

## Education's "Perfect Storm?"

### The Effect of Racial Resegregation, High-Stakes Testing, and School Inequities on North Carolina's Poor, Minority Students

*John Charles Boger*

In *The Perfect Storm*, Sebastian Junger recounts the last voyage of the *Andrea Gail*, a 72-foot "rake-stem, hard-chined western-rig swordfisherman" whose crew sailed out of Gloucester, Massachusetts, in mid-September 1991 in a late-season quest for swordfish.<sup>1</sup> After three weeks of grueling but unproductive labor on the Grand Banks off Newfoundland, the *Andrea Gail*'s crew pushed its luck by sailing in uncertain autumn waters toward another fishing ground called the Flemish Cap, some 1,200 miles east of New England's coast. There the crew's luck appeared to turn, and by October 25, the *Andrea Gail* turned westward toward harbor, its hold stowed with 40,000 pounds of fresh swordfish.

Two days later, while the ship still was 750 miles out of home port, the captain received word of three developing weather systems: a hurricane brewing off Bermuda, a cold front descending from Canada, and a gale soon to form on the Grand Banks.<sup>2</sup> The captain had battled strong storms before and was determined to move his perishable cargo directly to market. He steered on toward Gloucester.

His fateful decision delivered the *Andrea Gail* into the eye of a once-in-a-century, threefold storm. By October 29, freak warm winds from late-season Hurricane Grace converged with the

colder Canadian low and the gale to produce conditions far deadlier than any one storm could have summoned—a "perfect storm" that whipped seas to an unfathomable fury. The hapless vessel and her crew, battling these unnatural forces, found themselves at the mercy of 70- and 80-foot waves. The *Andrea Gail* capsized and went down, all hands lost.

Three educational developments are currently gathering strength in North Carolina and the South: (1) resegregation of schools by race and socioeconomic class; (2) implementation of state and federal high-stakes accountability measures; and (3) continuing inequities in school finances and resources. Each development alone would present formidable challenges to well-meaning educational policy makers and administrators. Without careful foresight and planning, their convergence could reverse North Carolina's notable progress in the past decade in improving public education for all children. Together they could become public education's perfect storm.

#### Resegregation of Southern Schools

The first of these rapidly intensifying forces comes with the imminent end of fifty years of court-ordered school desegregation. During this period, hundreds of judicial and administrative decrees brought racial integration to public schools across the South, transforming it from the most segregated

region of the nation to the most integrated one. The era that now lies beyond court-ordered desegregation promises massive, still-uncertain changes in patterns of student assignment and enrollment that could reshape southern education for the coming generation.

Although many school districts remain under federal court order in mid-2003, the trend toward federal disengagement is clear. It is impelled by decisions by the U.S. Supreme Court beginning in the early 1990s, which held that the Court's chief constitutional concern was to reestablish local control by public school boards formerly operating under federal desegregation decrees.<sup>3</sup>

Yet even when federal judicial supervision ends, many southern school boards, including those in North Carolina, will find themselves currently prohibited from using this newly restored local control to ensure the continuance of racially integrated public schools. The explanation for this new constraint lies in two appellate court decisions that take away with one judicial hand the local control that the Supreme Court has offered with the other. These decisions, rendered by the U.S. Court of Appeals for the Fourth Circuit—with parallel holdings in the Fifth and Eleventh circuits—appear to forbid school boards from directly considering students' race as they make decisions about school assignments. Well-meaning educators, in short, may not act either to implement a good-faith

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*The author is professor of law, School of Law, and deputy director, Center for Civil Rights, UNC Chapel Hill. Contact him at jcboger@email.unc.edu.*

belief that all American children in the twenty-first century need to be educated in multiracial schools or to avoid patterns of racially segregated student attendance that characterized an earlier era.<sup>4</sup>

On June 23, 2003, Justice Sandra Day O'Connor, writing for five members of the Supreme Court, upheld some uses of race by college and university officials in making admissions decisions. The decision, in *Grutter v. Bollinger*, strongly reinforces and indeed broadens the 1978 *Bakke* opinion of Justice Lewis F. Powell, Jr.<sup>5</sup> The Court's decisive rulings undermine much of the rationale on which the

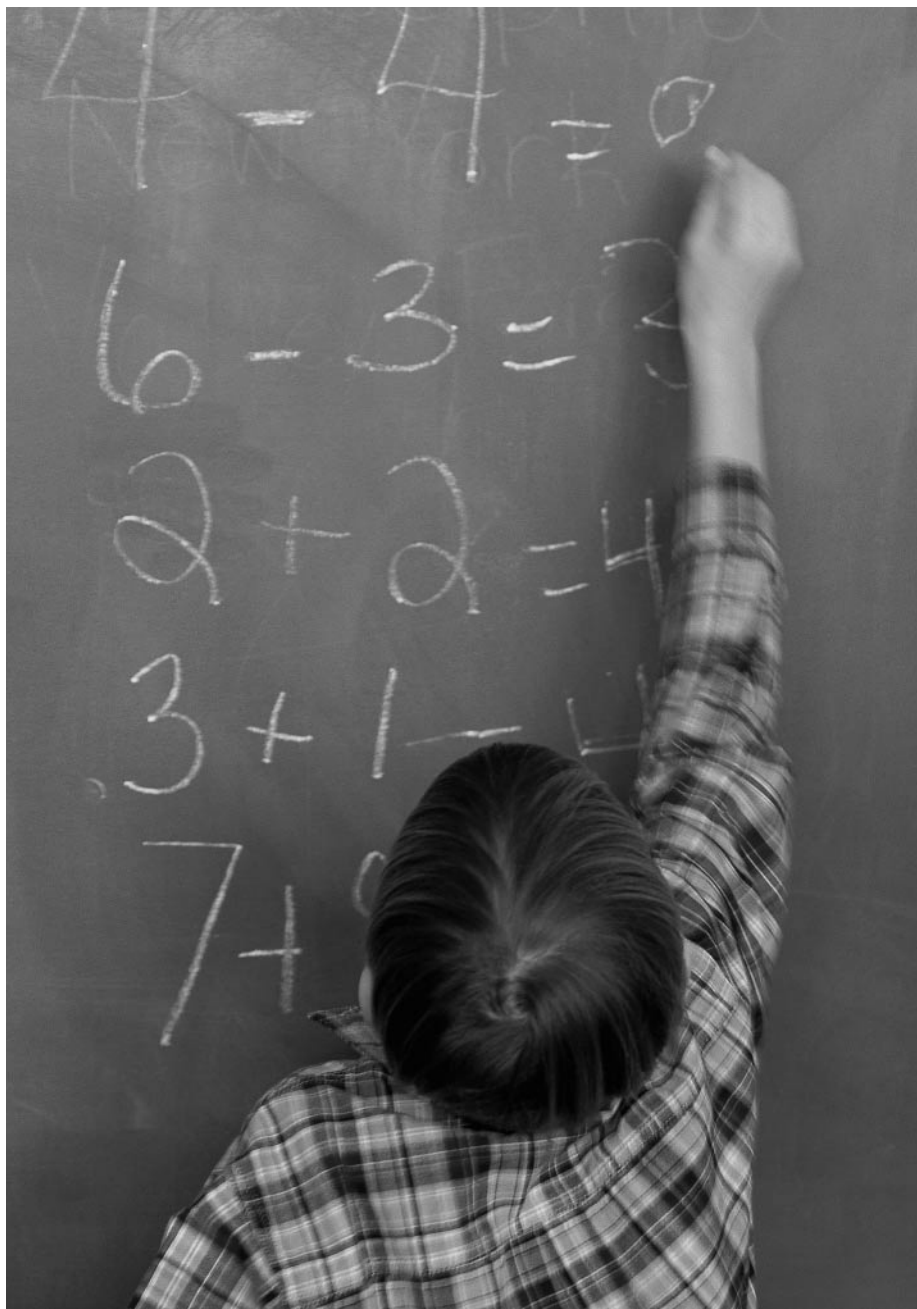
Fourth Circuit Court of Appeals built its 1999 decisions that currently forbid race-conscious student assignments in K-12 education. Still, the precise applicability of the *Grutter* decision to elementary and secondary education awaits a court test. Even if the decision is interpreted broadly, however, it only permits—it does not require—willing school boards to assign their students to further the goal of educational diversity. Without good faith commitment by southern school boards to continue to seek educational diversity, alternative student assignment policies threaten to re-create, in many urban and some rural southern school

