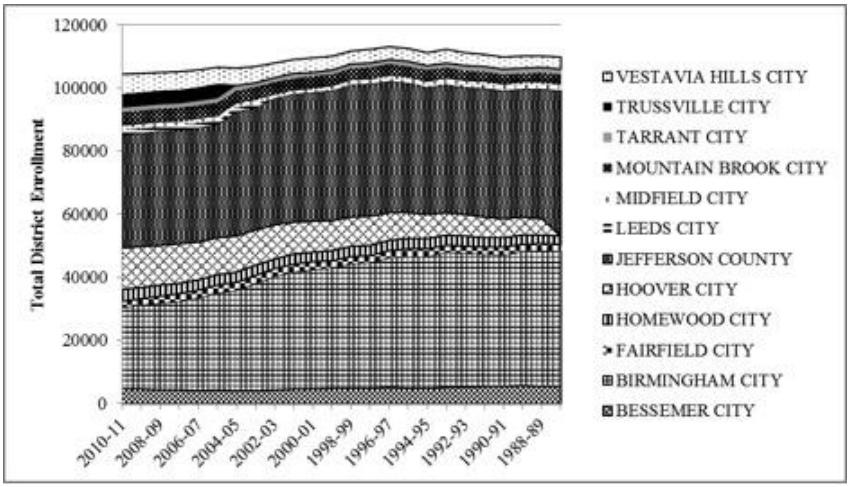


Figure 1. **School Enrollment by District, Jefferson County, Alabama, 1988–2010**
Sources: National Center for Education Statistics, Common Core of Data, 1988-1989, 1990-1991, 1992-1993, 1994-1995, 1996-1997, 1998-1999, 2000-2001, 2002-2003, 2004-2005, 2006-2007, 2008-2009, 2010-2011

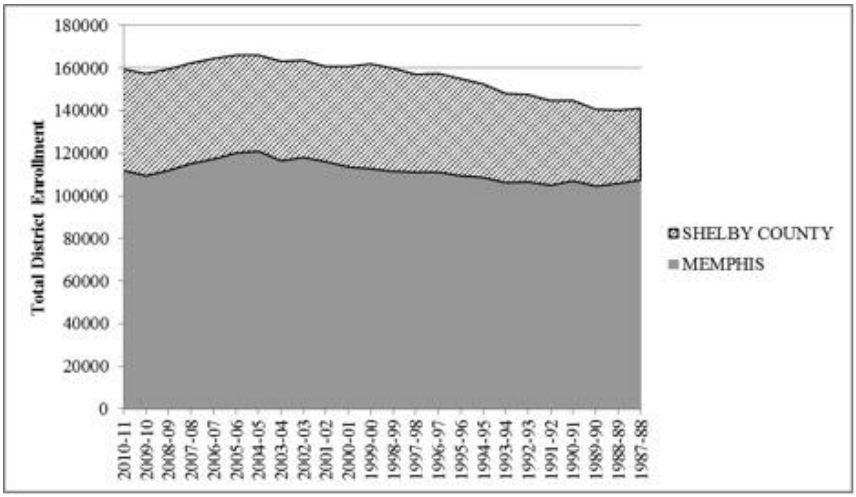


Figure 2. **School Enrollment, Memphis City and Shelby County, Tennessee, 1988–2012**
Sources: National Center for Education Statistics, Common Core of Data, 1987-1988, 1988-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011

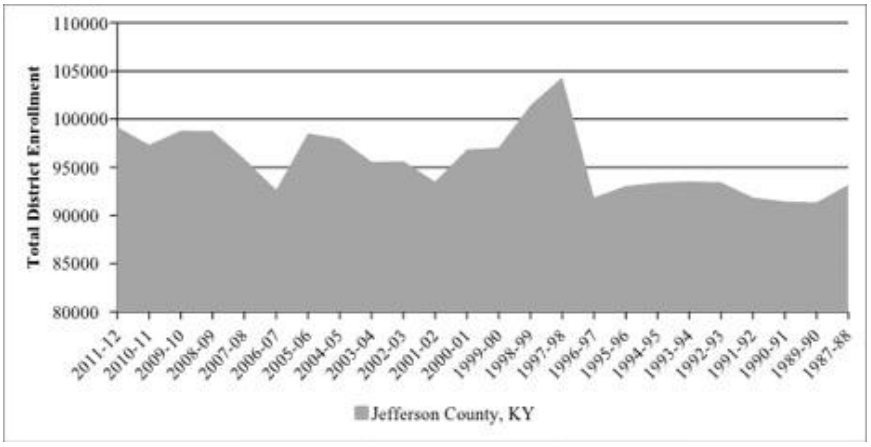


Figure 3. **School Enrollment, Jefferson County, Kentucky 1988–2012**
Sources: National Center for Education Statistics, Common Core of Data, 1987-1988, 1988-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2020, 2010-2011, 2011-2012

In the early 1990s, student enrollment in some of Jefferson County, Alabama's districts and in Memphis City was overwhelmingly black, while school systems in the surrounding suburbs were predominately white. Four school systems in Jefferson County, Alabama served student bodies that were more than 85 percent black, even as three districts reported enrollments that were less than five percent black.[108] In Memphis City, black students made up roughly 80 percent of the school enrollment, but just 18 percent of the enrollment in the surrounding Shelby County, Tennessee.[109]

The consolidated school system of Louisville-Jefferson County, Kentucky, on the other hand, reported a substantial white majority (roughly 70 percent) and a significant black minority (about 30 percent).[110] In 1992, Latino students accounted for less than one percent of all school systems under study.[111]

108. *See infra* Table 7.
109. *See infra* Table 7.
110. *See infra* Table 7.
111. *See infra* Table 7.

Table 7. *Enrollment by Race in Birmingham, Memphis, and Louisville Area Districts (in percent), 1992–1993*

District	Total	Asian	Latino	Black	White
Jefferson Co., KY	92,842	0.9	0.3	30.2	68.5
Jefferson Co., AL	40,261	0.3	0.1	14.2	85.3
Bessemer City	5,210	0.0	0.0	87.2	12.8
Birmingham City	42,273	0.3	0.1	89.7	9.9
Fairfield City	2,243	0.0	0.4	97.7	2.0
Homewood City	3,079	1.9	0.2	14.6	83.2
Hoover City	5,635	1.6	0.7	6.4	91.2
Midfield City	1,771	0.5	0.2	51.3	48.1
Mountain Brook City	3,424	0.4	0.2	0.1	99.3
Tarrant City	1,574	0.0	0.1	21.8	78.1
Vestavia Hills City	4,018	2.1	0.2	4.4	93.1
Shelby Co., TN	41,097	1.6	0.6	15.9	81.7
Memphis City	106,824	0.7	0.2	81.1	17.9

Note: Free/Reduced Lunch data was not available for 1992-1993.
Source: National Center for Education Statistics, Common Core of Data, 1992-1993

In 1998, clear and, in many cases, increasing racial and economic disparities in urban and suburban enrollment defined the separate school districts in Jefferson County, Alabama, and Memphis and Shelby County, Tennessee.[112] Meanwhile, similar to trends six years earlier, the merged Louisville-Jefferson County, Kentucky school district reported a diverse system with a substantial though slightly declining white majority (approximately 63 percent) and a significant black presence (about 34 percent).[113]

The two largest districts in the Jefferson County, Alabama, locale—Birmingham City and Jefferson County—reported significant variations in the enrollment of black and low-income students. Representing an increase from figures reported in the early 1990s, 95 percent of students in Birmingham City identified as black in 1998, compared to 20 percent of students in Jefferson County, Alabama.[114] Similarly, nearly 60 percent of students in Birmingham City schools qualified for free and reduced-priced lunch, while just 26 percent of students in Jefferson County, Alabama, schools did the same.[115] Smaller districts in the county were also racially and economically identifiable. Three school systems besides Birmingham City reported that black students made up

112. *See infra* Table 8.
113. *See infra* Table 8.
114. *See infra* Table 8.
115. *See infra* Table 8.

85 percent or more of the enrollment.[116] At the other end of the spectrum, white students accounted for more than 85 percent of the enrollment in the districts of Hoover, Mountain Brook, and Vestavia Hills.[117] Each of these districts also reported sharp discrepancies in the shares of students qualifying for free and reduced-priced lunch, with overwhelmingly black school systems enrolling higher percentages of low-income students.

