

### Topic

The adoption of a mandatory racial desegregation policy for K-12 public schools is desirable.

### Selected Scholars

Professor Sheryll D. Cashin (<https://www.law.georgetown.edu/faculty/sheryll-d-cashin/>)

Professor Rucker Johnson (<https://gspp.berkeley.edu/faculty-and-impact/faculty/rucker-johnson>)

### Topic Statement

“[U]nless and until we complete the unfinished business of the civil rights movement, meaningfully integrating our public and private realms in a way that gives all Americans, especially those who have been most marginalized, real choices and opportunities, we will not solve the conundrum of race and class inequality in America.”

--Sheryll Cashin author of “The Failures of Integration”, 2005

“True integration has the redemptive power to heal divisions. It can serve as an incubator of ideas, provide catalytic effects, and exert a gravitational pull to bring people together across racial lines . . . But without continual advancement, our current pattern of historical amnesia is destined to repeat its cycles. We must reckon with our racist past and present in the service of an inclusive future.”

-- Rucker C. Johnson, “Why School Integration Works”, 2019

In *Brown v. Board*, the US Supreme Court declared that segregation in public education violates students’ right to equal protection under law as guaranteed by the Fourteenth Amendment, setting off a decades of mandatory school desegregation policies and related court decisions. Cashin, the author of *The Failure of Integration*, summarizes this history as follows. “In 1954, 0 percent of black children in this country attended a majority white school. By 1988, 43 percent of Black kids did. So we were fulfilling the promise of *Brown*. We were increasing in integration every year from the mid-'60s to the late '80s. We were closing the achievement gap between black and white kids. And then, in 1988, we begin to retreat. And in the '90s, the Supreme Court through three opinions signaled to lower courts that it was time for federal courts to get out of the business of policing schools' desegregation. And school segregation levels are about where they were in 1968. So we kind of lost 50 years of progress.”

Schools today are as segregated as they were in the late 1960s before busing began. Currently, more than 70 percent of black and Hispanic students attend predominantly minority schools; more than 30 percent attend schools that are greater than 90 percent minority. The average white student attends a school in which more than 80 percent of the students are white. Some take these disappointing results as proof that the Supreme Court lacks the capacity to produce social change. Segregation plays a prominent role in the education of Black students. Segregated schools are, on average, unequal in many critical dimensions that create material barriers to equal education. According to Professor Cashin, we

have replaced the old Jim Crow caste system, which was solely based on race, with a new caste system at the intersection of geography, race and poverty.

In 2021, we know that de facto segregation is pervasive throughout K-12 public schools. This year’s social justice topic challenges student-scholars to confront the difficult question of whether the current school desegregation problem is a problem for which we should seek a mandatory remedy.

The phrase “mandatory desegregation policy” in the topic requires affirmatives to defend a policy that directly mandates public school desegregation. Providing voluntary programs such as an incentive-based desegregation policy is potential negative ground in the debate.

By “desirable” we mean that the Affirmative should advocate that such a policy or plan would be a useful, beneficial, or necessary course of action to desegregate public schools. While affirmatives are welcome to argue that on a principled basis public schools should be desegregated, arguing this alone would be insufficient to demonstrate that a policy proposed to accomplish this goal would be desirable.

Finally, affirmatives must directly mandate a school desegregation policy. In other words, affirmative ground does not include arguing for integrating housing, for example, under the theory that such a policy would lead to educational integration.

There are numerous options available for the Affirmative to advocate. For example, historically busing has been used as a strategy to address segregated public schools. A reasonable affirmative case could also include arguing that Supreme Court decisions in this area have been incorrectly decided, and the correct decision would enable the creation of a mandatory desegregation plan that would be desirable. In the pivotal 1974 case, *Milliken v. Bradley*, the Court limited the scope of desegregation remedies to districts found to have engaged in de jure segregation. It proceeded to muddle through until the 1990s, when, despite continued racial imbalance, it directed lower courts to begin withdrawing from the supervision of school districts. Noted constitutional law scholar Erwin Chemerinsky, for example, has suggested that if key desegregation cases had been decided differently, “the nature of public education today would be very different.”[1] It would be acceptable for an Affirmative advocate why judicial action, through the Constitution or by overturning certain precedent, is desirable to deal with the segregation problem in public schools.

On the other hand, opponents of the resolution may argue that the affirmative proposal is not necessary or beneficial, or both. Opponents might argue that other alternatives exist to mandating segregation of schools, which could include everything from turning to an Afrocentric school model or adopting a voluntary desegregation plan for public schools. For example, even though New York City has tried to desegregate its schools in fits and starts since the 1954 Supreme Court ruling in *Brown v. Board of Education*, the school system is now one of the most segregated in the nation. But rather than pushing for integration, some Black parents are choosing an alternative: schools explicitly designed for Black children. Afrocentric schools have been championed by Black educators who had traumatic experiences with integration as far back as the 1960s and by young black families who say they recently experienced coded racism and marginalization in integrated schools.[2]

Negatives may also choose to advocate a counterplan or counterproposal. To prevail via a counterproposal, negatives have the burden of winning both that the counterproposal is superior to and competitive with the Affirmative proposal. In other words, the negative has the burden of winning both that (1) the counterproposal is more desirable than the Affirmative’s proposal and (2) it is either impossible to implement both the proposal and counterproposal at the same time or that implementing the counterproposal alone is more desirable than implementing a combination of the proposal and counterproposal or elements thereof.

The 2021-2022 Social Justice Debates challenges debaters to engage this national dialogue by answering the question of whether we should once again mandate a desegregation policy for our public schools.

Helpful literature that serves as a base for this topic includes, but is not limited to:

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Brian Daugherty and Charles Bolton (eds.), *With All Deliberate Speed: Implementing Brown v. Board of Education*. Fayetteville, AR: University of Arkansas Press, 2008. ISBN 1-557-28868-2

Cashin, Sheryll, *The Failures Of Integration: How Race and Class Are Undermining the American Dream*, 2005

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Hochschild JL, Danielson M. *Can We Desegregate Public Schools and Subsidized Housing? Lessons from the Sorry History of Yonkers, New York*. In: *Changing Urban Education*. edited by Clarence Stone. Lawrence KS: University Press of Kansas ; 1998. pp. 23-44.

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“Social Justice Debates” Topic Statement  
Authored by Morehouse College and the George Washington University

Amanda E. Lewis, John B. Diamond · 2015, *Despite the Best Intentions: How Racial Inequality Thrives in Good Schools*, Oxford University Press.

Gary Orfield, and Danielle Jarvie, *Black Segregation Matters: School Resegregation and Black Education Opportunity*, December 2020 available at: <https://files.eric.ed.gov/fulltext/ED610039.pdf>

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Delmont, Matthew F., *Why Busing Failed: Race, Media, and the National Resistance to School Desegregation* available at: <https://eportfolios.macaulay.cuny.edu/kafka18/files/2018/02/Delmont-Chapter-1.pdf>

NY Times article, *It Was Never About Busing. Busing Didn't Fail, We Did*.

<https://www.nytimes.com/2019/07/12/opinion/sunday/it-was-never-about-busing.html>

[1] Erwin Chemerinsky, *The Deconstitutionalization of Education*, 36 Loy. U. Chi. L. J. 111 (2004).

Available at: <http://lawcommons.luc.edu/lucj/vol36/iss1/6>

[2] NY Times article, *It Was Never About Busing. Busing Didn't Fail, We Did*.

<https://www.nytimes.com/2019/07/12/opinion/sunday/it-was-never-about-busing.html>