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Baselines for Assessment of Choice Programs*

Paul T. Hill with Kacey Guin

Critics of choice argue that it will allow alert and aggressive parents to get the best of everything for their children, leaving poor and minority children concentrated in the worst schools.[1] But choice is not the only mechanism whereby this occurs. Alert and aggressive parents work the bureaucracy to get the best for their children. Thus, choice programs should be compared against the real performance of the current public education system, not its idealized aspirations.

The purpose of this chapter is to establish an appropriate baseline against which choice programs can be assessed. How far does the current system of bureaucratic allocation diverge from its aspirations to equal opportunity for all? Under the current system, how much are students sorted by race and class, and how unevenly allocated are the best and worst educational experiences? The answers to these questions are important for two reasons:

*We are grateful to Jacob Adams for an especially demanding and constructive review of an earlier draft.

[1]Throughout this chapter we use the term "critics of choice" to refer to scholars and analysts who fear that choice will harm the interests of the poor and disadvantaged. These critics include: B. Fuller, "School Choice: Who Gains,

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1. They establish defensible baselines against which choice programs can be compared. If the current ways of allocating educational opportunities lead to inequality by race, class, or income, then choice programs should not be assessed against the ideal. Instead, their results should be compared with the actual performance of the existing system.

2. They establish criteria for the design of choice programs. Whether or not choice programs are on average no worse than other ways of allocating educational programs, there are still ethical and public policy reasons for designing and operating choice schemes to minimize sorting and equalize access to the best schools and teachers. Programs so designed can produce greater equity in two ways: first, through fair allocation, and second, by increasing the demand for better options and thus ultimately stimulating the supply.[2]

Who Loses?" *Issues in Science and Technology* 12, no. 3 (1996): 61–67; and B. Fuller, "Is School Choice Working?" *Educational Leadership* 54, no. 2 (1996): 37–40 (concludes that choice may worsen racial separation in schools); K. B. Smith and K. J. Meier, "School Choice: Panacea or Pandora's Box?" *Phi Delta Kappan* 77, no. 4 (1995): 312 (concludes that families choose schools in order to associate with others of the same religion and to avoid racial minorities); R. F. Elmore and B. Fuller, "Empirical Research on Education Choice: What Are the Implications for Policy-Makers?" in B. Fuller, R. F. Elmore, and G. Orfield, eds., *Who Chooses? Who Loses?* (New York: Teachers College Press, 1996) ("Increasing educational choice is likely to increase separation of students by race, social class, and cultural background," p. 189. Elmore et al. argue that regardless of the choice program design, the differences in choosers and non-choosers are such that choice programs will contribute to social stratification, not greater equality); A. S. Wells, "Charter School Reform in California: Does It Meet Expectations?" *Phi Delta Kappan* 8, no. 4 (1998): 305–12 (argues that charter schools will worsen inequality); M. Schneider, M. Marschall, P. Teske, and C. Roch, "School Choice and Culture Wars in the Classroom: What Different Parents Seek from Education," *Social Science Quarterly* 79, no. 3 (1998): 489–501 (argues that school choice will increase segregation because parents of different ethnicities and SES status have fundamental differences in their expectations of education for their children).

[2]See Paul T. Hill, "The Supply Side of Choice," in Frank Kemmerer and Stephen Sugarman, *School Choice and Social Controversy* (Washington, D.C.: Brookings Institution Press, 2000).

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Bureaucratic modes of decision-making do not eliminate self-seeking—they only make it covert. When the supply of desirable schools, programs, or teachers is limited the most aggressive get the best and, by implication, deprive others. In bureaucracies, the advantage goes to people who have contacts, understand how the game is played, can talk the language of key administrators, can write letters and threaten appeals, and have the time and determination to persist. These attributes have a strong class bias. As a result, bureaucratic decision-making can create segregation of students and uneven distribution of benefits. These, of course, are the very outcomes that people fear choice will produce.

Choice is another mechanism by which people seek the best for themselves and their children. The most knowledgeable are first to identify the best opportunities, and the most aggressive are the ones most likely to sign up early, know how to get the most advantageous place in a lottery, and be able to impress the people (for example, admissions officers) who can pick from among many applicants.

