

May 25, 2022

The Honorable Patty Murray  
Chair  
Senate Labor-H Approps. Subcom.  
Washington, DC 20515

The Honorable Roy Blunt  
Ranking Member  
Senate Labor-H Approps. Subcom.  
Washington, DC 20515

The Honorable Rosa L. DeLauro  
Chair  
House Labor-H Approps. Subcom.  
Washington, DC 20515

The Honorable Tom Cole  
Ranking Member  
House Labor-H Approps. Subcom.  
Washington, DC 20515

**Re: Education Requests for Fiscal Year 2023 Appropriations Bill**

Dear Chair Murray, Ranking Member Blunt, Chair DeLauro, and Ranking Member Cole:

On behalf of the undersigned organizations, we write to provide our requests for the FY 2023 appropriations bill. Collectively, our organizations represent the interests of millions of students and educators. Our requests build on the work this Congress began with its passage of the Consolidated Appropriations Act, 2022.

As you well know, at the heart of disparate education outcomes in our country are growing poverty, resegregation, and inequities in school funding and resources.<sup>1</sup> This month, we will celebrate the 68th anniversary of the *Brown v. Board* decision; meanwhile, our nation's public schools continue to be segregated at alarmingly high levels. This is despite the research showing the benefits of racially and socioeconomically integrated and inclusive schools and classrooms for all students.

Our budget requests are designed to reverse this alarming resegregation trend. **We ask that in the FY 2023 appropriations bill, Congress:**

- (1) invest at least \$500 million in the Magnet Schools Assistance Program (MSAP);**
- (2) support the Fostering Diverse Schools Program by creating this \$100 million program in FY 2023 while providing additional support through Title IV, Part A of ESSA's reservation for technical assistance and capacity building, so that states and school districts can pursue locally led strategies to promote racial and socioeconomic integration;**
- (3) repeal 20 U.S.C. 1652 and any other statutory provision that could be read to prevent federal funding from being used for transportation for school integration;**
- (4) remind states and school districts about the availability of funding under ESSA to support school integration;**
- (5) require the Department of Education to study the impact that uncontrolled public school choice has on integration and develop best practices to foster diversity;**

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<sup>1</sup> Darling-Hammond, L. (2018). *Education and the path to one nation, indivisible*. Learning Policy Institute. <https://learningpolicyinstitute.org/product/education-path-one-nation-indivisible-brief>.

**(6) allocate funding to provide improved information on segregative impacts of school boundary decisions; and**

**(7) increase funding for Equity Assistance Centers.**

Further details on each of these requests is included below.

Research shows that all students attending integrated schools reap academic and social benefits. A synthesis of four decades of research highlights these benefits, including higher achievement in math, science, language, and reading; higher educational attainment; more advanced social and historical thinking; and increased civic participation.<sup>2</sup> These benefits to individual students also benefit society.

Studies have also found strong relationships between racial segregation and disparate educational outcomes. In fact, the racial composition of a school has educational impacts for students even after accounting for socioeconomic status. Segregation reinforces resource inequities at a structural level, depriving schools that disproportionately serve students of color of critical resources and supports,<sup>3</sup> including fewer certified and experienced teachers, greater instability caused by rapid turnover of faculty, less access to rigorous coursework, and fewer educational resources.<sup>4</sup> No doubt, as a result of these systemic resource disparities, measures of educational outcomes—such as scores on standardized achievement tests and high school graduation rates—are lower in schools that serve high concentrations of students of color and/or students from families experiencing low-incomes.<sup>5</sup>

Further, students attending racially isolated schools lose out on the benefits of integrated education that flow from increased intergroup contact, including improved critical thinking and problem-solving skills and increased likelihood of living and working in integrated settings as adults.<sup>6</sup>

Yet, since the high point of school integration in 1988, the share of intensely segregated non-white schools (defined as those schools with 0–10% white students) has more than tripled, increasing from about 6% to 19% of all public schools.<sup>7</sup> Further, a large proportion of white students attend

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<sup>2</sup> Mickelson, R. A. (2016). *School integration and k–12 outcomes: An updated quick synthesis of the social science evidence*. National Coalition on School Diversity. <https://www.school-diversity.org/pdf/DiversityResearchBriefNo5.pdf>.

<sup>3</sup> Ayscue, J., Frankenberg, E., & Siegel-Hawley, G. (2017). *The complementary benefits of racial and socioeconomic diversity in schools*. National Coalition on School Diversity. <https://school-diversity.org/pdf/DiversityResearchBriefNo10.pdf>.

<sup>4</sup> Cardichon, J., Darling-Hammond, L., Yang, M., Scott, C., Shields, P. M., & Burns, D. (2020). *Inequitable opportunity to learn: Student access to certified and experienced teachers*. Learning Policy Institute; Darling-Hammond, L. (2018). *Education and the path to one nation, indivisible*. Learning Policy Institute. <https://learningpolicyinstitute.org/product/education-path-one-nation-indivisible-brief>.