Though multiple school districts were not apparent in Tennessee in 1998, a similar city-suburban divide characterized Memphis City and Shelby County schools. Representing increases from 1992, black students constituted nearly 85 percent of the enrollment in Memphis City and just 24 percent of the enrollment in Shelby County, Tennessee.[118]

Table 8. *Enrollment by Race and Poverty Status in Birmingham, Memphis, and Louisville Area Districts (in percent), 1998–1999*

District	Total	Asian	Black	Latino	White	Free/ Reduced Lunch
Jefferson Co., KY	99,037	1.1	33.5	1.1	62.6	48.0
Jefferson Co., AL	41,819	0.4	20.1	0.5	78.9	26.3
Bessemer City	4,802	0.1	93.7	0.1	6.1	66.9
Birmingham City	38,978	0.4	95.4	0.3	4.0	58.7
Fairfield City	2,235	0.0	99.4	0.4	0.1	55.2
Homewood City	3,292	3.2	21.6	2.6	72.6	14.9
Hoover City	9,357	3.5	8.1	2.1	86.4	5.8
Midfield City	1,342	0.6	78.2	0.3	20.9	55.4
Mountain Brook City	3,856	0.7	0.1	0.2	99.0	0.0
Tarrant City	1,329	0.3	32.5	0.5	66.5	46.7
Vestavia Hills City	4,305	3.6	5.1	0.4	90.6	2.6
Shelby Co., TN	48,194	2.1	23.9	1.4	72.2	-
Memphis City	111,691	1.1	84.7	1.1	13.1	-

Note: Free/Reduced Lunch data was not reported for Tennessee in 1998-1999.
Source: National Center for Education Statistics, Common Core of Data, 1998-1999

Ten years later, significant racial and economic disparities between city and county school systems were still apparent in the two fragmented locales. The central city school systems of Memphis and Birmingham remained very isolated, with black students accounting for 85 percent and 95 percent of the two school systems, respectively.[119] Low-income students constituted roughly 76 percent of Memphis's enrollment and 86

116. *See infra* Table 8.
117. *See infra* Table 8.
118. *See infra* Table 8.
119. *See supra* Table 8; *infra* Table 9.

percent of Birmingham's.[120] At the same time, larger suburban districts reported stark declines in the enrollment of white students. The share of white students fell from about 72 percent in 1998 to 53 percent in 2009 in Shelby County, Tennessee's schools and from 80 percent to 53 percent in Jefferson County, Alabama's schools.[121] A more modest decrease occurred in Jefferson County, Kentucky's consolidated school system, where the proportion of white students declined from about 63 percent to 54 percent.[122] In the Alabama and Tennessee locales, these enrollment shifts relate to the increasing suburbanization of black students. In Jefferson County, Alabama, for example, the share of black students more than doubled from roughly 20 percent in 1998 to 42 percent in 2009. A noticeable uptick in the enrollment of Latino and Asian students also corresponded with the suburban decline of white students in all three metros.

In Jefferson County, Alabama, demographic shifts in enrollment between 1998 and 2009 coincided with the formation of two new school districts, Leeds City in 2003 and Trussville City in 2005. The further fragmentation of the locale was linked to racial divisions between school systems. Several years after their inception, white students accounted for nearly 90 percent of the enrollment in Trussville City and a little over 62 percent in Leeds City. Other, smaller school systems in the Jefferson County, Alabama, area remained extremely divided by race and economic status. Black students accounted for more than 95 percent of the enrollment in four districts, including Birmingham City, and the share of students qualifying for free and reduced-priced lunch hovered around 85 percent in the same school systems.[123] In fact, all school systems in Jefferson County, Alabama, reported noteworthy increases in low-income students between 1998 and 2009, likely related to the impact of the Great Recession. Three years later, in 2012, similar patterns prevailed in the three areas under study, though growth was apparent in both the Latino and Asian enrollments.[124]

120. *See supra* Table 8; *infra* Table 9.
121. *See supra* Table 8; *infra* Table 9.
122. *See supra* Table 8; *infra* Table 9.
123. *See supra* Table 8; *infra* Table 9.
124. *See infra* Table 10.

Table 9. *Enrollment by Race and Poverty-Status in Birmingham, Memphis and Louisville Area Districts (in percent), 2009–2010*

District	Total	Asian	Black	Latino	White	Free/ Reduced Lunch
Jefferson Co., KY	95,150	3.0	37.3	5.8	53.8	58.6
Jefferson Co., AL	35,999	0.5	42.1	4.5	52.8	47.2
Bessemer City	4,480	0.1	93.9	3.4	2.6	84.1
Birmingham City	25,898	0.2	96.1	2.8	0.9	85.8
Fairfield City	2,154	0.0	98.9	0.9	0.2	83.5
Homewood City	3,554	3.2	27.6	9.0	60.0	27.7
Hoover City	12,253	6.6	21.6	5.7	66.0	19.2
Leeds City	1,461	0.7	25.8	11.2	62.1	58.9
Midfield City	1,270	0.2	97.6	0.1	2.0	79.6
Mountain Brook City	4,397	0.8	0.3	0.5	98.4	0.0
Tarrant City	1,321	0.4	81.1	8.2	10.3	90.5
Trussville City	4,151	2.0	9.3	1.1	87.4	9.9
Vestavia Hills City	6,180	5.2	6.8	2.2	85.6	6.3
Shelby Co., TN	48,211	4.9	37.8	4.6	52.3	31.0
Memphis City	108,139	1.3	84.9	6.6	7.1	75.7

Source: National Center for Education Statistics, Common Core of Data, 2009-2010

Table 10. *Enrollment by Race and Poverty-Status in Birmingham, Memphis, and Louisville Area Districts (in percent), 2012–2013*

District	Total	Asian	Black	Latino	White	Free/ Reduced Lunch
Jefferson Co., KY	95,475	3.3	36.1	7.4	50.4	62.2
Jefferson Co., AL	36,068	0.5	44.2	5.9	48.1	55.7
Bessemer City	4,050	-	92.7	4.6	2.4	89.4
Birmingham City	24,698	0.2	94.7	3.7	0.9	89.0
Fairfield City	1,765	-	98.4	-	-	91.0
Homewood City	3,658	2.7	23.9	9.9	62.1	27.8
Hoover City	13,697	6.4	24.3	6.2	60.6	24.8
Leeds City	1,776	-	25.0	10.8	60.0	55.9
Midfield City	1,232	-	97.6	-	-	84.3
Mountain Brook City	4,468	0.9	-	-	97.9	-
Tarrant City	1,092	-	13.1	-	9.2	96.0
Trussville City	4,233	2.3	9.6	0.8	85.8	10.4
Vestavia Hills City	6,597	5.4	7.6	2.6	83.3	9.6
Shelby Co., TN	46,601	5.3	38.1	5.4	50.5	36.9
Memphis City	106,991	1.4	81.7	9.6	7.1	84.3

Note: Numbers may not equal 100 percent because The Alabama Department of Education did not report out categories with fewer than 10 students and because some categories are not represented here (i.e. Pacific Islander, Two or more races, etc.).
Source: National Center for Education Statistics, Common Core of Data, 2012-2013

School district fragmentation and consolidation were related to elementary school-level enrollment patterns across each of the three locales. Over time, the consolidated district of Louisville-Jefferson County, Kentucky, reported far more even distributions of students by race than either the separate city and suburban districts in Memphis and Shelby County, Tennessee, or the multiple fragmented districts in Jefferson County, Alabama.[125]

In 1992, Jefferson County, Alabama's overwhelmingly black elementary schools were centralized in the Birmingham, Fairfield, Midfield, Bessemer, and Tarrant City school systems.[126] Predominately white schools in Jefferson County, Alabama, and along the eastern edges of the metropolitan area in systems like Homewood, Hoover, Leeds, and Vestavia Hills surround these districts. A similar pattern was observed in 1998, with the exception of modestly growing diversity in the Jefferson County, Alabama, school district.[127] By 2009, a noticeable increase in the Latino population had occurred in area elementary schools. Much of

125. *See infra* Figures 4–6.
126. *See infra* Figure 4.
127. *See infra* Figure 5.

the growth occurred in city districts that already reported high shares of black students. The fringes of the Jefferson County, Alabama locale remained predominately white.[128] For example, white students made up the vast majority of the elementary school enrollment in the two new districts of Leeds in 2003 and Trussville City in 2005.