Self-seeking would not matter if all schools, teachers, or courses were equally good. But that is not the case. To the contrary, some schools are much better than others, even when quality is measured fairly on the basis of what they add to their students' knowledge.[3] There is also reason to believe that some teachers are much better than others[4] and also that some courses of study are much more likely to prepare students for jobs and higher education than others.[5] Because some students thrive in schools that would not be good for other students, there is more than one way to rank quality. But however quality is defined, the "best"

[3]See Fred M. Newmann, Bets Ann Smith, Elaine Allensworth, and Anthony S. Bryk, *School Instructional Program Coherence: Benefits and Challenges* (Chicago: Consortium on Chicago School Research, 2000).

[4]Kati Haycock et al., *Achievement in America 2000* (Washington, D.C.: Education Trust, 2000).

[5]See, e.g., Heather Rose and Julian R. Betts, *Math Matters: The Links Between High School Curriculum, College Graduation, and Earnings* (San Francisco: Public Policy Institute of California, 2001).

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schools and teachers are usually in short supply. That is why the most respected private schools have long waiting lists and why parents camp out in parking lots to register their children in public magnet schools.

Some public school districts try to provide a quality school for every student, but they are thwarted by scarcity. There are only so many experienced teachers, only so many principals who can create a positive school climate, and only so many people who both understand science and mathematics and want to teach those subjects. Schools are like any other enterprise that depends on people. Only so many children can take chemistry from the fabled teacher whose students regularly end up in medical school. Someone will get the burned-out old teacher in his last year, or the brand new teacher whose command of subject matter and classroom management skills is shaky. Some schools or districts might maximize the average quality of their staffs, encourage the burned-out to retire earlier, or do a better job of mentoring inexperienced teachers. But there will always be differences in quality, both real and perceived.

Scarcity begets competition. Though some parents will knowingly accept less than the best for their children, many will not. Among those who try to get the best (or to spare their children contact with the worst), some will fare better than others. Those who do not try to compete will probably do worse than even the least successful competitors.[6]

How people compete for schools and teachers depends on the way opportunities are allocated. When parents are free to apply to any public school, the most competitive study the options, apply early, and try to make sure they apply to some desirable schools where the probability of admission is high. When parents are assigned to schools, the most competitive learn who are the best and worst teachers and programs and campaign to get these for their

[6]Abby Goodnough, "How to Get Your Child the Right Teacher Next Fall," *New York Times Magazine,* May 13, 2001.

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children.[7] The rules of competition inevitably allocate advantages and disadvantages. When the rules allow exceptions to mandatory school assignment, the most competitive families learn how decisions are made and frame their transfer appeals in the appropriate terms. The most competitive also figure out who makes the final decision on transfer requests, and seek ways to get special consideration.

Thus, choice is only one way of allocating educational opportunities. Self-seeking and competition are universal. Only the means differ. The advantage of choice is that advantage seeking is transparent: its effects can be readily observed, and it can be designed out (for example, by admissions lotteries). In bureaucracies, self-seeking is covert, and therefore harder to observe and remedy.

Whether choice or bureaucratic decision-making leads to a "fairer" allocation of opportunities is an empirical question. Under both systems, the advantaged are likely to get a disproportionate share of the best and the disadvantaged are likely to get the worst. Thus the question for public debate is not whether choice leads to inequalities but whether it leads to any greater inequalities than does non-choice.

Perhaps a better way to formulate this question is whether overt choice leads to the same or lesser inequities than does covert choice. As David Menefee-Libey of Pomona College has suggested, someone always exercises choices, even in bureaucratic systems. What matters is whether everyone or just some people have choices, and whether choices are made openly or in secret. Overt school choice occurs when everyone can choose and everyone who picks a particular school has an equal chance of getting in. Covert choice occurs when there are no structured mechanisms for expressing choices and allocating opportunities, so that families who want particular options are forced to campaign for them. Because families must go out of their way to express choices, and

[7]See Alfie Kohn, "Only for My Kid: How Privileged Parents Undermine School Reform," *Phi Delta Kappan* (April 1998): 569–77.

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must work the bureaucracy to get what they want, covert choice strongly favors the sophisticated and well placed.

Critics of overt education choice proposals assert that they make matters worse for the disadvantaged and promote development of privileged enclaves for the advantaged. The implication of these statements is that choice makes things worse than they are now. But the evidence provided is often quite different. It shows that overt choice leads to some unequal outcomes, not that choice leads to more unequal outcomes than are attained by the covert choice system that now prevails.