<sup>5</sup> Brief of 553 Social Scientists as Amici Curiae in Support of Respondents, *Parents Involved in Community Schools v. Seattle School District No. 1*. 551 U.S. 701 (2007). [https://civilrightsproject.ucla.edu/legal-developments/court-decisions/statement-of-american-social-scientists-of-research-on-school-desegregation-submitted-to-us-supreme-court/amicus\\_parents\\_v\\_seattle.pdf](https://civilrightsproject.ucla.edu/legal-developments/court-decisions/statement-of-american-social-scientists-of-research-on-school-desegregation-submitted-to-us-supreme-court/amicus_parents_v_seattle.pdf).

<sup>6</sup> Ayscue, J., Frankenberg, E., & Siegel-Hawley, G. (2017). *The complementary benefits of racial and socioeconomic diversity in schools*. The National Coalition on School Diversity; Orfield, G., Ee, J., Frankenberg, E., & Siegel-Hawley, G. (2016). *Brown at 62: School segregation by race, poverty and state*. Civil Rights Project; Brief of 553 Social Scientists as Amici Curiae in Support of Respondents, *Parents Involved in Community Schools v. Seattle School District No. 1*. 551 U.S. 701 (2007). [https://civilrightsproject.ucla.edu/legal-developments/court-decisions/statement-of-american-social-scientists-of-research-on-school-desegregation-submitted-to-us-supreme-court/amicus\\_parents\\_v\\_seattle.pdf](https://civilrightsproject.ucla.edu/legal-developments/court-decisions/statement-of-american-social-scientists-of-research-on-school-desegregation-submitted-to-us-supreme-court/amicus_parents_v_seattle.pdf).

<sup>7</sup> U.S. Department of Education, National Center for Education Statistics, Common Core of Data, Public Elementary/Secondary School Universe Survey data. Data prior to 1991 were obtained from the analysis of the Office for Civil Rights data in Orfield, G.

overwhelmingly racially isolated schools, with more than one third attending schools that are 90% to 100% white.<sup>8</sup>

Fortunately, the FY 2023 appropriations bill can help support school integration. Congress can help increase access to integrated and inclusive schools in the following ways:

1. **Invest at least \$500 million in the Magnet Schools Assistance Program (MSAP).** This appropriation should also sharpen the program’s emphasis on inclusive, whole school approaches,<sup>9</sup> and strengthen the program’s links to HUD public housing and neighborhood redevelopment efforts. Importantly, magnet schools are defined as public elementary or secondary schools that offer “a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.”<sup>10</sup> To that end, MSAP prioritizes applicants that will select students by methods such as lottery, rather than through academic examination.<sup>11</sup>

Research on magnet schools have found positive outcomes for integration and students’ social and academic outcomes. Yet funding for magnet schools has not kept pace with other federal investments in education. In FY 2022, funding for the MSAP (\$124 million) was only marginally greater in real dollars than it was in FY 1989 (\$114 million).<sup>12</sup> While the President’s FY 2023 budget proposal seeks to increase the funding to \$149 million, the fact remains that MSAP’s funding is misaligned with the important role magnet schools can play in creating more integrated education settings. We therefore recommend a funding level of at least \$500 million for MSAP in FY 2023. We also ask that Congress encourage the Department of Education to engage in rulemaking and other activities to update MSAP to better align with evidence-based best practices, including first door components that help bring diverse students together, second door components that foster inclusive environments and support the success of students of color,<sup>13</sup> and incentivizing applicants to include SEAs and regional approaches in their planning. The FY 2022 MSAP notice inviting applications addresses many of the components that should be included in the MSAP regulations and other Department of Education MSAP activities moving forward.<sup>14</sup>

Furthermore, given MSAP’s emphasis on reducing racial isolation, and the Fair Housing Act’s emphasis on residential integration and interdepartmental collaboration, we recommend further prioritizing magnet school development in or near distressed public housing undergoing major redevelopment – and including higher-income students (including suburban students) in the new

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(1983). *Public school desegregation in the United States, 1968–1980*. Joint Center for Political Studies. <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/public-school-desegregation-in-the-united-states-1968-1980/orfield-american-desegregation-1983.pdf>.

<sup>8</sup> Potter, H., Quick, K., & Davies, E. (2016). *A new wave of school integration: Districts and charters pursuing socioeconomic diversity*. Century Foundation. <https://tcf.org/content/report/a-new-waveof-school-integration/?session=1>.