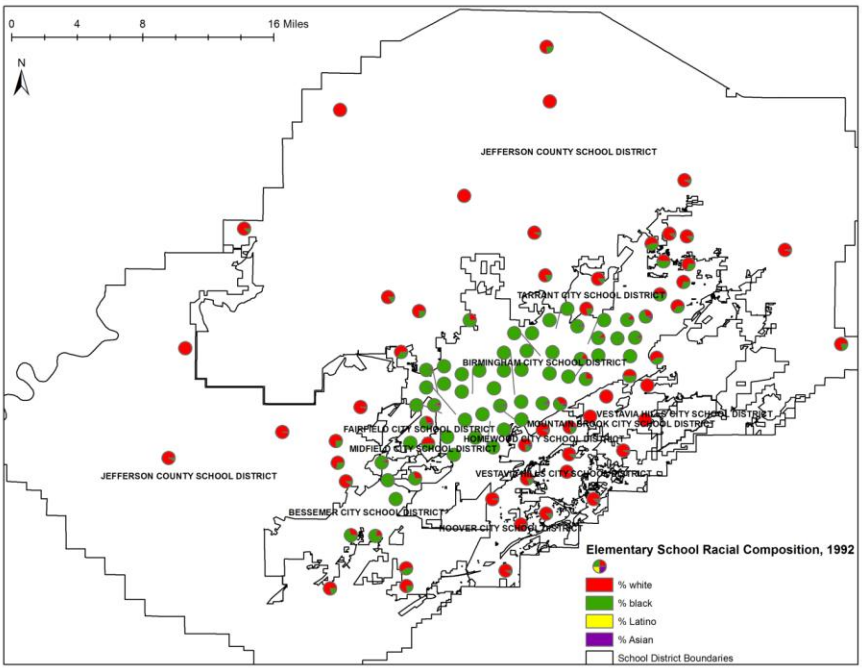


***Figure 4*. Elementary School Racial Composition, Birmingham-Jefferson County, Alabama, 1992–1993**

Source: National Center for Education Statistics, Common Core of Data, 1992-1993

128. *See infra* Figure 6.

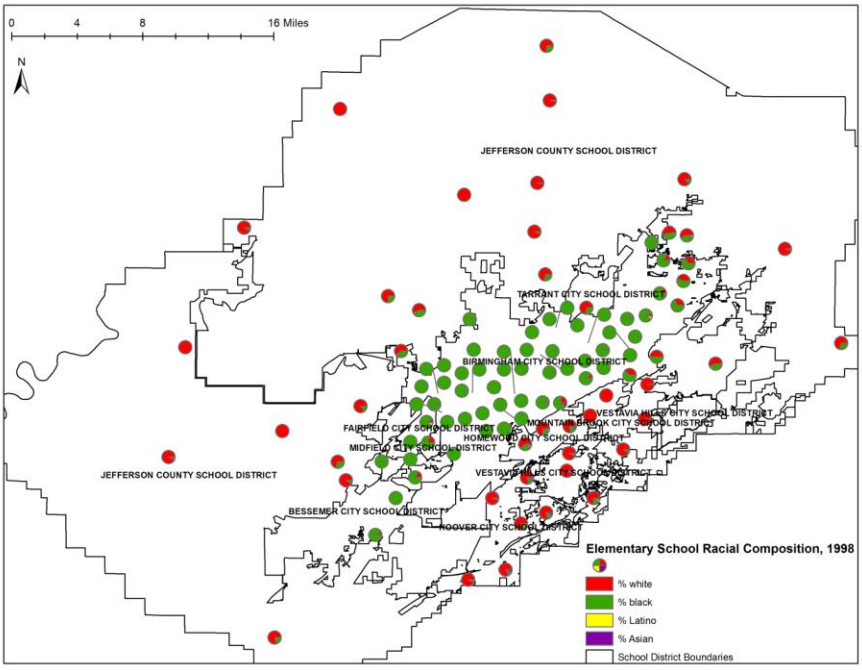


***Figure 5*. Elementary School Racial Composition, Birmingham-Jefferson County, Alabama, 1998–1999**
Source: National Center for Education Statistics, Common Core of Data, 1998-1999

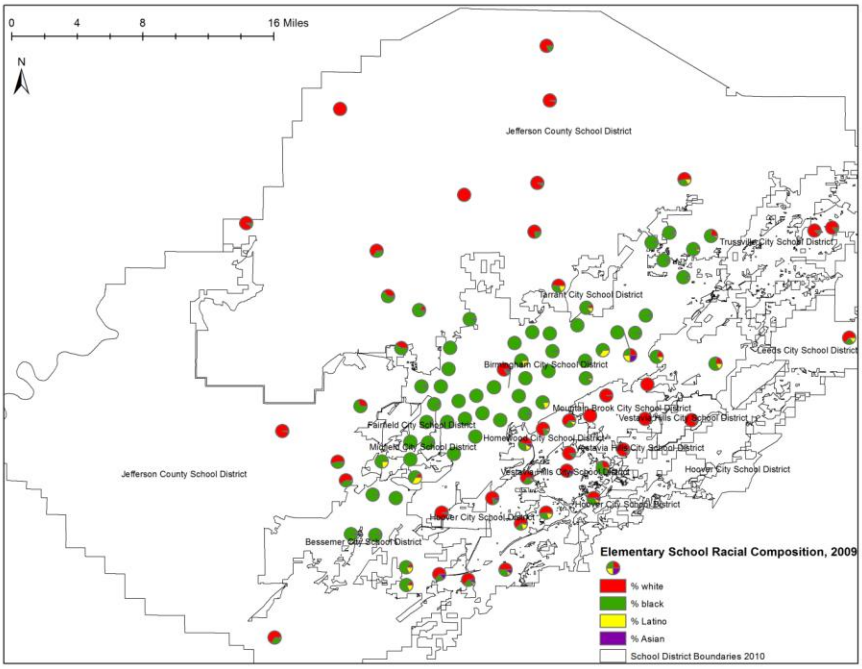


***Figure 6*. Elementary School Racial Composition, Birmingham-Jefferson County, Alabama, 2009–2010**
Source: National Center for Education Statistics, Common Core of Data, 2009-2010

In 1992, an intensely segregated urban core with black students particularly concentrated in the center and western part of city school systems characterized the elementary school enrollment patterns in Memphis City and Shelby County, Tennessee.[129] More white students attended school in the eastern sections of the urban district. Nearly all elementary schools surrounding Shelby County, Tennessee, on the other hand, were predominately white. A decade later, Memphis city elementary schools showed a very slight increase in the Latino population.[130] Latino students were more likely to attend the eastern elementary schools where higher shares of white students were present. Overall, the same city-suburban disparities in enrollment by race held steady even as population growth in Shelby County, Tennessee, meant that more elementary schools were built. By 2009, Latino students accounted for a significant share of students in a number of Memphis elementary schools. In fact, several reported Latino student majorities.[131]

129. *See infra* Figure 7.
130. *See infra* Figure 8.
131. *See infra* Figure 9.

The eastern portion of Shelby County, Tennessee, remained overwhelmingly white, but there were signs of racial transition in the county's northwestern elementary schools—particularly along the border of Memphis city.

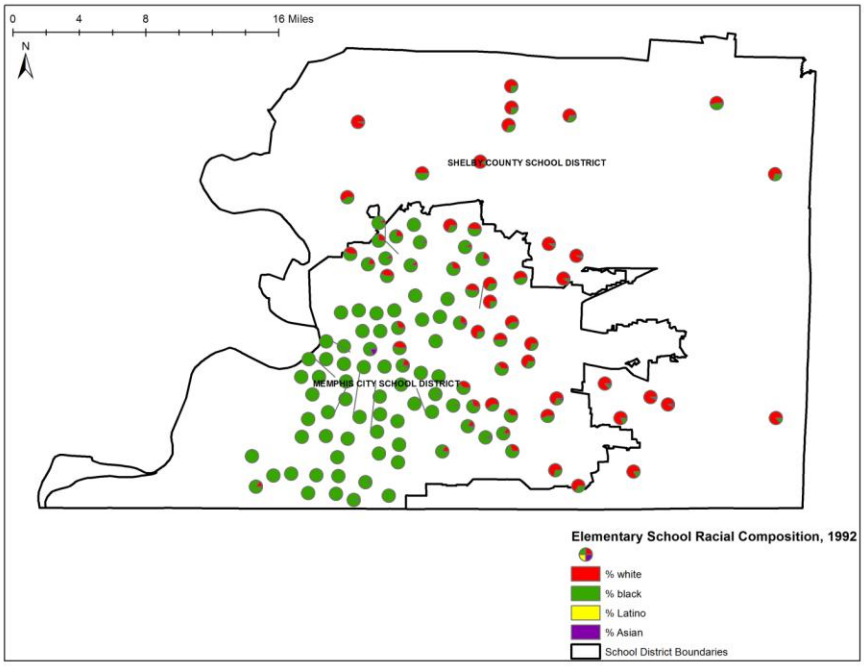


Figure 7. **Elementary School Racial Composition, Memphis-Shelby County, Tennessee, 1992–1993**
Source: National Center for Education Statistics, Common Core of Data, 1992-1993