ESTABLISHING A BASELINE

Critics claim that choice will worsen segregation and other forms of inequity. This chapter asks, compared with what? The proper baseline against which to assess the effects of choice is the performance of the current system, not some idealized system in which no differences exist. As Stephen Gorard and his colleagues observe about universal choice in Britain, "The stratifying effect of market forces in schools depends, to large extent, on the *status ante*. What we have shown is not that choice is SES-free but that it is certainly no worse, and probably a great deal better, than simply assigning children to their nearest school to be educated with similar children living in similar housing conditions."[8]

Using the current system's performance as a baseline for comparison does not imply satisfaction with things as they are. Programs that rely on choice should (and, as Terry Moe's final chapter in this volume suggests, can) be designed to produce less segregation and more equitable distributions of resources and opportunity than now exist. This chapter, however, focuses narrowly on whether defenders of the current system are justified in opposing choice on grounds that it inevitably worsens segregation and inequitable distribution of resources. Our narrow question is this: If public funds were

[8]S. Gorard, J. Fitz, and C. Taylor, "School Choice Impacts: What Do We Know?" *Educational Researcher* 30, no. 7 (October 2001): 22.

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used to create many options for families, and families were free to choose among those options, would segregation and inequity be worse than they are now?

In order to understand the practical consequences of choice proposals we must ignore choices that would exist under any and all circumstances. "Choice" covers a wide range of situations. Theoretically, every parent is free under the Constitution to choose to send a child to a tuition-charging private school, or to move away from a state or locality whose schools they consider inadequate, or even to tutor a child at home. It is important to distinguish between choices that families have if they are willing to pay for education themselves or move their residence—constitutionally guaranteed choice—and the choices that families face if they want the government to pay for education and they do not want to (or cannot) move—which we shall call policy-determined choice. Constitutionally guaranteed choices exist regardless of what government does. Policy-determined choices depend on the rules government sets.

Our goal in this chapter is to understand the effects of changes in government policy: we ask, would government action to expand choice lead to greater inequalities than now exist under the current policies concerning government financing and student assignment to schools? In this chapter we therefore focus on policy-determined choice.

Figure 1 illustrates the difference between constitutional choice and the many forms of policy-determined choice. Government can set supply-side rules, saying who can operate schools and receive government funds. Government can also set demand-side rules, saying which families are free to choose among government-funded schools, and which of all available schools they may choose. In Figure 1, under policy-determined choice, different supply-side arrangements are defined by the rows and demand-side arrangements by the columns. Every intersection of a row with a column defines a specific choice policy. Some of the cells are shaded because they imply contradictions between supply- and demand-side policies.

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<table>
<tr><th>Constitutionally guaranteed choice</th><th colspan="5">Policy-determined choice</th></tr>
<tr><td rowspan="5">• Paying private school tuition
• Moving across jurisdictions
• Home schooling</td><td>District-operated schools</td><td rowspan="4">Limited choice</td><td>Controlled choice</td><td rowspan="2">Regulated vouchers</td><td rowspan="3">Unregulated vouchers</td></tr>
<tr><td>Chartered schools</td><td>Reinventing choice</td></tr>
<tr><td>Independently run schools</td><td></td></tr>
<tr><td>Coursework offered by many providers</td><td></td><td></td></tr>
<tr><td></td><td>Only certain families choose</td><td>All families choose among district-designated schools</td><td>All families choose among licensed schools</td><td>All families choose any provider</td></tr>
</table>

FIGURE 1. Forms of Choice in K–12 Education

As Figure 1 illustrates on the supply side, policy could provide that government will fund only schools operated by school districts. Or government could fund charter schools, operating under contract with school districts or other government agencies. Or policy could provide that government will fund any independently run school that families choose. Finally, government could pay for instructional programs that are narrower than whole schools—paying if a child took English from one organization, math from another, and Spanish from yet another.

On the demand side, policy could provide that only certain families (for example, the poor) may choose. Or that every family may choose among several schools, but still limit choices on the basis of neighborhood, racial balance, or other factors. Or policy may say that families may choose absolutely any school that is licensed. Finally, policy could say that families may choose absolutely any provider, whether licensed or not.