<sup>9</sup> House Report 117-96, which accompanied the FY 2022 appropriations legislation, urged the Department to prioritize applicants seeking to establish and operate whole school magnet programs. See <https://www.congress.gov/117/crpt/hrpt96/CRPT-117hrpt96.pdf> at 276.

<sup>10</sup> See §4402 of ESEA, 20 U.S.C. 7231a.

<sup>11</sup> *Id.* See 20 U.S.C. § 7231e (“propose to select students to attend magnet school programs by methods such as lottery, rather than through academic examination.”)

<sup>12</sup> Biennial Evaluation Report – FY 93-94, Magnet School Assistance Program. (n.d.). <https://www2.ed.gov/pubs/Biennial/132.html> (accessed 04/09/21).

<sup>13</sup> George, J., & Darling-Hammond, L. (2021). *Advancing integration and equity through magnet schools*. Learning Policy Institute.

<sup>14</sup> The notice can be found at: <https://oese.ed.gov/files/2022/02/MSAP-NIA-2022.pdf>

schools' design capacity. The Senate Labor-HHS-ED appropriations subcommittee has previously recognized the important link between these two issues in its FY 2020 report where it stated, "The Committee encourages the Department to prioritize Magnet School Assistance applications that are paired with Department of Housing and Urban Development Choice Neighborhoods planning or implementation grants."<sup>15</sup>

2. **Support the Fostering Diverse Schools Program by creating this \$100 million program in FY 2023 while providing additional support through Title IV, Part A of ESSA's reservation for technical assistance and capacity building, so that states and school districts can pursue locally led strategies to promote racial and socioeconomic integration.** The Biden Administration's FY 2023 budget request asks Congress to fund the Fostering Diverse Schools program. It was also included in the House of Representatives' FY 2022 funding bill for the Department of Education, which passed the chamber in July 2021.<sup>16</sup> However, it was not included in the omnibus funding bill signed into law in March 2022. We ask that it be included in the FY 2023 appropriations bill. Furthermore, we appreciate Congress's directive in the FY 2022 appropriation bill's statement of the managers directing the Department of Education to prioritize school diversity in its technical assistance and capacity building support under Title IV, Part A of ESSA.<sup>17</sup> We request that Congress again direct the Department of Education to use the Title IV-A reservation to support school diversity in the FY 2023 appropriations bill.
3. **Repeal any remaining provisions that could be read to prohibit federal funds from being used to support school transportation for school integration.** Within the last few years, Congress has acted in a bipartisan fashion three times to remove provisions in law that prohibit federal funds from being used to support transportation for school integration.<sup>18</sup> Most recently, thanks to the bipartisan work of the 116<sup>th</sup> Congress, one of the last remaining long-standing prohibitions on the use of federal funds for transportation to support school integration was eliminated.<sup>19</sup> These provisions stood for nearly 50 years. However, there is at least one remaining provision, 20 USC 1652, that was not removed in the 116th Congress. It contains essentially the same language as the provisions that Congress removed. We request that Congress remove this provision in this appropriations cycle, as well as any other statutory provisions that could be read to limit

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<sup>15</sup><https://www.appropriations.senate.gov/imo/media/doc/FY2020%20Labor-HHS%20Appropriations%20Act,%20Report.pdf>

<sup>16</sup> The House report states, "The Committee includes \$100,000,000 for a new competitive grant program, Fostering Diverse Schools. The program establishes competitive grants to local educational agencies and State educational agencies to reduce racial and socioeconomic segregation across and within school districts. A 2019 report by Urban Institute finds that two thirds of total school segregation in metropolitan areas is due to segregation between, rather than within, school districts. In response to this concerning dynamic, the Committee directs the Department to prioritize resources to address segregation across districts. The Committee notes the promise of strategies and models such as inter-district magnet schools, voluntary two-way transfer programs between segregated districts, district regionalization, and regional education service agency governance structures." See <https://www.congress.gov/117/crpt/hrpt96/CRPT-117hrpt96.pdf> at 277.

<sup>17</sup> The statement of the managers says, "The reservation for technical assistance (TA) and capacity building should be used to support state educational agencies (SEAs) and LEAs in carrying out authorized activities under this program identified by SEAs and LEAs, which may include support for fostering school diversity efforts across and within school districts. The Department is directed to prioritize its TA and capacity building support for SEAs and LEAs seeking to address such school diversity needs. In future Congressional Justifications, the Department shall continue to provide current and planned expenditures for this reservation and include a plan for how resources will be spent to provide TA and to build the capacity of SEAs and LEAs." See [https://docs.house.gov/billsthisweek/20220307/BILLS-117RCP35-JES-DIVISION-H\\_Part1.pdf](https://docs.house.gov/billsthisweek/20220307/BILLS-117RCP35-JES-DIVISION-H_Part1.pdf) at 123.