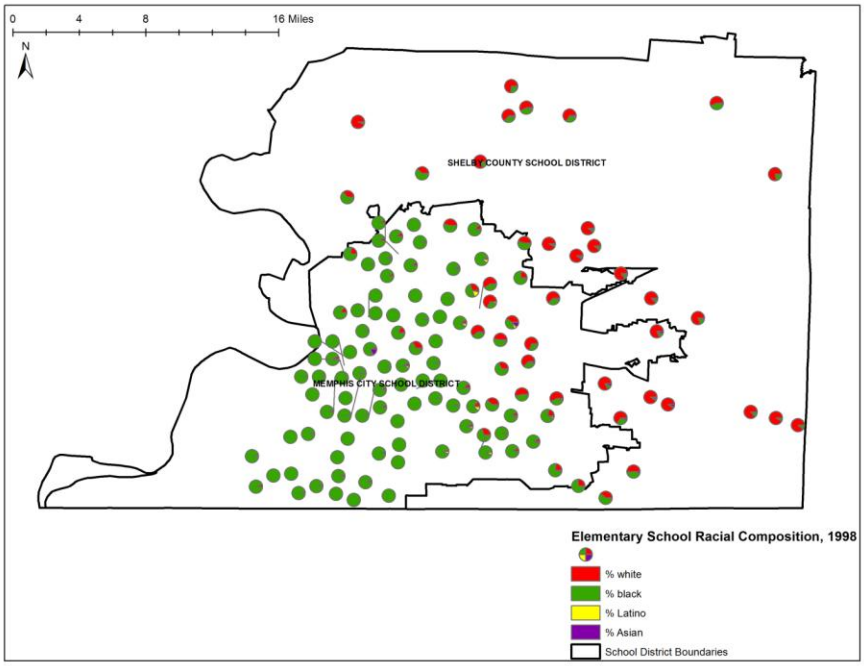


***Figure 8*. Elementary School Racial Composition, Memphis-Shelby County, Tennessee, 1998–1999**
Source: National Center for Education Statistics, Common Core of Data, 1998-1999

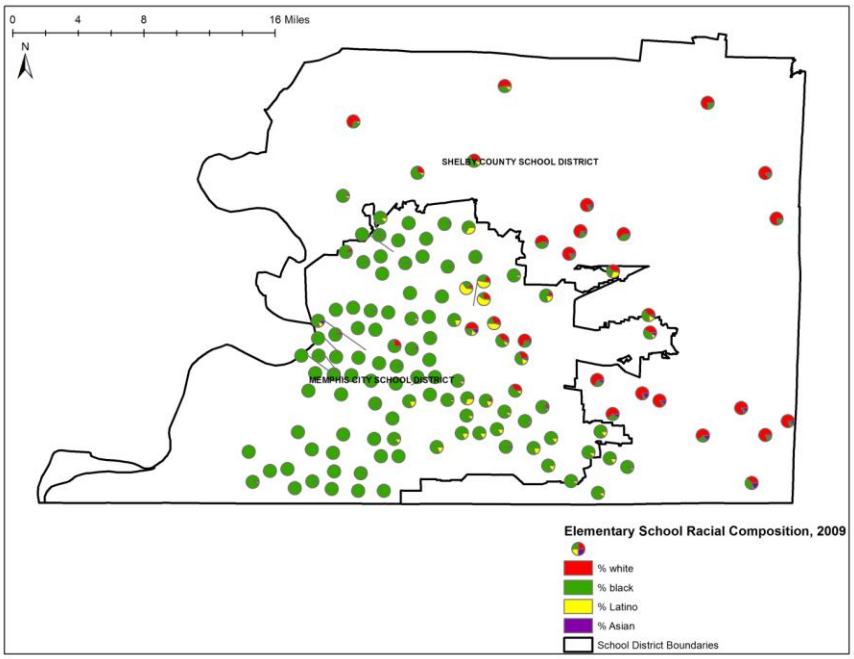


***Figure 9*. Elementary School Racial Composition, Memphis-Shelby County, Tennessee, 2009–2010**
Source: National Center for Education Statistics, Common Core of Data, 2009-2010

In 1992, elementary schools across the merged Louisville-Jefferson County, Kentucky school district reported similar enrollments of white and black students.[132] Schools in the city were more likely to report larger shares of black students, but nearly all fell within the district's desegregation guidelines at the time, which required that no school enroll fewer than 15 percent or more than 50 percent. A similar pattern prevailed ten years later, in 1998.[133] Most schools in the district remained racially balanced, even as some schools in the city were approaching or passing majority-minority status. The school system enrolled very few Latino students. By 2009, however, Latino students were present in many parts of the district but were concentrated in Louisville area schools.[134] A handful of elementary schools in Louisville reported high shares of black and Latino students and low shares of white students. This deviation from the racial balance that had characterized previous years may relate to school desegregation policy changes in the aftermath of the *Parents Involved* decision.

132. *See infra* Figure 10.
133. *See infra* Figure 11.
134. *See infra* Figure 12.

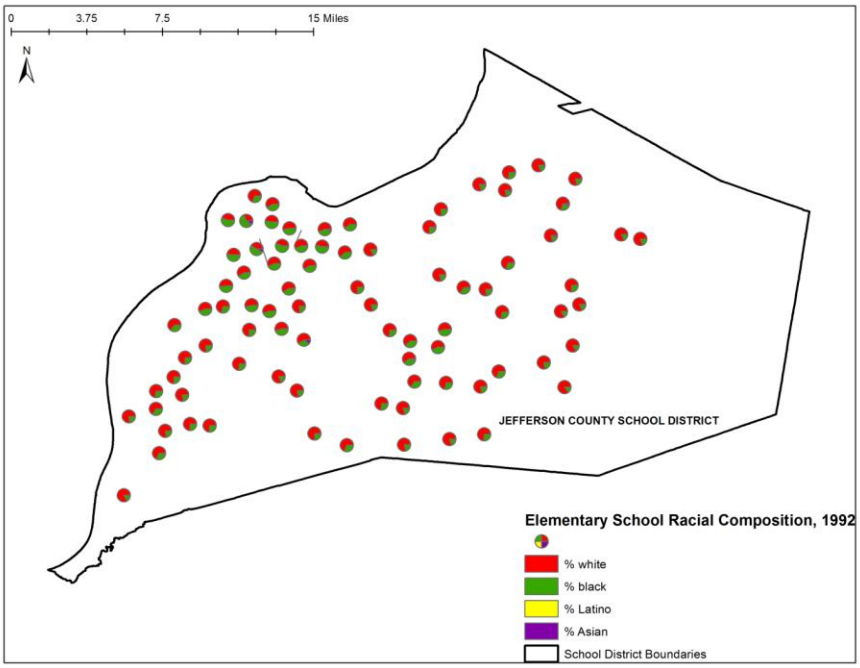


***Figure 10*. Elementary School Racial Composition, Louisville-Jefferson County, Kentucky, 1992–1993**
Source: National Center for Education Statistics, Common Core of Data, 1992-1993

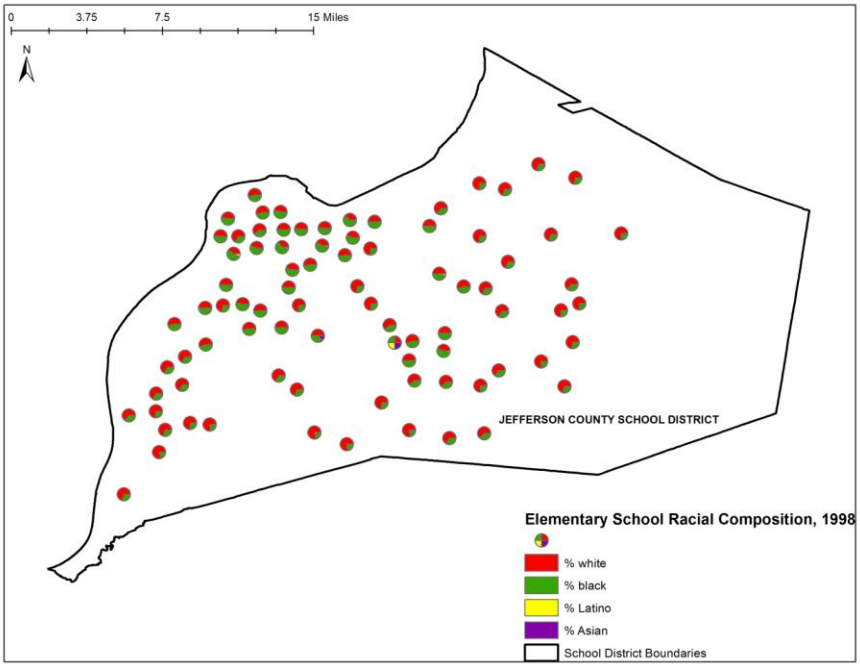


Figure 11. **Elementary School Racial Composition, Louisville-Jefferson County, Kentucky, 1998–1999**
Source: National Center for Education Statistics, Common Core of Data, 1998-1999