Figure 1 contains five fields that define the different kinds of policy-determined choice. Some of the fields cover only

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one cell; others cover more than one. For example, the combination of any supply-side rule with "only certain families may choose" is called "limited choice." "Controlled choice" means that policy limits either what schools may be chosen or who may choose. "Reinventing choice" identifies the types of choice created when school districts charter or contract with independent groups to run schools. "Regulated vouchers" refers to the voucher scheme proposed by John Chubb and Terry Moe, which allows any group to run schools but requires all to be licensed.[9] "Unregulated vouchers" refers to Milton and Rose Friedman's scheme, which allows parents to purchase any form of education they consider appropriate.[10]

In this chapter we take the sorting effects of constitutional choice as a given and focus on the consequences of choices among publicly funded schools within a single school district. We compare the effects of choice programs against the sorting that occurs within public school systems where the bureaucracy determines what schools children will attend. Any such comparison might be slightly biased against choice programs. As Hoxby and others have argued, freedom of choice on both the supply and demand sides will improve the supply of schools in a locality, and might reduce the rates at which advantaged families depart for other districts, or home school, or pay for private education.[11] In a district where competition produced a variety of academically excellent schools, families might choose on the basis of instructional methods rather than on student body composition or perceived quality of student life. This might lead to far less segregation and inequity than prevails in the current system. In this analysis,

[9]J. Chubb and T. Moe, *Politics, Markets, and America's Schools* (Washington, D.C.: Brookings Institution Press, 1990).

[10]Milton and Rose Friedman, *Free to Choose: A Personal Statement* (New York: Harcourt Brace Jovanovich, 1980).

[11]See C. Hoxby, "Does Competition Among Public Schools Benefit Students and Taxpayers?" *American Economic Review* 90, no. 5 (2000): 1209–38.

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however, our interest is in the current system, not in all possible scenarios in which choice might have positive consequences.

We provide a baseline of evidence by which the consequences of choice can be compared with the results of the current public school system. Some critics of choice would like to compare it against an idealized form of the current system: Gary Orfield, among others, asserts that the current system can be perfected to eliminate any form of segregation, even that based on residential choices. He argues for "deny[ing privileged families] the possibility of finding nearby all-white schools," via creation of metropolitan-wide school districts, and massive busing to ensure racial mixing in all schools regardless of residential segregation.[12] It is beyond the scope of this paper to assess the political, legal, and financial costs of such a scheme, or its implications for the health and education of children.

In establishing a baseline we shall focus on the sorting effects of several bureaucratic processes endemic to conventional public school systems.[13] These include student assignment and resource allocation processes that lead disadvantaged children to experience: racially isolated schools; less money per pupil and less capable teachers; restricted access to instructional programs that enhance life opportunities; enhanced access to instructional programs that limit life opportunities.

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[12]Gary Orfield, *Schools More Separate: Consequences of a Decade of Resegregation* (Cambridge Mass.: The Civil Rights Project, Harvard University, 2001), p. 10.

[13]Throughout this chapter we focus on differences in opportunity *within* school districts—not the same thing as differences in opportunity caused by parents' choice of school districts in which to reside. (This is called Tiebout choice; see Hoxby.) These choices are based on fundamental American freedoms that will not become either more or less available no matter how districts allocate children to schools. Parents might move to avoid district policies they consider adverse or to flee groups of students whom they do not want their children to associate with. Residential choice enables these moves, but district policy can cause them. Thus, we cannot confidently assign the outcomes of inter-district moves solely to choice or to district policy.

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First, we analyze the ways that each of the harms listed above can occur in conventional public school systems, and summarize the available evidence about how often and how severely these harms actually occur. We then go on to identify the ways in which these same harms can occur under choice programs, and we summarize available evidence about the performance of choice programs. Admittedly, our conclusions in the second section are weakly evidenced and tentative, since existing choice programs are small and are often designed to serve the poor and ensure integration. Universal choice programs, in which every family chooses and every school is a school of choice, might work differently from the exemplars available for study today.

THE HARMS OF THE EXISTING SYSTEM

Racially Isolated Schools

Eliminating segregation by race has been a dominant concern of public school systems since the *Brown* decision in 1954. Every large school system has had a desegregation plan, whether court-ordered or voluntary, and the U.S. Department of Education has monitored racial isolation in every school district large and small. No school district has an overt segregation policy, and most have made significant efforts to create racially mixed student bodies. However, most districts remain segregated to some degree, and segregation has recently increased.[14]

How does this happen? In part it happens because of processes that school systems do not control: housing economics, demographic change, and geography. Low-income families, including the majority of Hispanic and African American households, cluster in neighborhoods with low-cost housing. Wealthier families, most of which are white, avoid living in these neighborhoods. Lower-income

[14]See Gary Orfield and John T. Yun, *Resegregation in American Schools* (Cambridge, Mass.: The Civil Rights Project, Harvard University, 1999).