districts, levels of racial and socioeconomic isolation not experienced by students in the South since the mid-1960s. This tendency may be exacerbated by a movement among many school boards to adopt student-assignment plans based on neighborhood schools, parental choice, or other mechanisms that maximize parents' options for their children at the potential cost of resegregating schools.

Moreover, if nonwhite students increasingly attend more racially segregated schools, the poverty levels of those schools will grow steadily. Nonwhite families in North Carolina are poorer than white families, on average, whether poverty is measured by current income or family assets. (For data on the distribution of the state's poor, see "The Changing Face of Poverty in North Carolina," on page 14 of this issue.) The high-poverty conditions that will inevitably accompany resegregation will, in turn, place children who attend resegregating schools at a substantially higher risk of poor academic performance—whatever their personal academic potential—simply because of the well-documented, adverse "school composition" effects of high-poverty schools.<sup>6</sup> Racial resegregation also will result in the loss of the many educational benefits that researchers and lay people alike have ascribed to integrated public education.

### Implementation of State and Federal High-Stakes Accountability Measures

School resegregation poses additional challenges as North Carolina steadily raises the educational bar through its state accountability system, now federally augmented by the No Child Left Behind Act (a restructuring of Title I of the Elementary and Secondary Education Act). During the past fifteen years, North Carolina has wholeheartedly embraced an accountability model known as the ABC's of Education. The system has been singled out as among the nation's best and most thoroughgoing. Yet with the arrival of the No Child Left Behind Act in early 2002, the state faces sweeping new accountability procedures.<sup>7</sup> This federalization



of accountability marks a major departure for Congress. Never before has the federal government interjected itself so centrally into the curriculum and yearly goals of the public schools.

Later in this article, I address some implications of these educational changes for student achievement generally. Here I consider their potential impact on southern schools that are undergoing the termination of court-supervised desegregation.

### **Implications for Schools Terminating Desegregation**

The new federal approach does require states to pay careful attention to the various student subpopulations of each school and to report annually on the achievement of students in “disaggregated” form—that is, by breaking down achievement on state tests according to the “race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged” of all students in each school and district.<sup>8</sup> Nonetheless, I draw a pessimistic conclusion. In my judgment, without extraordinary intervention by state or local legislatures and school boards, these federal and state reporting measures will not reverse longstanding patterns of underachievement by poor and minority children. Instead, I fear, racial resegregation will interact with high-stakes accountability, even if inadvertently, to accelerate a division between “winner” and “loser” schools increasingly identifiable not merely by the relative successes or failures of their test-takers but by the races and socioeconomic status of their students.

The basic outline of North Carolina’s accountability system was implemented statewide in 1995 in the ABC’s of Education Act.<sup>9</sup> The act requires end-of-grade (EOG) testing of every third-grade student in three core subjects—reading, mathematics, and writing—and it designates special “gateways” at the third-, fifth-, and eighth-grade levels, when promotion decisions will be given special attention. Every school in North Carolina now receives an annual rating under the ABC’s statute. Unlike states that hold every school to a uniform performance

standard (for example, requiring at least 50 or 60 percent of all children to meet annual performance goals), North Carolina employs a complex formula to set specific growth goals for each school. In general, the formula weighs prior performance by students in each school, along with other demographic factors such as socioeconomic status and race. (Under the federal No Child Left Behind Act, North Carolina will simultaneously be required to develop and employ a single uniform standard for measuring growth in its schools, the measure of adequate yearly progress, or AYP.)

These annual performance measures have more than intangible significance for teachers. In 1997, North Carolina provided an annual bonus of \$1,500 to all teachers whose schools achieved higher than expected growth under the ABC’s program and \$750 bonuses to all teachers whose schools met expected growth goals. The performance measures are accompanied by new state labels tied to overall school performance (such as “high growth,” “expected growth,” and “low-performing school”). These labels mobilize parents to pressure teachers and administrators, since parents can learn from the annual ABC’s scores just how much their children’s schools are improving.

For low-performing schools, the impetus for improvement can come not only from concerned parents but also from official “assistance teams.” Dispatched by the State Board of Education, these teams have broad authority to investigate and review all facets of

school operations, evaluate teachers and other school personnel, and collaborate to design a school improvement plan. Further, if the school ultimately fails to improve, the team may recommend to the State Board that it dismiss the principal or replace the superintendent (if more than half the schools in the district are low-performing or if the superintendent fails to cooperate with the assistance team).<sup>10</sup>

As part of its commitment to accountability, North Carolina has eliminated “social promotion,” the practice of allowing students who have not mastered the material in one grade to go on to a higher grade. The new EOG test scores will play a major role in the three new gateways (at third, fifth, and eighth grades), determining each year whether thousands of North Carolina children are promoted or retained. Moreover, high school students soon will be required to pass a battery of tests, first administered in the tenth grade, before they may receive a North Carolina high school diploma.

In North Carolina the retention rate increased in each of the three gateway grades during the 1990s, though the overall rates of retention remained relatively small. The State Board of Education acknowledges that retentions will likely increase from 6,327 in 1998–99 to 20,837 once all three gateways are in operation in 2002–03.<sup>11</sup> These figures seem low. In 2000–01 approximately 17.3 percent of all fifth graders and 30.8 percent of all African-American fifth graders failed to achieve at a proficient level (designated Level III under the ABC’s approach) on their EOG reading tests.