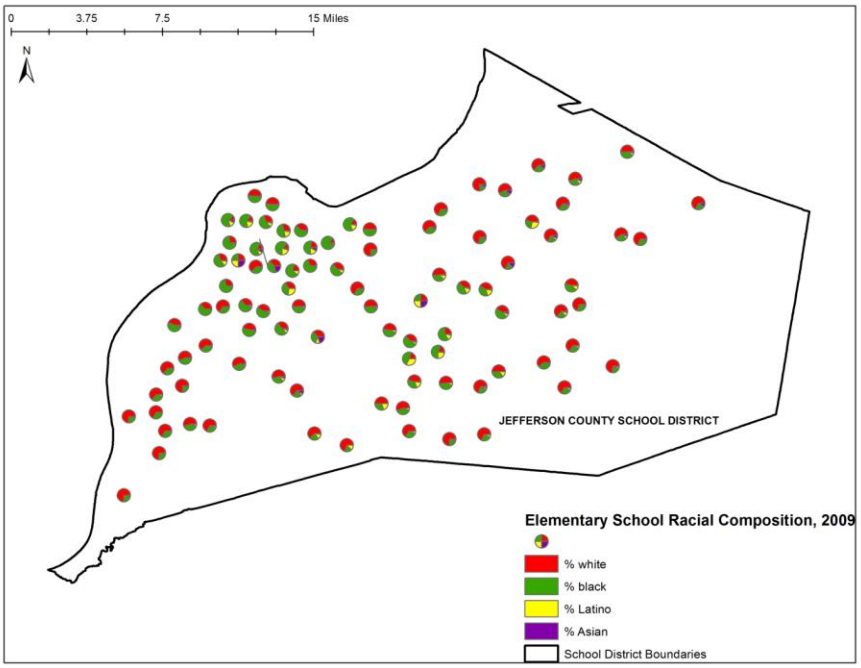


***Figure 12*. Elementary School Racial Composition, Louisville-Jefferson County, Kentucky, 2008–2009**
Source: National Center for Education Statistics, Common Core of Data, 2009-2010

C. Segregation Analysis

1. Concentration

The first measure of segregation analyzed was racial concentration, including an examination of minority concentration (schools that are 90–100 percent nonwhite) and white concentration (schools that are 90–100 percent white). The findings show that both types of concentration were present at some point during the time period examined in Alabama and Tennessee, but only one type was present in Louisville-Jefferson County, Kentucky, during the last year studied. This suggests less segregation in the merged district than the two other more fragmented counties. Given current barriers to crossing school district lines, district-level racial composition influenced trends in school-level segregation, as some districts have become either overwhelmingly white or nonwhite.

a. Minority Concentration

In 1992–1993 at the beginning of the time period examined, there were no students attending intensely segregated minority schools in

Jefferson County, Kentucky. By contrast, more than one-third of all students in Shelby County, Tennessee, and Jefferson County, Alabama, were in 90–100 percent minority schools, including more than two-thirds of all black students. Just one-eighth of Hispanic students in these two counties were also in intensely segregated minority schools, reflecting the fact that it is black students who largely attended minority concentrated schools at this stage.

Within Jefferson County, Alabama, several noteworthy patterns have already emerged. All students in Fairfield attend 90–100 percent minority schools due to racial transition of the district.[135] Over three-fourths of all students in the largely black Birmingham district were in isolated minority schools in 1992, but only eight percent of white students were, which suggests substantial segregation within the district.

In Tennessee, all existing minority concentration was a result of segregation in the Memphis district in 1992—no such schools were present in Shelby County, Tennessee. Similar to patterns in Birmingham City, there were discrepancies in the presence of racially concentrated minority schools by race within the Memphis district. Namely, black students were in such schools at much higher rates than Latino or white students.

There are diverging trends over the time period examined. Black concentration grew in the two Tennessee districts, enrolling nearly four out of five black students who lived in Shelby County in 90–100 percent minority schools.[136] By 2009, both districts had intensely segregated minority schools. In fact, nearly one in eight students in suburban Shelby County, Tennessee, were in 90–100 percent minority schools and nearly 30 percent of black students in the district were in such segregated schools.[137] Minority concentration also grew substantially in Memphis from 1992–2009.[138] Additionally, a very small percentage of students (1.1 percent of all students and 2.4 percent of black students) attended minority concentrated schools in Jefferson County, Kentucky in 2009–2010 as the district implemented its new student-assignment policy after *Parents Involved.*[139]

In comparison to the other two counties studied, the percentage of black students in intensely segregated minority schools in 2009 declined from 1992 levels in Jefferson County, Alabama, although still remaining very high. There were three districts (of 12 total districts in the county)

135. For earlier data, see Frankenberg, *supra* note 20, at 890.
136. *See infra* Tables 11–13.
137. *See infra* Tables 11–13.
138. *See infra* Tables 11–13.
139. *See infra* Tables 11–13.

in which *all* students attended intensely segregated minority schools.[140] In a fourth district, almost all students were in similarly segregated schools. One district, Midfield, had no students attending intensely segregated minority schools in 1998, and by 2009, *all* district students attended 90–100 percent minority schools—representing a dramatic transformation in just 11 years.[141] An additional two districts also had students attending 90–100 percent minority schools. Despite the fact that half of the 12 districts in the county had students in these segregated schools, the percentage of black students attending 90–100 percent minority schools declined, presumably illustrating the migration of blacks from districts such as Birmingham or demographically similar school systems into less diverse ones. A slightly higher percentage of all students were in 90–100 percent minority schools in 2009 than in 1992,[142] possibly due in part to more Latino students in these districts.

Another change occurred during this time period in Jefferson County, Alabama, and Memphis and Shelby County, Tennessee: as the share of the Latino enrollment grew, so too did their enrollment in 90–100 percent minority schools. Although only a fraction of Latinos in 1992 attended intensely segregated minority schools in the two areas, nearly half of Latinos in Shelby County, Tennessee, districts were in these segregated schools and over one-quarter of Latinos in Jefferson County, Alabama, districts were by 2009.[143] Similar to national patterns, low-income students were also overwhelmingly found in 90–100 percent minority schools in 2009.[144]

140. *See infra* Tables 11–13.
141. *See infra* Tables 11–13.
142. *See infra* Tables 11–13.
143. *See infra* Tables 11–13.
144. *See infra* Tables 11–13.

Table 11. *Number and Percentage of Students in 90–100 percent Minority Schools, 1992–1993*

District	Total	Asian	Latino	Black	White
Jefferson County, KY	-	-	-	-	-
Jefferson County, AL	38,804 (35.4)	16 (3.0)	18 (12.2)	38,220 (72.6)	546 (1.0)
Bessemer City	70.0	0.0	0.0	76.9	23.2
Birmingham City	77.3	11.3	33.3	85.3	7.9
Fairfield City	100.0	N/A	100.0	100.0	100.0
Homewood City	-	-	-	-	-
Hoover City	-	-	-	-	-
Jefferson County	0.5	0.0	0.0	3.4	0.0
Midfield City	-	-	-	-	-
Mountain Brook City	-	-	-	-	-
Tarrant City	-	-	-	-	-
Vestavia Hills City	-	-	-	-	-
Shelby County, TN	44.1	18.8	12.0	68.8	1.5
Memphis City	61.0	34.3	22.8	73.9	4.0
Shelby County	-	-	-	-	-

Note: Regular school only; free and reduced lunch data was not available for 1992-1993.
Source: National Center for Education Statistics, Common Core of Data, 1992-1993

Table 12. *Number and Percentage of Students in Racially Isolated Minority Schools, 1998–1999*

District	Total	Asian	Latino	Black	White	Free/ Reduced Lunch
Jefferson County, KY	-	-	-	-	-	-
Jefferson County, AL	42,604 (38.3)	75 (8.0)	121 (18.4)	41,742 (75.2)	664 (1.2)	26,080 (63.9)
Bessemer City	93.1	100.0	60.0	95.4	58.8	92.8
Birmingham City	89.8	49.6	91.2	92.4	30.1	92.8
Fairfield City	100.0	100.0	100.0	100.0	100.0	100.0
Homewood City	-	-	-	-	-	-
Hoover City	-	-	-	-	-	-
Jefferson County	2.1	1.2	2.3	10.1	0.1	5.7
Midfield City	-	-	-	-	-	-
Mountain Brook City	-	-	-	-	-	-
Tarrant City	-	-	-	-	-	-
Vestavia Hills City	-	-	-	-	-	-
Shelby County, TN	159,568 (50.4)	2,212 (22.6)	1,929 (35.3)	105,898 (73.0)	49,265 (3.8)	-
Memphis City	72.0	42.0	54.1	81.8	13.0	-
Shelby County	-	-	-	-	-	-