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minority families also have more children than higher-income white families. This leads to concentrations of minority children in certain neighborhoods.[15] In many cities (Seattle, for example) transportation between white and minority neighborhoods is complicated by bridges and choked freeways, making it very difficult to move children from one neighborhood to another.

Public school systems can exacerbate these problems by maintaining attendance boundaries that divide neighboring minority and white areas. They can also respond to growing minority enrollments by enlarging schools deep in minority areas rather than by developing new schools in areas accessible to people of all races. They can also create admissions processes for attractive magnet schools that give the advantage to aggressive, articulate, and well-connected middle-class parents. Finally, they can limit the supply of schools that students from all neighborhoods want to attend—for example, by maintaining a fixed set of schools rather than expanding or duplicating magnet schools that have long waiting lists. Taken together, these actions can lead to significant segregation by race and ethnicity.

The Baseline Level of Racially Isolated Schooling

Reports from the Harvard Project on Civil Rights provide data on segregation nationwide. One simple measure is the proportion of white students in schools attended by students of different races. In 1999, the school attended by a typical white student was 81.2 percent white, 8.6 percent African American, 6.6 percent Latino, 2.8 percent Asian, and 0.8 percent American Indian. In contrast, the school attended by a typical African American student was 32.6 percent white and 54.5 percent black. Latinos were even more segregated: the typical Latino student attended a school that was only

[15]See, e.g., Gary Orfield, *Schools More Separate: Consequences of a Decade of Resegregation* (Cambridge Mass.: The Civil Rights Project, Harvard University, 2001), p. 28. Orfield does not try to estimate the growth in segregation due to differential fertility.

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29.9 percent white.[16] Though school segregation has decreased markedly since 1960, separation of white and minority students has increased since 1988. In the South, as Orfield reports, the proportion of black students enrolled in majority white schools declined from 43.5 percent in 1988 to 32.7 percent in 1998.[17]

Much of the recent growth in segregation has been the result of shifts in student population. In the decade 1988–1998 the number of white students in public schools nationwide declined from 34.7 million to 28.9 million, whereas in the same period the number of minority students rose from 8.3 million to 14.8 million.[18] Changes have been most dramatic in the West, where whites went from 63.3 percent of public school enrollment to 51.9 percent in the eleven-year period 1987–1998. Many big cities have also become minority enclaves. In 1998, white students made up less than 20 percent of the public school population in eighteen of the twenty-five largest cities. Schools in Chicago, Detroit, Dallas, New Orleans, Washington, D.C., and Atlanta are no more than 10 percent white.[19] It is clear that in some localities it is impossible to avoid having some overwhelmingly minority schools.

Segregation is pronounced even in states with few minority students. For example, in 1998, the typical black student in a state in which only one in sixteen students was black was likely to attend a school in which more than one in two students was black; nationwide, in 1998, black students, who made up only 18 percent of the school population, had a 37 percent chance of going to schools where blacks made up more than 90 percent of the student body.[20]

Though data on individual school districts can be hard to find, racial isolation is common. In Louisville, for example,

[16]Orfield and Yun, p. 17.
[17]Orfield 2001, p. 33.
[18]Ibid., p. 20.
[19]Ibid., p. 29.
[20]Ibid., pp. 41, 47.

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black students make up 27.4 percent of the high school population, but six of twenty high schools have student bodies less than 20 percent black and six have student bodies more than 40 percent black.[21] In Charlotte-Mecklenburg, like Louisville a city in which white students are in the majority (54 percent), 27 percent of white students and 18 percent of blacks were in racially isolated schools. Under Charlotte's court-ordered definition, a white student is in a racially isolated school if its population is more than 69 percent white. (The corresponding number for black students is 56 percent black.)[22] In Charlotte, more than 35 percent of public schools are racially isolated under the local definition. In a much more racially unbalanced city, the District of Columbia, whites constitute less than 4.3 percent of the school population, but the average white student attends a school where the combined black and Latino population is less than 50 percent.[23]

Individual school districts will vary, but these underlying facts reflect a common pattern. They set a baseline against which the segregation effects of choice can be measured. Choice programs might lead to worse segregation than we now have—to a situation where, for example, blacks nationwide have a greater than 50 percent chance of attending schools that are more than 90 percent black, or where the average white student goes to a school in which even less than 20 percent of students are black. However, as these data show, the existing system does not live up to its rhetorical commitment to complete racial mixing. Choice programs should surely be compared against the system's real performance, not its aspirations.