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Since every student should pass the reading and the mathematics tests to avoid a risk of retention, the number of students at risk of retention under the ABC's was actually greater than the numbers just cited. In the 2000–01 school year, for example, 21.6 percent of all fifth graders and 38.0 percent of African-American fifth graders failed one or both of these exams.<sup>12</sup>

In a December 2001 report to the State Board of Education, a special commission charged with examining North Carolina's "achievement gap" (the gap in academic performance between whites and most minorities) confirmed these disparities between whites and African-Americans in EOG performance:

*We can no longer afford to avoid the discomfort often associated with recognizing that ethnic culture (race) is somehow associated with [academic] failure.*

*The evidence is compelling. In every analysis of EOG test data from the ABCs program presented to the Commission over the past year, the factor of race was dominant in differentiating levels of achievement . . .*

*The most pronounced differential exists between the white student group with 82 percent achieving at or above grade level on the 2000–2001 EOG testing, while only 52 percent of African-American students were at or above grade level. Hispanic and American Indian students scored above blacks but considerably below whites and Asians.<sup>13</sup>*

The overall gap between white and African-American student performance is large statewide, as it is in many other

states.<sup>14</sup> However, some evidence indicates that it is especially large in schools that are more segregated. For example, among North Carolina's five largest urban districts, recently studied by three education experts from Duke University, the gaps in both reading and mathematics are higher in three more rapidly resegregating districts—Charlotte/Mecklenburg County, Greensboro/Guilford County, and Winston-Salem/Forsyth County—than in two more racially integrated districts—Raleigh/Wake County and Fayetteville/Cumberland County.<sup>15</sup>

Moreover, the higher rates of failure in the more rapidly resegregating districts are not evenly distributed among their elementary schools. Instead, as the research on the effects of poverty concentration would predict, the highest rates come in high-poverty schools within those districts.

In sum, the numbers and percentages of students who are retained under the state's ABC's of education system are likely to rise substantially, particularly in schools with higher percentages of African-American and Hispanic children and poor children. In school districts where schools are resegregating by race and socioeconomic class, these "failing schools" soon may either house especially large percentages of children who have been retained in grade, with all the increased risks for dropping out that researchers have identified, or effectively abandon any commitment to end social promotion, simply to keep their student cohorts moving through the system.

Perhaps the greatest virtue of accountability systems is their capacity to identify the particular districts, schools, and students that are not achieving at

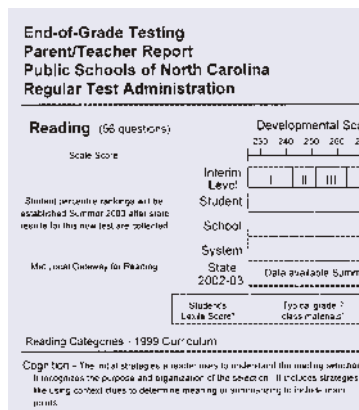
desirable levels. To be sure, North Carolina's system accomplishes that task. Moreover, since the federal No Child Left Behind Act requires all schools to report their scores by race, ethnicity, limited-English proficiency, and family income status, even districts and schools that have overall high levels of student performance will no longer be able to ignore major cohorts of their student populations that may not be performing adequately. These are substantial pluses of the accountability system.

Yet once that identification has been completed, major work lies ahead. North Carolina's resegregating and high-poverty schools must be assured of receiving the human and fiscal resources they need: enough certified teachers to staff every classroom; smaller classes, especially in the earlier grades; experienced principals and staffers; sufficient funds for professional development; and resources to support meaningful after-school, English-proficiency, tutoring, special education, and other tailored programs that match those of schools in more affluent areas. Any shortfall of resources could quickly swamp thousands of struggling low-income and minority children in North Carolina. For as the American Educational Research Association has cautioned,

*if high-stakes testing programs are implemented in circumstances where educational resources are inadequate . . . there is potential for serious harm. Policy makers and the public may be misled[.]; . . . students may be placed at increased risk of educational failure and dropping out; [and] teachers may be blamed or punished for inequitable resources over which they have no control.<sup>16</sup>*

### Unintended Consequences of High-Stakes Accountability

Under an accountability system, a primary purpose of identifying low-performing schools is to take the necessary steps to improve them, thereby allowing every child to attain high academic goals. However, identifying schools that fall short in academic performance opens another possible



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## Bill McNeal: Helmsman in a Storm

**B**efitting a man who has spent more than thirty years in public schools, Bill McNeal says he is “in the business of no excuses.” This is especially true when it comes to closing racial and socioeconomic gaps in academic achievement.

In the two years since McNeal became superintendent of Wake County Schools, the district has posted impressive gains in end-of-year tests. Last year 89.4 percent of students in grades 3–8 scored at or above grade level, a 4.5 percent increase since 2000. Reading scores were up two points for all students, four points for black and Hispanic students; and math scores were up three points for all students, six points for blacks and Hispanics. In 1999–2000, 60.3 percent of black third graders were reading at grade level, compared with 92.7 percent of white third graders. In two years that 32.4 percent gap narrowed by almost a third, with 71.2 percent of black students reading at grade level, compared with 95.1 percent of white students. Math scores for eighth graders show similar patterns: 65.4 percent of black students scoring at grade level in 1999–2000, increasing to 71.5 percent two years later. For white students, the percentages were 93.6 and 95.1, respectively.

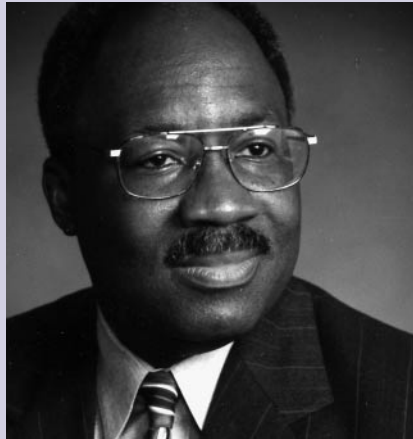
To McNeal the progress is substantial but not miraculous. “It’s been hard work, a slow, painstaking process,” he says. The district is committed to maintaining educational diversity in its schools and raising the achievement of every student (see page 54 of the accompanying article). Further, McNeal says, principals and teachers have taken the crucial “first step” and recognized that “we’re absolutely responsible for the academic progress of every child.”

His motivational secret? McNeal grew up professionally in the school system, starting as a junior high teacher in 1974 and working his way up as assistant principal, principal, assistant superintendent, then associate superintendent. He has known many of the system’s principals a long time. “I believe they trust and respect me and what this district stands for,

and when I appeal to their sense of concern for all children, they respond. And I feel the same way about the teachers,” he says.

Another component has been the Accelerated Learning Program, initiated by McNeal when he was associate superintendent as a three-hour tutoring program by certified teachers on Saturday mornings. Schools now have flexibility in designing their own programs, but the basics—extra money for extra teaching—still are intact. In the past two years, Wake County commissioners have pumped an extra \$20 million into the school system.

McNeal also has forged beneficial alliances with businesses and faith communities. Five hundred businesses



now are linked with individual schools and help with everything from donating equipment, like used copiers, to backing pay hikes for teachers. Among other benefits, the program “got business people into the schools so they could see them and talk intelligently about what’s needed,” McNeal says. Churches and other faith groups also have adopted schools and set up after-hours tutoring programs and, in some cases, in-house computer labs.

Can other districts duplicate Wake County’s success? “You can replicate the goal. You can replicate the can-do attitude, the drive and push by top-level personnel,” McNeal acknowledges. “But you’ll still need financial resources to do everything we’ve done, to provide all the support pieces.”