Source: National Center for Education Statistics, Common Core of Data, 1998-1999

Table 13. *Number and Percentage of Students in Racially Isolated Minority Schools, 2009–2010*

District	Total	Asian	Latino	Black	White	Free/ Reduced Lunch
Jefferson County, KY	1.1	1.3	1.5	2.4	0.2	1.6
Jefferson County, AL	37,365 (36.2)	54 (3.4)	1,073 (26.9)	35,693 (66.8)	512 (1.2)	31,718 (61.0)
Bessemer City	4,110 (91.7)	3 (100.0)	88 (57.1)	266 (93.7)	38 (67.2)	3,424 (90.9)
Birmingham City	25,898 (100.0)	40 (100.0)	719 (100.0)	24,890 (100.0)	241 (100.0)	22,223 (100.0)
Fairfield City	100.0	100.0	100.0	100.0	100.0	100.0
Homewood City	-	-	-	-	-	-
Hoover City	-	-	-	-	-	-
Jefferson County	3,257 (9.0)	4 (2.3)	172 (10.7)	2,960 (19.6)	107 (0.6)	2,615 (15.4)
Leeds City	-	-	-	-	-	-
Midfield City	1,270 (100.0)	3 (100.0)	1 (100.0)	1,238 (100.0)	26 (100.0)	1,011 (100.0)
Mountain Brook City	-	-	-	-	-	-
Tarrant City	676 (51.2)	3 (60.0)	74 (68.5)	539 (50.5)	56 (41.2)	646 (54.0)
Trussville City	-	-	-	-	-	-
Vestavia Hills City	-	-	-	-	-	-
Shelby County, TN	94,284 (60.3)	598 (15.7)	4,628 (49.6)	87,652 (79.7)	1,308 (4.0)	74,436 (76.9)
Memphis City	88,188 (81.6)	518 (35.8)	4,160 (58.6)	82,235 (89.6)	1,197 (15.7)	71,044 (86.8)
Shelby County	6,096 (12.6)	80 (3.4)	468 (21.0)	5,417 (29.7)	111 (0.4)	3,392 (22.7)

Note: Regular schools only.
Source: National Center for Education Statistics, Common Core of Data, 2009-2010

b. White Concentration

White concentration is important to examine for two reasons. First, though less studied, students in these homogeneous white schools lack exposure to substantial numbers of students of color, which limits students' ability to build interracial friendships and reap the academic benefits associated with attending racially diverse schools. Second, by concentrating white students, other schools become disproportionately *nonwhite* in comparison to the white percentage of the overall region.

In the 1990s, a sizeable share of white students in Shelby County, Tennessee, attended isolated white schools, although these schools were only in the suburban district of the county, not in Memphis City. In

addition, the percentage of students in intensely segregated white schools was considerably lower than in intensely segregated minority schools at every time period examined. Still, these intensely segregated white students enrolled a substantial percentage of white and Asian students in suburban Shelby County, Tennessee. One in three white and Asian students attended 90–100 percent white schools in 1992 and one in four attended such schools in 1998.[145] While more than one-sixth of all white students in the county were in 90–100 percent white schools in 1998, none were in such schools in 2009.[146]

At every time period examined, Jefferson County, Alabama, reported a higher percentage of students in intensely segregated white schools than in intensely segregated minority schools. This was partially driven by a number of overwhelmingly white school districts in the county during the 1990s. In 2009, Jefferson County, Alabama, still had one in four white students in white isolated schools (and more than a tenth of all students), although this has declined from 1992, when a majority of white students were in isolated schools.[147] The Jefferson County, Alabama, district has long enrolled the most students in segregated white schools. In 1992, a majority of the district's students were in 90–100 percent white schools (a very small percentage were also in 90–100 percent minority schools). Although this number and percentage have declined, more than 6000 of the county's 11,000 students in intensely segregated white schools were in the Jefferson County, Alabama, district.[148] This accounted for more than one in six of the district's students and constituted nearly twice as many students who attended intensely segregated minority schools. It was also the only district that had both types of racially concentrated schools.

In the three years examined, every student in Mountain Brook, Alabama, was in a 90–100 percent white school; Mountain Brook also does not report any students eligible for free or reduced-price lunch. In 2009, Mountain Brook's white isolation accounted for nearly 40 percent of all students in the county who were in intensely segregated white schools.[149] In the 1990s, other small districts in Jefferson County, Alabama also had a majority of their students in 90–100 percent white schools: Hoover and Vestavia Hills. The share of students in intensely segregated white schools dropped substantially in Hoover during the 1990s and in Vestavia Hills prior to 2009. While approximately ten

145. *See infra* Tables 14–16.
146. *See infra* Tables 14–16.
147. *See infra* Tables 14–16.
148. *See infra* Tables 14–16.
149. *See infra* Tables 14–16.

percent of Vestavia Hills students attended 90–100 percent white schools in 2009, there were no such segregated schools in Hoover.[150]

In sum, by 2009–2010, only school districts in Jefferson County, Alabama reported intensely segregated white schools. During the time period examined, there were no 90–100 percent white schools in Jefferson County, Kentucky, and, while such segregated white schools in Shelby County, Tennessee, existed during the 1990s, none existed by 2009–2010. Thus, the county with the highest fragmentation was the only one of the three metro counties to have intensely segregated white schools.

Table 14. *Number and Percentage of Students in Racially Isolated White Schools, 1992–1993*

District	Total	Asian	Latino	Black	White
Jefferson County, KY	-	-	-	-	-
Jefferson County, AL	28.7	36.6	35.4	2.3	53.4
Bessemer City	-	-	-	-	-
Birmingham City	-	-	-	-	-
Fairfield City	-	-	-	-	-
Homewood City	17.2	11.9	0.0	7.5	19.1
Hoover City	57.6	48.9	41.5	43.3	58.9
Jefferson County	51.6	45.0	50.0	15.6	57.6
Midfield City	-	-	-	-	-
Mountain Brook City	100.0	100.0	100.0	100.0	100.0
Tarrant City	-	-	-	-	-
Vestavia Hills City	87.2	82.4	88.9	77.5	87.7
Shelby County, TN	8.1	15.4	8.7	0.7	21.1
Memphis City	-	-	-	-	-
Shelby County	29.3	34.3	18.3	9.6	33.1

Note: Regular schools only.
Source: National Center for Education Statistics, Common Core of Data, 1992-1993

150. *See infra* Tables 14–16.

Table 15. *Number and Percentage of Students in Racially Isolated White Schools, 1998–1999*

District	Total	Asian	Latino	Black	White	Free/ Reduced Lunch
Jefferson County, KY	-	-	-	-	-	-
Jefferson County, AL	24,080 (21.7)	227 (24.2)	78 (11.9)	811 (1.5)	22,925 (42.4)	2,666 (6.5)
Bessemer City	-	-	-	-	-	-
Birmingham City	-	-	-	-	-	-
Fairfield City	-	-	-	-	-	-
Homewood City	-	-	-	-	-	-
Hoover City	19.8	10.1	3.1	9.5	21.3	5.2
Jeff County City	36.2	30.3	23.3	6.9	43.7	23.3
Midfield City	-	-	-	-	-	-
Mountain Brook City	100.0	100.0	100.0	100.0	100.0	
Tarrant City						
Vestavia Hills City	75.4	74.4	72.2	71.7	75.6	71.8
Shelby County, TN	9,561 (6.0)	245 (11.1)	107 (5.5)	472 (0.4)	8,702 (17.7)	N/A
Memphis City	-	-	-	-	-	-
Shelby County	19.8	24.1	15.9	4.1	25.0	N/A

Note: Tennessee did not report free and/or reduced lunch data in 1998-1999.
Source: National Center for Education Statistics, Common Core of Data, 1998-1999

Table 16. *Number and Percentage of Students in Racially Isolated White Schools, 2009–2010*

District	Total	Asian	Latino	Black	White	Free/ Reduced Lunch
Jefferson County, KY	-	-	-	-	-	-
Jefferson County, AL	11,287 (10.9)	60 (3.7)	71 (1.8)	192 (0.4)	10,955 (25.0)	1,917 (3.7)
Bessemer City	-	-	-	-	-	-
Birmingham City	-	-	-	-	-	-
Fairfield City	-	-	-	-	-	-
Homewood City	-	-	-	-	-	-
Hoover City	-	-	-	-	-	-
Jefferson County	6,249 (17.4)	8 (4.5)	35 (2.2)	162 (1.1)	6,036 (31.8)	1,915 (11.3)
Leeds City	-	-	-	-	-	-
Midfield City	-	-	-	-	-	-
Mountain Brook City	4,397 (100.0)	33 (100.0)	23 (100.0)	13 (100.0)	4,328 (100.0)	N/A
Tarrant City	-	-	-	-	-	-
Trussville City	-	-	-	-	-	-
Vestavia Hills City	641 (10.4)	19 (5.9)	13 (9.6)	17 (4.0)	591 (11.2)	2 (0.5)
Shelby County, TN	-	-	-	-	-	-
Memphis City	-	-	-	-	-	-
Shelby County	-	-	-	-	-	-