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[21]Michal Kurlaender and John T. Yun, *Is Diversity a Compelling Educational Interest? Evidence from Metropolitan Louisville* (Cambridge Mass.: The Civil Rights Project, Harvard University, 2000), p. 8.

[22]Data reanalyzed by the present authors from Stephen Samuel Smith and Roslyn Arlyn Mickelson, "All That Glitters Is Not Gold: School Reform in Chalotte-Mecklenburg," *Educational Evaluation and Policy Analysis* 22, no. 3 (summer 2000): 101–28.

[23]Orfield 2001, p. 27.

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Dollar and Human Resource Inequities

Public school districts receive funds from many sources—local property taxes, their state's basic school funding formula, various state programs that provide money for defined purposes and various federal funding sources—and the districts use these funds in similarly complex ways. Laypersons might expect money to be allocated to schools on a per-pupil basis, but that is not the case. Districts buy things like teachers, books, equipment, expert advice, buses, school construction, and maintenance, and those things are allocated to schools through political and bureaucratic processes. As a result, some schools may receive much higher funding allocations, and much more valuable resources, than others.

The most valuable resource allocated in this way is the teaching staff. In virtually all school districts, teachers allocate themselves to schools, and the most senior and highest-paid teachers get first choice. The majority of senior teachers choose schools in the "nicer" neighborhoods. The result is that the teachers who work in schools with the most advantaged students are, on average, much more highly paid than teachers who work in the poorer ends of town. Nor are the poorer students compensated for this difference in average teacher salaries; rather, the district's public accounts average out the salaries of all teachers so it is not evident that the schools with many expensive senior teachers have any more money than the schools with many cheap new teachers. On a real-dollar basis, per-pupil expenditures are much higher in the schools chosen by senior teachers.

Though staff salaries constitute as much as 80 percent of school-level expenditure, districts allocate other resources to schools. Poor schools get disproportionate shares of the 10 percent of funds that come from federal and state programs intended for low-income students. This does only a little to compensate for the expenditure differences associated with teacher allocation.

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Funds for the education of children with disabilities are allocated on the basis of diagnoses of children's needs, and in this parent initiative is a major factor, since more sophisticated parents are more likely than the less aware to demand and get expensive individualized placements for their children with disabilities. Low-income and minority children identified with disabilities are therefore much more likely to be assigned to self-contained special education classrooms for mental retardation or emotional disturbance than to be "mainstreamed" in general education classrooms and receive related services.[24] Districts also control resources such as computers and science lab equipment maintenance funds, and these are allocated on a "squeaky wheel" basis. Schools having respected principals and teachers, as well as active and well-connected parents, can capture disproportionate shares of these resources. Though district accounting makes it extremely difficult to compute real-dollar per pupil expenditures, within-district resource allocation consistently favors the more aggressive and influential families and neighborhoods.

The Baseline Level of Resource Inequity

The existing system allocates the two most important resources in education—dollars and quality teachers—by bureaucratic means. The result is dramatic inequity within school districts.[25] Analyzing school funding in Seattle, Marguerite Roza found that elementary schools in poverty

[24]T. Parrish (draft proposal). *Disparities in the Identification, Funding, and Provision of Special Education,* submitted to the Civil Rights Project for the Conference on Minority Issues in Special Education in Public Schools. <http://csef.air.org/civrights.html>.

[25]Since the early 1970s there has been a research and litigation industry focused on differences in per-pupil expenditure among the school districts in a state. Courts have repeatedly found that state policies leading to unequal per-pupil funding violate the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. This industry has largely ignored the dramatic differences in spending and resource allocation *within* school districts. Presumably, the same constitutional principles could be applied to the inequities identified in this section.