—Eleanor Howe

avenue for impatient parents: to move their children to schools where other students already are achieving at high levels. Scholars have long noted this classic exit pattern of response to failing schools.

North Carolina’s school assignment patterns lend themselves to the exercise of such a choice in at least two ways. In districts that opt for neighborhood schooling, parental choice can take the form of selecting the “right neighborhood” for residence—one in which public schools are high-performing (and the racial mix is to the parents’ preference). A large body of empirical evidence fortifies what most people know from common observation: entry into neighborhoods with more desirable public schools is usually more expensive, since home prices reflect the “premium” paid for the better-performing schools to which neighborhood children will go. The contrary tendency also manifests itself: poorer families find themselves relegated to less expensive housing in secondary or overcrowded neighborhoods within a school district, or to poorer districts. Their public schools run the risk of becoming high-poverty schools as long as assignments are bounded by local neighborhoods.

With its annual test scores and annual information about school performance, school accountability adds an aura of “certainty” to this general tendency of neighborhood stratification. Neighborhood ambiance or the economic profile of a community may be intangible. The performances of public schools now are available on the web, accurate to the decimal point.

Even when districts operate under assignment plans that allow parents to choose schools outside their neighborhood, “the educationally oriented parents and children . . . [will] demand and receive higher quality educational services than . . . consumers with less exacting educational tastes.”<sup>17</sup>

Indeed, that relative lack of educational sophistication among lower-income parents may explain one recent surprise under the federal No Child Left Behind Act. The statute empowers parents whose children attend failing schools to transfer their children to

higher-performing schools in the district. Although the act had immediate applicability (drawing on schools' scores on whatever statewide accountability tests had been employed previously), and although parents in 8,652 schools nationwide were immediately eligible to demand reassignment, apparently only "a trickle" of parents exercised the option in fall 2002.<sup>18</sup>

Just as parents who seek higher-performing schools for their children can choose between two basic strategies — stay and reform, or leave for a better school — so can most teachers choose between two basic strategies. The first is to redouble their efforts at their current school, hoping to improve the performance of their young charges. The second is to move to a school in which the overall performance of students already is higher.

A recent study of teacher transfers in Texas public elementary schools found "strong evidence that teachers systematically favor higher achieving, non-minority, non-low income students."<sup>19</sup> To be sure, factors in addition to disappointing student test scores and loss of faculty bonuses might drive teachers from low-performing schools, including a desire to avoid more student disciplinary problems, poorer-quality facilities, or more unsavory neighborhoods. Since all these problems tend to occur more frequently in high-poverty schools, however, the effect is the same: good teachers tend to flee from segregated, high-poverty schools, while poorer or less experienced teachers stay.

A recent analysis of elementary school teachers in four school districts in North Carolina's Research Triangle reached a similar conclusion about relative teacher quality. Drawing on state records, the report found that "[s]chools in the Triangle with high numbers of poor children have the least qualified teachers and experience the highest rates of turnover."<sup>20</sup> The report contrasted one Durham elementary school where 82 percent of the children receive subsidized school lunches with another Durham school where only 11 percent receive the lunches. In the high-poverty school, "fewer than two-thirds of the teachers

were fully licensed, 44 percent had less than three years of experience, and the turnover rate was 52 percent." In the low-poverty school, by contrast, "93 percent of the teachers were fully licensed, more than half had 10 years of experience, and [only] 18 percent had less than three years of experience." Only 54 percent of the students in the high-poverty school passed state EOG exams in 2001, compared with more than 90 percent in the low-poverty school.<sup>21</sup>

A school superintendent in Johnston County, North Carolina, acknowledged that "finding teachers to work in schools with a large population of low-income students is difficult. 'Teachers don't want to work in those schools,' [Superintendent James] Causby said, though he added that there are exceptions."<sup>22</sup> Superintendent Causby's observations about teacher preferences coincide with anecdotal information from the National Research Council that standards-based reform "may be making schools that are identified as low performing less attractive to teachers."<sup>23</sup> A respected educational researcher has found concern, especially among North Carolina principals who serve low-performing schools, that the state's accountability program may create incentives that will lure better-performing teachers to middle-class, white schools, leaving principals with few effective means to remove poor teachers already present in their low-performing

schools.<sup>24</sup> (Aware of this potential problem, North Carolina recently acted to provide financial incentives for teachers who decide to stay in lower-performing schools.)

I do not argue that the accountability approach is either misguided or inevitably doomed to failure. The light that it could shine annually on every district, school, and student statewide might prove essential in ensuring that all North Carolina children receive a high-quality education no matter where they live or what their parents' personal circumstances are. I do contend that when accountability measures are required of, and interact with, school systems characterized by growing racial and ethnic segregation, they threaten to exacerbate the isolation of African-American, Hispanic, Native American, and low-income children, with negative consequences for both the children's access to highly performing classmates and the prospect of the schools' attracting better, more qualified teachers.

Some sobering assessments of the effects of the accountability approach on racial and ethnic minorities already have come from the National Research Council. In 1999 it reported that only two systematic studies had been completed on the effects of these systems on student achievement. The first study, an examination of the Dallas, Texas, program, found "evidence of gains in student achievement for whites and Hispanics but not for black students."<sup>25</sup> The other study, an exami-



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nation of Charlotte, North Carolina's five-year experience with its Benchmark Goals Program, found "few or no gains from the incentive system."<sup>26</sup>

### Continuing Inequities in School Finances and Resources

The third force currently affecting southern education is the perennial tumult over educational resources. Most often it results in wide disparities between affluent districts and less fortunate ones. The former have modern facilities, well-qualified teachers, and an abundance of special academic programs. The latter have shortages of qualified teachers, large classes, and few specialized courses and programs for high-achieving or low-performing students.

Since 1970, several waves of lawsuits aimed at school finance reform, many in southern states, have invoked state constitutional principles of educational equality or adequacy to obtain judicial reordering of legislative outcomes that reformers have challenged as inequitable and unjust. Some believe that recent judicial or legislative decisions to direct more educational resources to needy schools and students might be a crucial educational counterforce, sufficiently powerful to neutralize adverse effects flowing from racial resegregation. If poor or predominantly minority schools have sufficient resources and adopt appropriate pedagogical and administrative methods, this argument runs, they do not need the benefits of a racially diverse student body.

North Carolina has experienced a vigorous constitutional attack on its school finance policies. In a 1997

decision, *Leandro v. State*, the North Carolina Supreme Court declared that the state's constitution promises every child "the opportunity for a sound basic education."<sup>27</sup> The court remanded *Leandro* to a specially designated trial judge, Howard Manning, charging him to give concrete meaning to both the general right of North Carolina students and the duties of state educational officials. Judge Manning rendered a series of opinions that appear to require the state to address the unmet educational needs of every at-risk child.<sup>28</sup> In his final opinion, he ordered that "every classroom be staffed with a competent, certified, well-trained teacher who is . . . implementing effective educational methods that provide differen-

tiated, individualized instruction, assessment, and remediation to the students in that classroom." Further, he decreed that "every school be provided, in the most cost effective manner, the resources necessary to support the effective instructional program within that school so that the educational needs of all children, including at-risk children, to have the equal opportunity to obtain a sound basic education, can be met."<sup>29</sup>

The trial court has announced that it will oversee the full implementation of its remedial orders. The state has appealed the lower court decisions, and the future of *Leandro* is uncertain at present. In appealing the *Leandro* mandate, the state is following a path well trodden by executive agencies and legislatures in other states, which have resisted judicially mandated redistribution of educational resources.

