

Education

Concluding Observation 14

Nearly 70 years after *Brown v. Board of Education* required the provision of equal education for all, children of color, children with disabilities, and children in low-income communities are still routinely denied this right. By denying certain communities' equitable access to funding, effective teachers, advanced courses, and extracurricular activities, the education system continues to perpetuate segregation and prevent strong education outcomes, especially for students of color.

Criminalization in K12 Schools. Federal support for school-based law enforcement continues to undermine academic success, criminalize children, and interfere with efforts to create learning environments conducive to learning and well-being. Due to both implicit and explicit biases ingrained in these policies, children of color, children with disabilities, and LGBTQ youth are disproportionately criminalized. In response, the civil rights community developed "Civil Rights Principles for Safe, Healthy, and Inclusive School Climates," a roadmap for policymakers concerned with the learning, well-being, and safety of all students.

College Opportunity. Due to differences in wealth along racial lines, Black and Latino students typically borrow significantly more money than their White peers to finance higher education. Upon graduating, Black borrowers typically owe 50 percent more than their White classmates, and four years later, Black students owe 100 percent more. Recent affirmative action bans have negatively impacted women, African Americans, Latinos, Asian Americans, and Native Americans. Affirmative action policies have also faced attacks in litigation, despite the U.S. Supreme Court's repeated validation.

K12 Fiscal Equity. Children, parents, and teachers have long recognized — and court cases at every level have repeatedly held — that schools and districts educating a larger share of children in low-income

communities and children of color have less access to the educational resources needed to support student success than their more affluent peers. School districts with larger populations of students of color receive \$1,800 less per pupil than districts serving fewer students of color. Districts serving a large population of students from low-income families receive \$1,000 less per pupil than districts serving more affluent students. Prior to the COVID-19 public health crisis, public schools in the United States were among the most inequitably funded of any in the industrialized world. The pandemic exacerbated these existing resource inequities, including lack of access to funding, internet, connected devices, and much more.

In the Biden administration's first year, it provided significant targeted funding to support the educational success of marginalized students, helped enact legislation to support students affected by the disparities brought about by the pandemic, and made clear that understanding and enforcing civil rights is a true priority by protecting and enhancing the U.S. Department of Education's Civil Rights Data Collection. However, this progress has been uneven, and many additional resources are urgently needed to meet the federal government's obligations to students.

Recommendations

- The Biden administration should double the size of the Department of Education's Office for Civil Rights (OCR) in order to rebuild and expand the office's ability to meet its policymaking, enforcement, and data collection responsibilities; rescind and replace OCR's case processing manual; and strengthen and reissue guidance documents such as those clarifying schools' obligations to ensure disciplinary policies and practices are nondiscriminatory, those supporting the constitutional use of race in achieving diversity in K12 schools and higher education, and other topics critical to equal educational opportunity.

- The Department of Education should preserve and increase the scope, frequency, and public accessibility of the CRDC to support the work of the department and others in ensuring equal educational opportunity and compliance with federal civil rights law. OCR should make the survey annual instead of biennial and should use the CRDC’s user-friendly interface to make information from other Department of Education data sets more readily available to the public.
- Congress should enact legislation to provide safe, healthy, and inclusive school climates, including by ending federal funding for school-based law enforcement; banning the use of seclusion, restraint, and corporal punishment; and incentivizing broad reform that decreases exclusionary discipline. Furthermore, the Title VI school discipline guidance should limit the presence and role of school-based law enforcement, given the near impossibility of administering such a program in a nondiscriminatory manner.
- The Biden administration should cancel student loan debt. Given the disproportionate student loan debt held by Black and Latino students, broad cancellation of student loan debt — coupled with reforms to our debt-financed system of higher education — is crucial to advancing racial justice. Efforts to narrow the scope of cancellation would disproportionately harm the most marginalized borrowers and have the opposite effect they are intended to have.
- The Department of Education should implement and enforce the following provisions outlined in the Every Student Succeeds Act (ESSA) to advance resource equity: a) the fiscal requirements that ensure equity within school districts, b) equal access to quality instruction by an equitable distribution of teachers, and c) local improvement plans for schools that identify resource inequities. Specifically, the department should announce an intent to ensure compliance with the provisions in order to ensure equal opportunity to learn and actions the agency will take to address noncompliance with the ESSA requirements that advance resource equity.
- The Biden administration should develop a comprehensive plan to address racial segregation in schools and communities, with concrete goals, timelines, and impact assessment mechanisms, and Congress should increase federal funding for programs that promote racially integrated learning environments for students, including a substantial increase in funding for the Magnet Schools Assistance Program and a new “Fostering Diversity” grants program to support state and local efforts to plan for and implement greater racial and socioeconomic integration in public schools.

Read the full report, “[Holding the Line: Combating Racial Discrimination in a Divided America](https://civilrights.org/CERD2022),” here: civilrights.org/CERD2022.