Note: Regular schools only.
Source: National Center for Education Statistics, Common Core of Data, 2009-2010

Taken together, a vast majority of students in the two counties studied in Alabama and Tennessee attended racially concentrated schools. More than a majority of the total enrollment of public school students in Memphis-Shelby County, Tennessee, were in intensely segregated schools in each of the three years, and a majority of students attended intensely segregated schools in Birmingham-Jefferson County, Alabama, during two of the three years. In Shelby County, Tennessee, the vast majority of these students were in intensely segregated minority schools; all students attended such schools during 2009–2010. This pattern of minority concentration is driven largely—but not entirely—by segregation in the Memphis City Schools district. The percentage of students in intensely segregated schools increased over the time period examined in Shelby County, Tennessee, as well. Jefferson County, Alabama, had a more mixed pattern, with both white and nonwhite intensely segregated schools contributing substantial shares to the overall percentage of students in segregated schools in 1992. The percentage of

students in either 90–100 percent minority or 90–100 percent white schools declined since 1992, largely due to the decline in the percentage of students in intensely segregated white schools. By comparison, the countywide district of Louisville-Jefferson County, Kentucky, which was also under a court desegregation order until 2000, had no students in intensely segregated schools in either 1992 or 1998 and only 1.1 percent in such schools in 2009.[151]

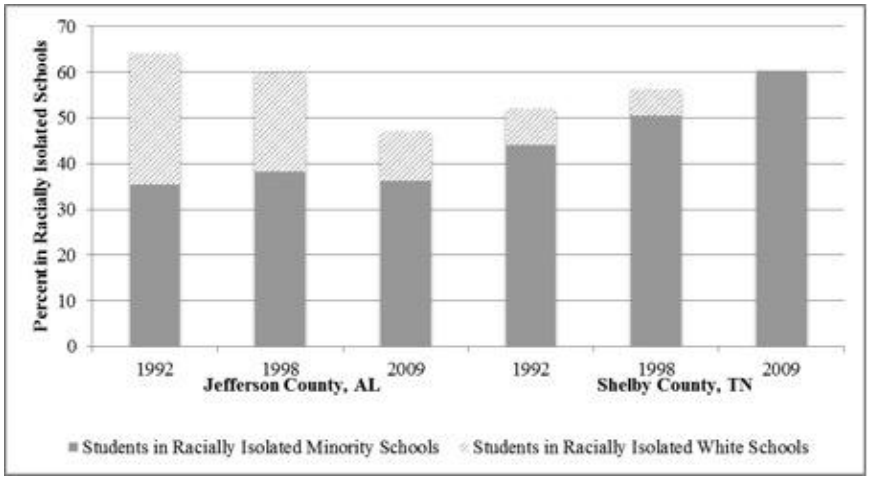


***Figure 13*. Students in Racially Isolated Schools in Jefferson County, Alabama and Shelby County, Tennessee, 1992–2009**
Source: National Center for Education Statistics, Common Core of Data, 1992-1993, 1998-1999, 2009-2010

2. Interracial Exposure and Isolation

The study also includes an analysis of segregation using a second type of measure, exposure to students of other races or of one's own race. This measure helps to explain the experiences of a "typical" student of a given race or ethnicity. The findings are reported at the county level to show how students' experiences differ in counties with varying boundary configurations.

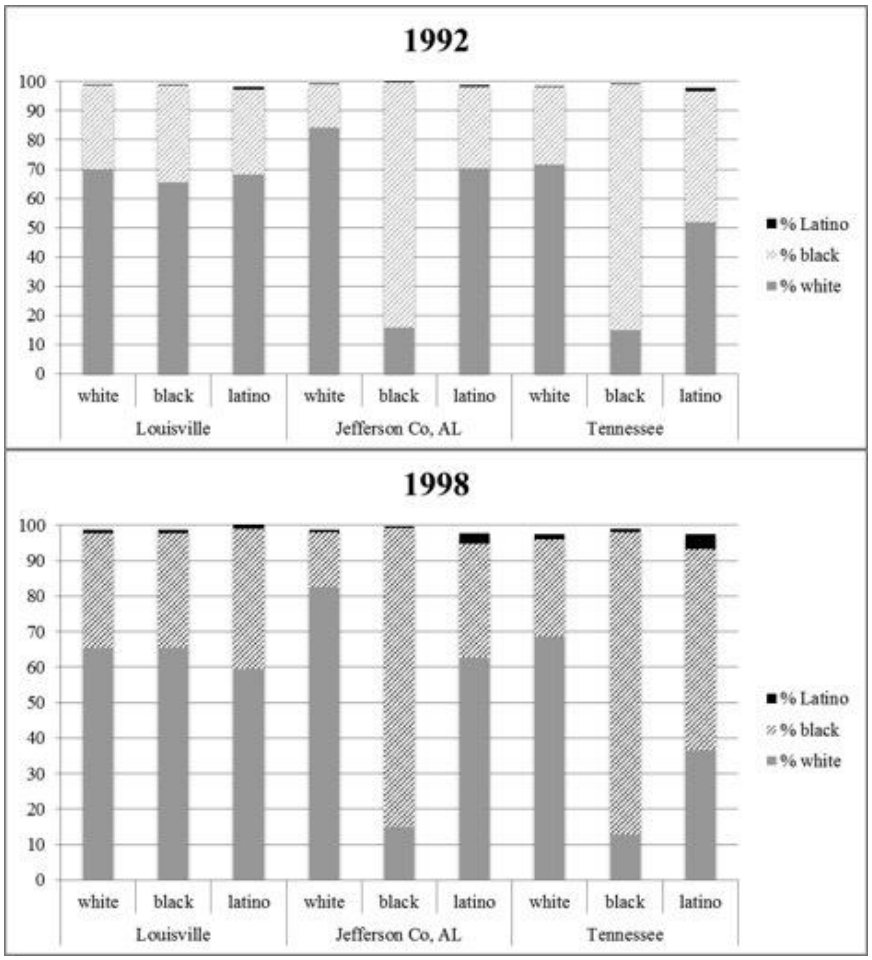
Students in Louisville-Jefferson County, Kentucky have the highest integration as measured by interracial exposure, although integration declines over time. For example, all groups are exposed to a substantial percentage of white students, and in the 1990s, the exposure to whites is similar, regardless of students' race. By 2009, there is a gap in the exposure of black and Latino students to whites (48.2 percent and 45.1 percent, respectively) as compared to white students' exposure to other

151. *See infra* Figure 13.

whites (58.7 percent).[152] Nevertheless, this exposure to whites in 2009 is still considerably higher than in either of the other two counties. Additionally, white students interact with *more* black students in Louisville than in the other two counties while black and Latino students have lower exposure to blacks, which is also another indicator of more integrated school contexts.

By contrast, there are vast differences in interracial exposure for white students as compared to black and Latino students in Jefferson County, Alabama, and Shelby County, Tennessee, although these differences narrow somewhat over time for black students. In both counties, Latinos had high exposure to white students in 1992—closer to white students' exposure to other white students—but this declined substantially, and by 2009, particularly in Shelby County, Tennessee, Latino exposure to whites was more similar to that of black students' exposure to whites. Black exposure to whites remained extremely low in both counties, and declined slightly over time in Shelby County, Tennessee. Black-white exposure remains constant in Jefferson County, Alabama, even as white isolation falls during this time period. Black isolation remains incredibly high in both counties. The typical black student in each county attends a school that is approximately 80 percent black in the three years examined.[153] Latino isolation is low but grew substantially by 2009. Finally, white isolation is high, particularly in Jefferson County, Alabama, although there were declines in both counties by 2009. Still the typical white student attended a school with almost three-quarters white students in Jefferson County, Alabama—which is vastly different than the school of the typical black student.[154]