Even if *Leandro's* expansive orders are upheld, educational researchers are

divided over whether additional resources alone will suffice, in the long term, to overcome the structural challenges presented by high concentrations of low-income children in high-poverty schools. There also may be practical limits on the courts' power to compel legislatures to direct dollars disproportionately toward poor and minority schoolchildren. Moreover, the budgetary crisis now sweeping over American state and county governments, the most serious in over a decade, shows no signs of abating. The current taxation picture presents the prospect of long-term fiscal austerity for state educational establishments and hard choices among many pressing state needs.<sup>30</sup>

This is disconcerting news since the new accountability approach promised to identify those who most need help and then, by steering public resources toward them, lift student performance.

Ignoring for a moment accountability's potential problems, I think that its most attractive face is its commitment to the democratic propositions that "all children can learn" and that the nation's public schools must deliver on that commitment.<sup>31</sup> Yet two impediments stand in the way of achieving this great promise. The first is pedagogical, the second, political.

The pedagogical challenge is that no scholar or educator has yet identified a package of educational resources or practices that can, in a consistent and replicable manner, lift the performance of the children who most need educational assistance. This is a controversial statement, for educational innovators regularly claim that some new methods have worked or will work to transform children, classrooms, schools, and districts. There do exist marvelous and encouraging accounts of educational successes in the most straitened circumstances, where principals and teachers have accomplished educational wonders in schools filled with poor and minority children. North Carolinians also can tell such exceptional stories: On remand of *Leandro*, the trial court pointed to five schools in which achievement on North Carolina's EOG tests was outstanding. Most were in low-wealth school districts



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without substantial resources, all enrolled student populations that were more than 50 percent African-American, Native American, and/or Hispanic, and all had more than 70 percent of their students eligible for subsidized lunches.

Yet very few who have studied public schools carefully have identified any particular combination of strategies with a high rate of replicable success. Indeed, one respected researcher concludes, ironically, that “[p]erformance-based reform of education makes sense because so little is known about the specific relationships between educational inputs and outputs. If those relationships were better understood, outcome goals could be achieved by focusing attention on

the inputs to the educational process.”<sup>32</sup> Research suggests that two school resources have particular power to lift low student performance—high-quality teachers (teachers with high test scores and/or master’s degrees in their fields) and small class size.<sup>33</sup> But researchers often acknowledge that they “are not yet certain about how to make schools better or how to deploy resources effectively” and that “[e]ducational challenges facing districts and schools serving concentrations of disadvantaged students are particularly intense, and social science research provides few definitive answers about how to improve educational outcomes for these youngsters.”<sup>34</sup>

This pedagogical uncertainty is real and serious. Although it does not warrant hesitation about addressing the problems, it does suggest that additional fiscal resources are not enough, at present, to ensure that “all children will learn.” That is especially true, cur-

rent research suggests, for low-income African-American, Hispanic, and Native American children who must learn

in high-poverty schools. Accountability systems can be helpful, even constitutionally indispensable (as North Carolina’s *Leandro* court has suggested).<sup>35</sup> However, if educators or legislators impose strict goals on teachers and administrators who work in racially and economically isolated schools (or on the students themselves), they may increase the risks of personal and professional failure, without providing any proven route to success.<sup>36</sup> This prospect seems especially pertinent in the southern states where public schools are rapidly resegregating by race and socioeconomic status, thereby creating

precisely the kind of educational challenges that the nation’s best educational experts have found so intractable in northeastern and midwestern central-city school districts.<sup>37</sup>

The political challenge is equally formidable. Even in the states where courts have been willing to identify and enforce a right to education, real educational progress has come slowly. Courts have typically looked to state legislative or executive officials to prescribe the specific content of educational reform packages for redressing fiscal or resource inequities between districts. Yet legislatures in both the North and the South are under powerful pressure not to compromise their reliable political support from white, suburban voters by showering additional aid on failing schools in poor and minority districts with far less electoral clout.<sup>38</sup>

Moreover, the sums that may be needed to purchase truly promising ed-

ucational resources for low-performing students may require large increases in the current per-student spending in most states. One school finance expert has estimated that in states where present spending averages \$5,000, an additional \$2,000 per disadvantaged child may be needed for accelerated instruction, and an additional \$3,000 for “preschool and full-day kindergarten, qualified and adequately trained teachers, social and family services, and building maintenance and construction,” for a total of \$10,000 per child.<sup>39</sup>

Even states like Connecticut, which has long directed extra dollars to poor and low-performing school districts under progressive, per-child formulas, and North Carolina, which has created supplemental funds for both low-wealth and small districts, seem unlikely to agree on the level of additional resources that may be required.<sup>40</sup> Moreover, in the view of an astute legal scholar of public education, racial dynamics may distort electoral choices on school finance. That is, the school finance reform campaigns that appear to benefit African-American and Hispanic children either have succeeded less often in court or, if judicially successful, have experienced significantly greater difficulty in commanding meaningful legislative enforcement.<sup>41</sup>

At present, resource disparities in North Carolina, and the South generally, are not the same as those in the underfunded, heavily minority urban school districts of the Northeast and the Midwest. North Carolina’s districts tend to be larger and more racially heterogeneous. Although the five low-wealth school districts that joined as successful plaintiffs in *Leandro* are disproportionately African-American, Hispanic, and Native American, the six high-wealth districts that intervened and also sought additional resources were racially far more typical of North Carolina and atypical of large, central-city districts in other regions.

Yet the struggles within southern state legislatures and the South’s larger school districts are real. Further, because of the growing racial segregation, those struggles pose the danger of becoming increasingly racialized, especially if in-



**There do exist marvelous and encouraging accounts of educational successes in the most straitened circumstances, where principals and teachers have accomplished educational wonders in schools filled with poor and minority children.**



creasing segregation of North Carolina schools, and gaps in student achievement under the state and federal accountability goals, begin to pose the issue of additional resources in racial terms.

## Conclusion

If North Carolina's public schools substantially resegregate, it seems highly likely that many of the majority African-American and Hispanic schools will become perennially low-performing. Their students' race and poverty status will become viewed, by both those students and their white peers, as predictive of school failure. Unacceptable percentages of students in these schools will be either retained in grade or passed without sufficient remediation, leading to a spiraling downward cycle of school difficulties and demoralization.

The Supreme Court's recent decisions in *Grutter* and *Gratz* appear clearly to repudiate the doctrinal foundation on which the Fourth Circuit Court of Appeals built its recent jurisprudence banning race-conscious student assignments. If those decisions are extended to the K-12 setting, as seems likely, they will allow well-intentioned school boards forthrightly to continue the school-assignment policies of the past thirty years that, despite their many deficiencies, have worked measurable progress for the South and its children of all races.

