



Unequal Education

Federal Loophole Enables Lower Spending on Students of Color

Ary Spatig-Amerikaner August 2012

Introduction and summary

In 1954 the Supreme Court declared that public education is “a right which must be made available to all on equal terms.”¹ That landmark decision in *Brown v. Board of Education* stood for the proposition that the federal government would no longer allow states and municipalities to deny equal educational opportunity to a historically oppressed racial minority. Ruling unanimously, the justices overturned the noxious concept that “separate” education could ever be “equal.”

Yet today, nearly 60 years later, our schools remain separate and unequal. Almost 40 percent of black and Hispanic students attend schools where more than 90 percent of students are nonwhite.² The average white student attends a school where 77 percent of his or her peers are also white.³ Schools today are “as segregated as they were in the 1960s before busing began.”⁴ We are living in a world in which schools are patently separate.

In *Brown* the Court focused on the detrimental impact of legal separation—the fact that official segregation symbolized and reinforced the degraded status of blacks in America. Today’s racial separation in schools may not have the formal mandate of local law, but it just as surely reflects and reinforces lingering status differences between whites and nonwhites by enabling a system of public education funding that shortchanges students of color.

Separate will always be unequal. But just how unequal is the education we offer our students of color today? This paper answers this question using one small but important measure—per-pupil state and local spending. This fraction of spending is certainly not the only useful measure of educational opportunity. How we spend our money is perhaps more important.⁵ But newly released data give us the opportunity to shed new light, specifically on inequity in spending from state and local sources.

For the first time ever, the U.S. Department of Education in 2009 collected school-level expenditure data that includes real teacher salaries. Amazingly,

this had never been done before. I use these data to examine per-pupil spending in public schools, finding that:

- Students of color are being shortchanged across the country when compared to their white peers.
- The traditional explanation—that variation in schools’ per-pupil spending stems almost entirely from different property-tax bases between school districts—is inaccurate. In fact, approximately 40 percent of variation in per-pupil spending occurs within school districts.
- Changing a particular provision of federal education law—closing the so-called comparability loophole—would result in districts making more equitable expenditures on students of color.

Variation within a district is largely due to district budgeting policies that ignore how much money teachers actually earn. When veteran teachers elect to move to low-need schools in richer, whiter neighborhoods, they bring higher salaries to those schools. New teachers who tend to start out in high-need schools, serving many students of color and poor students, earn comparatively low salaries. This leads to significantly lower per-pupil spending in the schools with the highest concentrations of nonwhite students.

To date, the size of the problem has been difficult to measure due to a lack of data. Other researchers have made important contributions to these conversations by documenting a pattern of underinvestment in minority students,⁶ but they have been hampered by a frustrating lack of information. In 2009 the Obama administration showed that it recognized the importance of this issue by including a requirement in the American Reinvestment and Recovery Act of 2009 that districts report actual state and local spending on school-level personnel and nonpersonnel resources in school year 2008–09. In December 2011 the administration released the information to the public.

My analysis based on these new data calls into question a specific federal policy that is supposed to guard against within-district inequities. Title I of the Elementary and Secondary Education Act is the federal government’s primary contribution to public education for students living in poverty. In order to receive Title I money, school districts have to promise to provide educational services to their higher-poverty schools that are “comparable” to those provided to the lower-poverty schools.

School districts across the country routinely tell the federal government that they are meeting this requirement. But the law explicitly requires districts to exclude teacher salary differentials tied to experience when determining comparability compliance. This is a major exclusion because experience is a chief driver of teachers' salaries. This misleading process leads to a misleading result—districts think they are providing equal spending on high-need schools and low-need schools, even though they aren't. This problem has been frequently called the comparability loophole.

The comparability requirement is, similar to most federal education law, silent on race. This paper builds upon the well-documented correlation between people of color and people living in poverty⁷ to assess the ongoing impact of the comparability loophole on students of color.

In the first part of this paper, I paint a detailed picture of what is happening for our students of color across the country. The second part models two alternative futures in which state and local spending experience a one-time growth of approximately 4 percent. In the first model, present policy trends continue—we do not close the comparability loophole. In the second, we close the loophole by “leveling up” spending in schools that are currently being shortchanged. Table 1 presents the top-line findings. (see Table 1)

The Center for American Progress is a nonpartisan research and educational institute dedicated to promoting a strong, just, and free America that ensures opportunity for all. We believe that Americans are bound together by a common commitment to these values and we aspire to ensure that our national policies reflect these values. We work to find progressive and pragmatic solutions to significant domestic and international problems and develop policy proposals that foster a government that is “of the people, by the people, and for the people.”

Center for American Progress



Made possible
with support from



FORDFOUNDATION