

Resegregation of Our Schools By Manual Solano

School “choice” and inequitable policies are resegregating our schools and destroying our public education system.

The creation of charter schools is, in effect, a modern-day separatist movement. With their own budgets, bureaucratic structures, and preferential enrollment practices, they drain taxpayer dollars from neighborhood public schools and perpetuate segregation.

Add an accountability system based primarily on high stakes standardized tests, which unjustly labels schools, and you have cooked up a recipe for the destruction of public education. In order to understand the present, we must understand the past. Segregationists have used the choice argument to separate children of different races, languages, and economic status. The 1954 Supreme Court ruling in *Brown v. Board of Education* ruled that separate public schools for Black and White students is unconstitutional.

In 1965 President Lyndon Johnson signed the Elementary and Secondary Education Act (ESEA) as part of a broader package of civil rights legislation. Both *Brown* and ESEA expanded the vision that it is the government’s responsibility to expand the commonwealth rather than ensure private privilege. The concept of public education was seen as indispensable to a democracy.

In 1969, *Keyes v. Denver School District 1* was filed in federal court and reached its way to the U.S. Supreme Court in 1973. The court found the entire school district to be discriminatory against Black, Hispanic, and poor students and ordered the entire Denver school district to desegregate. The Denver school board chose mandatory busing to comply with the order and achieve integration. White flight to the suburbs and deep discontent ensued.

As the case proceeded, there was an apparent conflict of interest with the Hispanic community. Unlike the Black community’s desire for full integration, Hispanics were less concerned about integration and demanded adequate and additional funding for neighborhood schools to assist non-English speaking students. The Department of Justice and the Congress of Hispanic Educators intervened. I was a young attorney at MALDEF (Mexican American Legal Defense and Educational Fund) and was peripherally involved in the remedy portion on behalf of the Hispanic community and non-English learners. The court ordered second language education be provided to non-English learners. This court order is still in effect. Busing continued from 1974-1993.

The *Keyes* case addressed how DPS district lines of school attendance were drawn. Unfortunately, under the administrations of Democratic Governor Roy Romer and Republican Governor Bill Owens, open enrollment and charter school laws were passed. This allows parents to choose their child’s school, which left the drawing of district lines a less significant barrier to integration.

The intent of *Brown v. Board of Education* and *Keyes v. Denver District 1* has been eroding. The 1983 report “*A Nation at Risk*” sounded the alarm that America’s international economic

competitiveness was at risk. Although this was a manufactured crisis, policymakers began to reorganize the educational policies under a business derived system called “market-based reform.” The charter school movement was the mechanism to reform the public school system. In 1993, Colorado passed the Charter School Act. The act was passed to provide special education services for “at-risk pupils.” An at-risk pupil was defined as a pupil who, “because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.”

Dan Morris, president of the Colorado Education Association, opposed the bill on four counts fearing (1) the act would siphon off public funds from public schools; (2) it would reduce standards by allowing non-licensed teachers to teach and non-educators to run the schools; (3) it would encourage an elite enclave of students and foster segregation; and (4) it would allow private and parochial schools to receive public dollars. Dan Morris was right.

In 1994, one year later, the Open Enrollment Act was passed in Colorado, which gave parents the choice to enroll their children in schools outside their assigned district, weakening integration efforts in neighborhood schools.

In 1998, the Charter School Act was amended, deleting the words “at-risk pupils,” opening up charter schools to all students. The law created the way for Denver to open charters with a false narrative of “creating better education options for all children.”

In 2008, the Colorado legislature passed the Innovation Schools Act enacting another form of choice. This law created at-will employment, weakening the teacher's voice and protections. Today, there are over 50 innovation schools and 3 innovation zones in Denver alone. There are currently over 50 charter schools in Denver. Over half of Denver schools are either charter or innovation schools. Under current law, the innovation zones are allowed to have their own unelected board of directors. This is unjust.

Today these laws have actually made Denver public schools more segregated than ever. This year, a study done by the Bueno Center for Multicultural Education published a paper called “Resegregation in Denver Public Schools.” The key findings in the study are that “school segregation is pervasive; schools are segregated by race, class, and language; Latinos, English learners, white students, and wealthy students are more likely to attend segregated schools than non-segregated schools; segregated schools operate under disparate statutes, designations, and resource allocations; and all students in schools segregated by marginalized students had average lower achievement.” Although the authors of the study indicate that more study must be done to determine causation of resegregation, it is my position that “choice” is a major factor.

Nothing has changed, these are basically the same issues, based on the same discriminatory factors that the Keyes case found.

As parents choice into more segregated schools, the memories of those who struggled for equality have faded. There are many who continue to push for more school choice, allowing “separate but equal” segregationist policies of the past to thrive again by championing all Black, Native American, Hispanic, White, and single-gender public schools.

Our policymakers have failed our most vulnerable students by adopting a high-stakes standardized test-based accountability system. Using standardized tests is the most powerful segregationist tool in modern history. A new caste system of separating the haves from the have-nots was sold to the public in the name of accountability. With two decades of data, results are clear and irrefutable: economic status and English proficiency predict the outcomes on standardized tests. Yet, the reformers continue to embrace this assessment system to justify the need for charter and innovation schools “for the poor kids.”

Until the discriminatory policies of choice are exposed, their segregationist intent recognized, and rightly acted upon by our policymakers, inequities will persist.

Grassroot campaigns must expose the influence of dark money behind “choice.”
Organizations that value public education must unite.

If the portfolio model has any chance of succeeding, pro-public education candidates must prevail at the ballot box. Votes for public education matter more now than ever before.