Within North Carolina and the Fourth Circuit, the model of school assignment that Wake County has chosen to pursue would, if adhered to over time, avoid much of the educational damage that this article has forecast. (For a profile of Wake County's superintendent, see the sidebar on page 50.) Wake County assigns students on the basis of socioeconomic status and academic performance: no school may have more than 40 percent of its children eligible for subsidized lunches or more than 25 percent of its students scoring below grade level.<sup>42</sup> This approach actively resists the demographic trends toward high-poverty and

low-performing schools that set up sorting behavior by white and middle-class parents. Yet the capacity of the Wake County school board to sustain broad public support for these policies will be seriously tested in the coming few years, and other school districts may not find leaders willing to follow Wake County's example.

The judicial commitment exhibited in *Leandro* to meet the educational needs of every child is, in my opinion, salutary (although it has been rejected as a paradigm by other southern states, such as Alabama, Florida, and Georgia). Perhaps it will diminish the potentially adverse consequences of the developing system. Yet it is being challenged by the state, and if the North Carolina Supreme Court affirms these decisions, implementation of them must await the active cooperation of the legislative and executive branches.

Even if that cooperation flows freely, the evidence from numerous careful and unbiased studies—from James Coleman's work in the mid-1960s to the present—teaches that no discrete quantum of resources, separately delivered to racially and economically isolated public schools, can easily restore the cumulative educational injuries worked by their isolation. Chief Justice Earl Warren brought just such an insight to the nation in *Brown vs. the Board of Education*. Fifty years later, it is a lesson not only Southerners but all Americans need to relearn, for the sake of the nation's children and its democratic future.

## Notes

This article is condensed from a longer article by the author entitled *Education's "Perfect Storm"? Racial Resegregation, High Stakes Testing, and School Resource Inequities: The Case of North Carolina*, 81 NORTH CAROLINA LAW REVIEW 1375 (2003). It is used with permission.

1. SEBASTIAN JUNGER, *THE PERFECT STORM: A TRUE STORY OF MEN AGAINST THE SEA* (New York: Harper Paperbacks, 1997).
2. *Id.* at 119.
3. Missouri v. Jenkins, 515 U.S. 70, 89

**"All children can learn," and the nation's public schools must deliver on that commitment.**

(1995) (providing that court orders should eventually restore "state and local authorities to the control of a school system that is operating in compliance with the Constitution") [citing Board of Educ. v. Dowell, 498 U.S. 237, 248 (1991)]; Freeman v. Pitts, 503 U.S. 467, 489 (1992) (describing as "end purpose" of desegregation cases "to remedy the violation and, in addition, to restore state and local authorities to the control of a school system"). Almost three decades earlier, a very differently constituted Supreme Court, striving for the elimination of racial discrimination "root and branch," Green v. County Sch. Bd., 391 U.S. 430, 437-38 (1968), had instructed the southern school districts practicing *de jure* segregation to "make every effort to achieve the greatest possible degree of actual desegregation" among students. Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1, 26 (1971).

4. See Tuttle v. Arlington County Sch. Bd., 195 F.3d 698 (4th Cir. 1999) (per curiam), cert. dismissed, 120 S. Ct. 1552 (2000); Eisenberg v. Montgomery County Sch. Bd., 197 F.3d 123 (4th Cir. 1999), cert. denied, 120 S. Ct. 1420 (2000). Although neither the Fifth nor the Eleventh Circuit Court addressed the permissibility of race-conscious student assignment policies in elementary and secondary schools, both courts rejected Justice Lewis F. Powell, Jr.'s basic conclusion in Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 311-14 (1977), that achieving a racially diverse student body in college and graduate schools is a constitutionally permissible practice. They instead held, for different reasons, that colleges and professional schools may not routinely engage in race-conscious admissions practices. See Hopwood v. Texas, 78 F.3d 932, 944 (5th Cir.), cert. denied, 518 U.S. 1033 (1996) (rejecting racial diversity as sufficiently "compelling governmental interest" to survive Equal Protection Clause scrutiny); Johnson v. Board of Regents of Univ. of Ga., 263 F.3d 1234, 1251-54, 1263-64 (11th Cir. 2001) (concluding that even if racial diversity remains compelling governmental objective under *Bakke*, university's use of race-conscious criteria to achieve that end is presumptively unconstitutional, since college admissions decisions may not employ racial criteria absent an "extraordinary justification"). The rationale of *Hopwood* and *Johnson* received a decisive blow from the Supreme Court in its recent decision in *Grutter v. Bollinger*, 71 U.S.L.W. 4498, 4501-02 (U.S. June 23, 2003) (No. 02-241) (holding, after discussing *Bakke* at length and after expressly citing lower court cases such as *Hopwood* and *Johnson* that have rejected *Bakke*, that "we endorse Justice Powell's view [in *Bakke*] that student body diversity is a compelling state interest that can justify the use of race in university admissions"). For the implications of these cases for North Carolina schools, see generally John Charles Boger & Elizabeth Jean

Bower, *The Future of Educational Diversity: Old Decrees, New Challenges*, POPULAR GOVERNMENT, Winter 2001, p. 2.

5. *Grutter*, 71 U.S.L.W. 4498; *Gratz v. Bollinger*, 71 U.S.L.W. 4480 (U.S. June 23, 2003) (No. 02-516). Five members of the Court in *Grutter* expressly endorsed educational diversity as a “compelling state interest” that could survive constitutional attack. The majority held further that judicial deference should be afforded to a “complex educational judgment” made by university officials about their need for such diversity (although the Court recognized “a constitutional dimension, grounded in the First Amendment, of educational autonomy” in the university setting that may have no direct parallel in the K–12 setting). The Court added that the “narrow tailoring” it has long required of state actors who engage in permissible, race-conscious actions “does not require exhaustion” by university officials “of every conceivable race-neutral alternative,” though it does require “serious, good faith consideration of workable race-neutral alternatives that will achieve the diversity the university seeks.” Illustrating its seriousness in demanding that race-conscious actions be narrowly tailored, a six-person majority in *Gratz* struck down the University of Michigan’s undergraduate admissions procedures, which had awarded an automatic twenty points to every minority applicant seeking admission.

Together, *Grutter* and *Gratz* should amply confirm what the Fourth Circuit Court of Appeals begrudgingly accepted: that school boards can pursue “educational diversity” as a compelling governmental end. Moreover, the cases strongly suggest that willing school districts must be afforded much greater latitude in their steps to reach that end than the court in *Tuttle* and *Eisenberg* thought constitutionally acceptable. Indeed, if race-conscious admissions are deemed acceptable in the higher education context, where some applicants are denied admission, it should be much more acceptable in a K–12 setting, where all “applicants” are assured a place.