152. *See infra* Figure 14.
153. *See infra* Figure 14
154. *See infra* Figure 14.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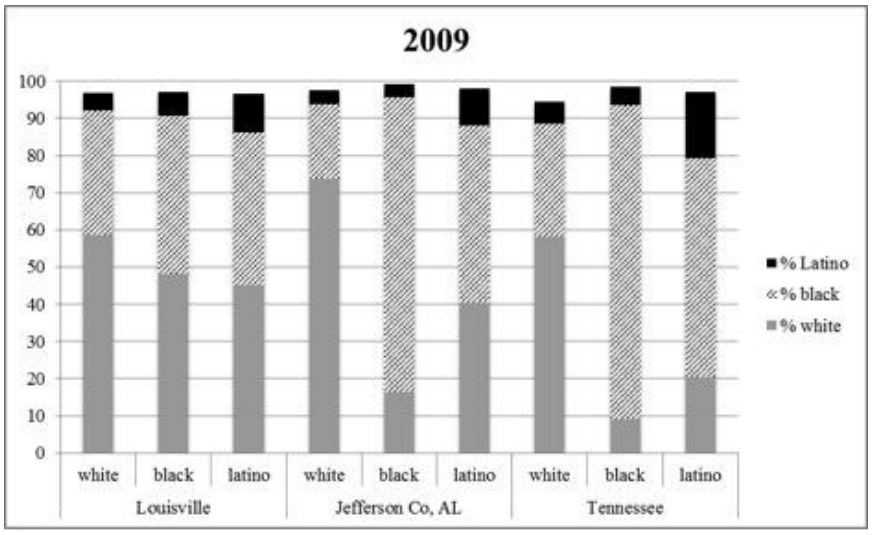

Figure 14. **School-level Interracial Exposure, Aggregated to the County Level, in Louisville, Kentucky; Jefferson County, Alabama; and Shelby County, Tennessee, 1992–2009**

Sources: National Center for Education Statistics, Common Core of Data, 1992-1993, 1998-1999, 2009-2010

V. DISCUSSION

This Article examined how school district boundary arrangements help shape the implementation of school desegregation over time (1960–2012) in three metropolitan areas. All three areas have a distinct history of desegregation. Louisville-Jefferson County, Kentucky serves as the only example of a merged city-suburban district formed through a court order, thus capturing the entire Jefferson County, Kentucky population within its boundaries. Despite being released from the court order in 2000 and having to implement a number of different iterations of its student assignment policy in recent years, the district continues to work towards achieving diverse schools without the threat of fragmentation in a county that has remained relatively stable in terms of population shifts.

In Birmingham-Jefferson County, Alabama, however, the courts never ordered the Birmingham school district to merge with its surrounding suburban school districts. Moreover, the courts permitted new suburban districts to splinter from the county district even when it was under a desegregation order. Because several of the districts are largely of one race, the many existing district boundaries limit the ability to create diverse schooling environments. As the population continues to decrease in Birmingham City (from over 340,000 in 1960 to approximately 214,000 in 2012) and as the white population increases in the county's southeastern suburbs (Vestavia Hills and Mountain Brook

are over 90 percent white), homogeneous enclaves will likely continue to exacerbate overall segregation within the metropolitan area.

The same holds true in Memphis-Shelby County, Tennessee. Population growth since 2000 has remained relatively flat in the city of Memphis even as some of neighboring suburbs have experienced major population growth. For example, Germantown had only 1100 residents in 1960 compared to just fewer than 39,000 residents in 2012. Collierville and Bartlett also went from 2000 and 500 residents, respectively, in 1960 to 44,000 and 54,000 in 2012. These suburbs are also all predominately (at least 77 percent) white. Unlike Birmingham-Jefferson County, Alabama, however, the 2011 merger of Memphis-Shelby County, Tennessee, presented the consolidated district with an opportunity to avoid issues that can occur as a result of fragmentation. Yet even before the newly merged district began operation, the six suburbs in Shelby County, Tennessee, voted to create their own districts and began enrolling students in the fall of 2014. Although the splintering of the districts in Shelby County, Tennessee, is in its early stages, the observations made in Birmingham-Jefferson County, Alabama, provide a window into what may be in store for the area: high levels of segregation in counties with fragmentation, particularly when boundary lines coincide with largely one-race school districts.

School enrollment patterns in each of the three locales differed across levels of countywide fragmentation. Districts varied widely in size in Jefferson County, Alabama, the most fragmented area, but tended to be larger and more stable in Shelby County, Tennessee, and even more so in the merged city-suburban Louisville-Jefferson County, Kentucky, district.

When it came to student characteristics like race and poverty, more fragmented locales had stark city-suburban divisions. Black students and students qualifying for free and reduced-priced lunch (for the years when these data were available) were very heavily concentrated in central city school systems, while white and non-poor students were disproportionately enrolled in suburban settings. These trends were particularly apparent in the 1990s and became slightly less so in the 2000s. In the latter years of this study, white enrollment dropped markedly in a number of suburban districts as the black, Latino, and Asian populations grew. Still, the multiple separate city and suburban school systems in Jefferson County, Alabama, and the urban and suburban districts in Shelby County, Tennessee, remained clearly defined by differing racial and economic enrollments. Given trends in Jefferson County, Alabama, and enrollment patterns in the newly formed Shelby County, Tennessee, districts should be closely monitored for racial and economic disparities. Enrollment in the consolidated district of

Louisville-Jefferson County, Kentucky, was relatively stable, with a significant black student minority and increasing Latino and Asian enrollments. A series of GIS maps highlighted similar patterns at the school-level in Louisville-Jefferson County, Kentucky, a district that has a longstanding student assignment policy emphasizing diversity.

Vast differences are apparent in school-level segregation, particularly when comparing the city-suburban district in Jefferson County, Kentucky, which also implements a student assignment policy designed to integrate students, to the two counties with more fragmentation: Jefferson County, Alabama, and Shelby County, Tennessee. There was only slight racial concentration in 2009 in JCPS (and none in earlier years), while the other two counties had sizeable shares of students in racially concentrated schools. In Alabama, out of a dozen districts, one district had all students who attended segregated white schools while others attended intensely segregated minority schools. Central city districts in both Alabama and Tennessee, along with some of the small suburban districts in Alabama, had very high levels of minority isolation. Although a lessening concern by 2009 in part due to the rise of non-black minority enrollment in some formerly homogenous districts, during the 1990s, suburban districts in Alabama and Tennessee had white isolation. Racial concentration also had strong overlaps with poverty concentration. Taken together, students in the merged Louisville district that still operates under a desegregation policy (first court-ordered, currently voluntarily adopted) attended schools that were demographically similar regardless of their own race. At the same time, district boundaries separating students in Alabama and Tennessee coincided with very different types of schools for the typical white student as compared to the typical black or Latino student in these counties. While this has long been a stark pattern of segregation for black students in these two counties, it also appears to be a growing trend of separation for Latinos even though they are a small share of the overall enrollment.

CONCLUSION

Although significant demographic changes are occurring within metropolitan regions, levels of segregation within metropolitan area suburbs continue to increase.[155] Thus, it is imperative to understand how school district boundary configuration may assist in shaping school segregation over time and what types of policies may work to evade

155. *See* Chad R. Farrell, *Bifurcation, Fragmentation or Integration? The Racial and Geographic Structure of US Metropolitan Segregation 1999-2000*, 45 URB. STUD. 467, 489 (2008).

racial isolation and provide equitable access to opportunity for all students. This evidence is especially important to consider in places like East Baton Rouge, Louisiana, which faces a possible district splinter that would likely create districts of different student composition. As other communities, such as those in metro Dallas and Atlanta, Malibu, and Charlotte, all consider forming splinter districts, policymakers should consider these findings. State laws and policies vary widely in providing the ability for communities to form splinter districts and some even give incentives for merging districts. One implication of this study is that it is important to re-evaluate these policies in light of the ways that school district boundary lines can separate students by race and class.

If the courts are currently reluctant to focus on diversity, it will be up to school districts to reach across boundary lines to provide equitable opportunities for students—potentially through legislative action at the state or federal levels. Still, some circuit courts, such as the Fourth Circuit and Ninth Circuit, have already shown a willingness to continue to hold districts accountable for old desegregation orders. Thus, particularly depending upon additional judicial appointments, this might be another avenue for redressing the patterns described in this Article. Connecticut's regional magnet schools are the result of a state-level court order, which is a possible solution to inter-district segregation.

Additionally, metropolitan areas across the United States have implemented voluntary inter-district arrangements with the goal of reducing socioeconomic and racial isolation between districts. In Omaha, Nebraska, for example, the state legislature created the Learning Community, a collaborative of 11 school districts that seeks to establish diversity through a socioeconomic based transfer plan, share resources through a tax-base sharing plan, and establish elementary learning centers to provide services for children and families across two counties.[156] Regional efforts like those in Omaha are particularly important to consider in the context of this Article's study, as boundary lines continue to define access to social and educational opportunity. Whatever the route, the social, economic, and democratic vitality of the country depends upon our ability to find ways to creatively transcend the educational fragmentation that characterizes so many United States metropolitan areas.

156. Jennifer Jellison Holme & Sarah Diem, *Regional Governance in Education: A Case Study of the Metro Area Learning Community in Omaha, Nebraska*, 90 PEABODY J. EDUC. 156, 162–163 (2015).