<sup>18</sup> For a summary, see <https://learningpolicyinstitute.org/blog/federal-action-removes-long-standing-obstacle-school-integration> and <https://www.politico.com/story/2019/06/13/anti-busing-law-1520234>.

<sup>19</sup> The Consolidated Appropriations Act of 2021 (P.L. 116-260). <https://www.congress.gov/bill/116th-congress/house-bill/133/text/pl?overview=closed>.

transportation funding for integration programs. Having funding for transportation is particularly important for interdistrict programs.

4. **Remind states and districts about the availability of funding under ESEA to support school integration.** As noted in recommendation 3 above, Congress has recently removed three long-standing prohibitions on the use of federal funds for transportation to support school integration. Congress may once again act to remove another one of these provisions in the Education Amendments Act of 1972 (see recommendation 3). These provisions have stood for nearly 50 years. As such, many states and districts may be unaware of the ability of ESEA and other federal funds to support integration programs, such as inter-district programs or magnet schools. Therefore, we request that Congress direct the Department of Education to make state and local educational agencies aware of the removal of these prohibitions and the ability of federal funds to support transportation for school integration.

ESEA requires states to set aside 7% of Title I funds to implement evidence-based interventions for low-performing schools. As noted in the House report accompanying the FY 2022 appropriations bill, districts can use these funds to support socioeconomic and racial integration strategies, as they are evidenced-based. The report also *encouraged* the Department of Education to provide technical assistance to school districts to help them carry out this work. The report accompanying the FY 2023 budget should *require* the Department of Education to provide this technical assistance and report on these efforts.<sup>20</sup>

5. **Require the Department of Education to study the impact that uncontrolled public school choice has on integration and develop best practices to foster diversity.** Uncontrolled public school choice systems can have the effect of intensifying racial and economic segregation. Congress should require the Department of Education to study existing public school choice systems and provide a set of best practices that protect public education and promote school integration for school districts to follow.
6. **Allocate funding to provide improved information on segregative impacts of school boundary decisions.** Congress should fund a full update and continuing data collection for the School Attendance Boundary Survey (last collected in 2015-16), to give real time data for Department of Education policy and research staff and the Office for Civil Rights on school assignment zone changes that have a segregative impact. The data collection should also: 1) cover changes in school district boundaries, including school district secessions; and 2) include flags in datasets produced to indicate where a boundary (district or attendance zone) has been changed since the last collection to allow for analysis of the effect of any changes. This data will be valuable not just for civil rights monitoring and enforcement, but also for state and local housing agencies in the fair housing planning process (AFFH).

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<sup>20</sup> See also NCSD, "Prioritizing School Integration in ESSA State Implementation Plans," <https://www.school-diversity.org/pdf/DiversityIssueBriefNo6.pdf>

7. **Increase funding for Equity Assistance Centers.** Congress should provide a significant funding increase for Equity Assistance Centers (EACs), which provide technical assistance and training to public school districts to support equitable education opportunities. This technical assistance includes supporting school districts that are seeking to increase diversity. Funding for EACs has dropped significantly since 1980, from \$45 million then, to \$6.575 million in recent years.

Thank you for your time and for your work to ensure that all students have access to integrated, inclusive, and well-resourced learning environments. We look forward to working with you on these recommendations that are vital to our children’s and our nation’s collective success.

Sincerely,

National Coalition on School Diversity  
American Association of Colleges for Teacher Education  
American Atheists  
American Federation of Teachers  
American Psychological Association  
Autistic Self Advocacy Network  
BellXcel  
Capitol Region Education Council  
Chicago Lawyers’ Committee for Civil Rights  
Civil Rights Project/Proyecto Derechos Civiles at UCLA  
Clearinghouse on Women’s Issues  
Communities In Schools  
Council of Administrators of Special Education  
Diverse Charter Schools Coalition  
EDGE Consulting Partners  
EduColor  
Feminist Majority Foundation  
Great Schools for All in Rochester, NY  
Hispanic Federation  
IntegrateNYC  
Integrated Schools  
Japanese American Citizens League  
Lawyer’s Committee for Civil Rights Under Law  
LEARN Regional Educational Service Center  
METCO, Inc.  
Magnet Schools of America  
Metis Associates  
National Alliance for Partnerships in Equity  
National Association of Secondary School Principals (NASSP)  
National Black Justice Coalition  
National Center for Montessori in the Public Sector  
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)  
National Urban League, Inc.  
New York Appleseed  
North Carolina Justice Center

Public Advocacy for Kids (PAK)  
School Diversity Notebook  
Sheff Movement coalition  
SproutFive (formerly South Side Early Learning)  
The Advocacy Institute  
The Education Trust  
The Trevor Project  
UnifiEd  
Voluntary Interdistrict Choice Corp. (VICC)

**Submitted with the support of the following individuals (organization names listed for identification purposes only):**

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