6. JAMES COLEMAN, EQUALITY OF EDUCATIONAL OPPORTUNITY 22, 302, 325 (Washington, D.C.: U.S. Dep’t of Health, Education and Welfare, Office of Educ., U.S. Gov. Printing Office, 1966); ALISON WOLF, THE RELATIONSHIP BETWEEN POVERTY AND ACHIEVEMENT, Summ. at II (Washington, D.C.: Compensatory Educ. Study Group, Nat’l Inst. of Educ., 1977); MARY M. KENNEDY ET AL., OFFICE OF EDUC. RESEARCH & IMPROVEMENT, U.S. DEP’T OF EDUC., POVERTY, ACHIEVEMENT AND THE DISTRIBUTION OF COMPENSATORY EDUCATION SERVICES II-5 through II-6 (Washington, D.C.: USDE, 1986); JUDITH ANDERSON ET AL., POVERTY AND ACHIEVEMENT: REEXAMINING THE RELATIONSHIP BETWEEN SCHOOL POVERTY AND STUDENT ACHIEVEMENT 5 (Washington, D.C.: Office of Educ. Research & Improvement, U.S. Dep’t of Educ., 1992).

7. No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1444 (2002). See *id.*, § 1111, 20 U.S.C. § 6311 [setting forth requirements, in various subsections of § 6311, (1) that all complying states adopt “single statewide State accountability system”; (2) that system be effective “in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph”; (3) that states “include sanctions and rewards, such as bonuses and recognition, . . . to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement”; (4) that they develop twelve-year “timeline for adequate yearly progress”; (5) that they implement “set of high-quality, yearly student academic assessments that include at minimum, academic assessments in mathematics, reading or language arts, and science”; (6) that these statewide tests be required of all students in at least three grades between third and twelfth; (7) that states develop annual report cards to announce their progress, school by school, toward their goals; and (8) that they specifically disaggregate their data so as to report on collective performance of students by race, ethnicity, gender, and status as economically disadvantaged].

8. 20 U.S.C. § 6311 (b)(2)(C)(v)(II).

9. 1995 N.C. Sess. Laws ch. 716.

10. N.C. GEN. STAT. § 115C-105.30 through -105.32 (hereinafter G.S.); G.S. 115C-325.

11. See North Carolina State Bd. of Educ., *Student Accountability Standards: Frequently Asked Questions* 8, available at [www.ncpublicschools.org/students\\_promotion/faq.html](http://www.ncpublicschools.org/students_promotion/faq.html) (last visited Apr. 12, 2003).

12. 2000–2001 End of Grade Reading and Mathematics Composite for the State of North Carolina, Grade Level 5, available at [www.ncpublicschools.org/vol2/rsds/State/EOG/Composite/COMPOSITEmstate.html](http://www.ncpublicschools.org/vol2/rsds/State/EOG/Composite/COMPOSITEmstate.html) (last visited Nov. 25, 2002).

13. ROBERT E. BRIDGES, THE NORTH CAROLINA COMMISSION ON RAISING ACHIEVEMENT AND CLOSING GAPS: FIRST REPORT TO THE STATE BOARD OF EDUCATION 4, 21, exhib. 2 (Raleigh: NCCRA, Dec. 2001) (showing, for grades 3–8, 82.0 percent of white students, 78.6 percent of Asians, 60.0 percent of American Indians, 58.7 percent of Hispanics, but only 52.0 percent of African-Americans scoring at or above Level III on both the reading and the mathematics test in 2000–01). See also NORTH CAROLINA STATE BD. OF EDUC. & DEP’T OF PUBLIC INSTRUCTION, NORTH CAROLINA STATE TESTING RESULTS, 2000–01 at 53–54, 65, 68, 72 (Raleigh: NCSBE & NCDPI, Apr. 2002) (providing detailed statistics on students’ passing rates on state EOG tests at third-, fifth-, and eighth-grade levels, disaggregated by race and ethnicity, which show similarly wide disparities at each grade level).

14. For information on the gap nationwide, see generally Larry V. Hedges & Amy Nowell, *Black-White Test Score Convergence since 1965*, in THE BLACK-WHITE TEST SCORE GAP 149 (Christopher Jencks & Meredith Philips eds., Washington, D.C.: Brookings Inst. Press, 1998) (reporting on “every major national survey of high school students since 1965 that has tested both blacks and whites,” *id.* at 167, and finding substantial but diminishing differences in performance nationwide).

15. Charles T. Clotfelter et al., *Segregation and Resegregation in North Carolina’s Public School Classrooms*, 81 NORTH CAROLINA LAW REVIEW 1463 (2003).

16. AMERICAN EDUC. RESEARCH ASS’N, AERA POSITION STATEMENT CONCERNING HIGH-STAKES TESTING IN PREK–12 EDUCATION 1–2 (Washington, D.C.: AERA, July 2000).

17. James S. Liebman, *Voice, Not Choice*, 101 YALE LAW JOURNAL 259, 261 (1990) (suggesting why any apparently positive educational impact of private school education might be misleading, since educationally oriented parents might choose private education in disproportionate numbers). See also Amy S. Wells & Jennifer J. Holme, *The Effect of the Standards and Accountability Movement on Parents* (unpublished manuscript, Aug. 30, 2002, on file with NORTH CAROLINA LAW REVIEW) (exploring parental responses to accountability systems).

18. Lynn Olson & Erik W. Robelen, *Frustration Grows as States Await “Adequate Yearly Progress” Advice*, EDUCATION WEEK, July 10, 2002, pp. 1, 41 (providing state-by-state count of schools in which parents will have such choices); Erik W. Robelen, *Few Choosing Public School Choice for This Fall*, EDUCATION WEEK, Aug. 7, 2002, p. 1 (reporting that in school districts both large and small, rural and urban, fewer than 5 percent of eligible students were requesting transfers for fall 2002 term).

19. ERIC HANUSHEK ET AL., WHY PUBLIC SCHOOLS LOSE TEACHERS 19–20 (National Bureau of Econ. Research Working Paper No. 8599, Nov. 2002 rev.).

20. T. Keung Hui, *Teacher Picture Is Grim*, NEWS & OBSERVER (Raleigh, N.C.), July 2, 2002, p. A1.

21. *Id.* at A8 (offering 2001–02 data on poverty rates, student passing rates, and rates of full teacher licensure, advanced degrees, and national board certification for every elementary school in the Wake County, Johnston County, Chapel Hill–Carrboro, and Durham County school districts).

22. *Id.*

23. HELEN F. LADD & JANET S. HANSEN EDS., MAKING MONEY MATTER: FINANCING AMERICA’S SCHOOLS 272 (Washington, D.C.: National Academy Press, 1999).

24. HELEN F. LADD & ARNALDO ZELLI, SCHOOL-BASED ACCOUNTABILITY IN NORTH CAROLINA: THE RESPONSE OF SCHOOL

PRINCIPALS, Working Paper Series SAN01-13, at 24–25, 27 (Durham, N.C.: Terry Sanford Inst. of Public Policy, Duke Univ., July 2001).

25. LADD & HANSEN, MAKING MONEY MATTER, at 183, citing Helen F. Ladd, *The Dallas School Accountability and Incentive Program: An Evaluation of Its Impacts on Student Outcomes*, 18 ECONOMICS OF EDUCATION REVIEW 1 (1999).

26. LADD & HANSEN, MAKING MONEY MATTER, at 183.

27. *Leandro v. State*, 346 N.C. 336, 351, 488 S.E.2d 249, 254 (1997). Although the court emphasized the state's corresponding duty to provide this sound basic education to each child, it clarified that the state was not required to offer "substantially equal funding or educational advantages in all school districts." *Id.* at 349, 488 S.E.2d at 256. The North Carolina Supreme Court thus has joined the camp that is moving toward an "adequacy" approach, which focuses on school outputs, such as student achievement, rather than the older "equity" approach, which emphasizes the equalization of school inputs, such as funding or resources. Kelly Cochran, Comment, *Beyond School Financing: Defining the Constitutional Right to an Adequate Education*, 78 NORTH CAROLINA LAW REVIEW 399 (2000) (summarizing litigation outcomes in every state and evaluating transformation of legal theories at play, from earlier focus on attaining educational equality to more recent focus on ensuring educational adequacy).

28. The superior court found, among other things, that (1) thousands of North Carolina children are not receiving a sound basic education; (2) their subproficient performances on state accountability tests are an appropriate measure of that failure; (3) those most at risk of academic failure tend to come from lower-income families, from racial and ethnic minority backgrounds, from single-parent or homeless families, or from other social conditions of greater risk; (4) these at-risk children have the inherent capacity to succeed in school; (5) under the North Carolina Constitution, their early-life disadvantages can and must be offset by state-funded educational services, including prekindergarten programs; (6) they require additional help, programs, and resources from public schools to meet their educational needs; and (7) the first educational priority of the state must be to ensure "a sound basic education" for these and other children. Memoranda of Decisions, *Hoke County Bd. of Educ. v. North Carolina* (Wake County Super. Ct.), Oct. 12, 2000, at 142; Oct. 26, 2000; Mar. 26, 2001; Apr. 4, 2002, at 110.

29. Memorandum of Decision 109–10, *Hoke County Bd. of Educ. v. North Carolina* (Wake County Super. Ct., Apr. 4, 2002).

30. Alan Richard & Joetta L. Sack, *States Brace for Tough New Year*, EDUCATION WEEK, Jan. 8, 2003, p. 1 (reporting that current- and next-year state budget shortfalls are projected to total at least \$100 billion,

prompting Jane Hanaway, educational expert with Urban Institute, to predict that "[w]e're really beginning a significant, very serious period of resource trouble" in K–12 public education). See also *A 50-State Budget Snapshot*, EDUCATION WEEK, Jan. 8, 2003, pp. 18–19 (offering gloomy state-by-state account of 2003 budget situation and its likely impact on educational funding).

31. Regarding potential problems, "[a]s a recent National Research Council committee pointed out, it is not yet clear whether the guiding assumptions of standards-based reform are correct or that policies built on them will have their desired effect." LADD & HANSEN, MAKING MONEY MATTER, at 113 (summarizing conclusions set forth in NATIONAL RESEARCH COUNCIL, EDUCATING ONE AND ALL: STUDENTS WITH DISABILITIES AND STANDARDS-BASED REFORM 33–46 (L. M. McDonnell et al. eds., Washington, D.C.: National Academy Press, 1997).

32. Helen F. Ladd, *Introduction*, in HOLDING SCHOOLS ACCOUNTABLE: PERFORMANCE-BASED REFORM IN EDUCATION 15 (Helen F. Ladd ed., Washington, D.C.: Brookings Inst., 1996).

33. See Ronald F. Ferguson & Helen F. Ladd, *How and Why Money Matters: An Analysis of Alabama Schools*, in LADD, HOLDING SCHOOLS ACCOUNTABLE, at 277; William H. Clune, *Comments on Chapters Eight, Nine, and Ten*, in LADD, HOLDING SCHOOLS ACCOUNTABLE, at 362 [suggesting that "skilled teachers and teacher training, extra staff (or time) to reach individual students, and skilled management or coordination" are all important]; LADD & HANSEN, MAKING MONEY MATTER, at 145 (describing results of Tennessee Project STAR controlled experiments, which found student achievement gains from smaller class size, especially for minority students and for students attending inner-city schools).

34. LADD & HANSEN, MAKING MONEY MATTER, at 183 (emphasis omitted). Ladd and Hansen note specifically that none of these programs "can yet be said to be firmly established by research," although "many education policy makers are impressed with anecdotal evidence concerning the success of some or all of these programs." *Id.* at 124.

35. Memorandum of Decision 142, *Hoke County Bd. of Educ. v. North Carolina* (Wake County Super. Ct., Oct. 12, 2000) (finding that "[i]f the ABCs program were not in place, a similar accountability program would . . . be required so the State, and the public, could have a statewide accountability system to measure educational progress and . . . measur[e] whether or not each child is receiving the equal opportunity to obtain a sound basic education as the Constitution requires").

36. "[P]roductive intervention strategies for low-performing schools are a crucial component of a well-designed accountability system. In their absence, a school-based accountability system may become simply a

system for assigning blame rather than a system for improving student performance." LADD & HANSEN, MAKING MONEY MATTER, at 179–80.

37. *Id.* at 267–68 (noting that "[o]ne of the greatest challenges is how best to induce a productive use of resources in large urban districts serving disproportionate numbers of disadvantaged students. The productivity problems in these areas differ in some significant ways from those of suburban areas, and there appear to be no easy or simple solutions . . . Social science research currently provides few definitive answers about how to improve educational outcomes for these children)."

38. See *id.* at 97 [noting that "effort to raise spending in low-spending districts often requires higher state taxes or redistribution of locally raised revenues from wealthier to less-wealthy districts, both of which are highly unpopular among those whose tax burdens would rise or who would see their tax dollars go to educate children in another jurisdiction. Some of this opposition is individual and personal; some stems from more general antitax and antigovernment sentiments. Demographics also play a role. Racial cleavages sometimes come into play, as voters see minorities (especially those dwelling in cities) as primary beneficiaries of reform]."

39. Clune, *Comments*, at 359 (citing those figures but acknowledging that other research has suggested that amounts varying from \$2,000 to \$5,000 per at-risk child, above regular spending, may be sufficient).

40. See former CONN. GEN. STAT. ANN. § 10-262c through -262h (West 1986 & 1993 Supp.) [setting forth state funding formula that considered not only relative district wealth but also student educational needs, allowing an extra .25 (beyond a 1.0 for each child) if a child came to school from a poverty-level family and an additional .25 for each child with a performance on statewide achievement tests below a "remedial level"].

41. James E. Ryan, *The Influence of Race in School Finance Reform*, 98 MICHIGAN LAW REVIEW 432, 433 (1999) (contending that "minority school districts—particularly urban minority districts—do not fare as well as white districts in school finance litigation. . . and in the few states where minority districts have successfully challenged school finance schemes, they have encountered legislative recalcitrance that exceeds, in both intensity and duration, the legislative resistance that successful white districts have faced"); see also Douglas S. Reed, *Twenty-Five Years after Rodriguez: School Finance Litigation and the Impact of the New Judicial Federalism*, 32 LAW AND SOCIETY REV. 175 (1998) (reporting results from survey indicating that white citizens in New Jersey believed school finance reform to have been policy chiefly benefiting African-Americans, and tended to oppose its implementation).

42. Boger & Bower, *The Future of Educational Diversity*, at 11.