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neighborhoods often received real-dollar resources worth as much as $300,000 less than was claimed by the district's budget, and that similarly sized schools in high-income neighborhoods got correspondingly more money than the district budget acknowledged. This was the result of a combination of placement privileges for senior teachers—which allow senior teachers to cluster in schools in higher-income neighborhoods—and average teacher costing, which charges schools the same amount for every teacher whatever the teacher's actual salary. Under such a scheme, schools in nice neighborhoods get a more expensive teaching force than they could afford if they paid real prices for teachers, and schools in poorer neighborhoods get a much cheaper teaching force.[26]

When Houston school officials computed real-dollar spending in their high schools they were shocked to learn that one school in a predominantly white section of town had one million dollars more to spend each year than a school of the same size in a minority area. The difference, they learned, was entirely due to differences in teacher pay, because teachers in the higher-spending white school, who were older and more experienced, ranked higher on the pay scale.[27]

It is important to note that Seattle and Houston are not isolated incidents when it comes to inequalities in school funding. State-by-state data from the Education Trust indicate that schools with a high percentage of low-income students receive anywhere from $32 to $2,700 less per student than schools with a low percentage of low-income students; a disparity in funding was found in 42 out of the 49 states studied.[28]

Lack of access to qualified teachers also produces inequalities between racial and socioeconomic groups. In California,

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[26]Marguerite Roza, "Creating Local Data Analysis Capacity", in Paul T. Hill, ed., *New Institutions for Education Reform* (Washington D.C.: Brookings Institution Press: forthcoming, 2002).

[27]Personal communication with Dr. Susan Sclafani, former Houston Deputy Superintendent of Schools.

[28]Education Watch Online: New State and National Achievement Gap Report. The Education Trust. <www.edtrust.org>.

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the number of economically disadvantaged students in a school is positively correlated with the number of teachers having the least amount of teaching experience and holding a bachelor's degree or less.[29] This correlation is particularly strong in the elementary grades. In secondary education, national data indicate that 25 percent of classes in high-poverty schools are taught by teachers who lack a major or minor in the field they teach, compared with 15 percent of classes in low-poverty schools.[30] This disparity is even greater for math, where only 25 percent of the teachers in high-poverty schools were majors in math, compared with 40 percent of higher-income schools.[31]

Inequalities also exist based on racial composition. In schools where the student population is over 90 percent white, 69 percent of teachers have BAs or higher in math versus 42 percent in schools where 90 percent or more of students are part of a minority group.[32] National data show similar disparities, with 22 percent of teachers in high-minority secondary schools lacking a major or minor in the field they teach, compared with 16 percent of teachers in low-minority schools.[33]

When examining the differences in human resources among schools, it is important to address the negative results of ineffective teachers. These results can be found at both the elementary and secondary levels. In Dallas, fifth-grade students who had three consecutive ineffective teachers showed gains of only 29 percent in math scores, compared with an 83 percent gain for students with three years of effective teachers. In Boston, high school students had average gains of –0.6

[29]J. R. Betts, K. S. Rueben, and A. Danenberg. "Equal Resources, Equal Outcomes? The Distribution of School Resources and Student Achievement in California" (Public Policy Institute of California, 2000).

[30]Education Watch Online Web site.

[31]Kati Haycock et al., *Achievement in America 2000* (Washington D.C.: The Education Trust, 2000).

[32]J. Oakes, *Multiplying Inequalities: The Effects of Race, Social Class, and Tracking on Opportunities to Learn Mathematics and Science* (Santa Monica, Calif.: Rand Corporation, 1990).

[33]Education Watch Online.

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in math and 0.3 in reading after one year with ineffective teachers, compared with students with effective teachers, who had average gains of 14.6 and 5.6, respectively.[34]

Allocation of Opportunity-Limiting Programs

The fact that students come to school with different amounts of prior knowledge and different abilities presents problems for teachers, schools, and districts. The preceding section on segregation focused on how students are allocated among schools. This section focuses on how students are allocated to classes and programs within schools. Teachers find it difficult to prepare lessons and oversee learning for students with very diverse prior experiences and ability. Parents of the more advanced students worry that teaching will be tailored to the needs of others, and that their children will consequently learn less than they might. Parents of the less-advanced students are also forthright in demanding that their children get extra help and attention. The response by public schools and school districts is to differentiate instruction and create homogeneous classroom groups. The federal and state governments also provide special funding for instruction for defined groups, especially low-achieving students, children in poverty, and the handicapped.

Some differentiation of instruction is inevitable; some might even be desirable. But there are ways in which differentiation can harm minority and disadvantaged students. Removing students from regular classrooms to get special drills and tutoring can mean that they never master the material that others are learning while they are away.[35] Reducing contact with advanced students can eliminate a potential learning opportunity, and creating programs that

[34]Ibid.

[35]J. Kimbrough and P. T. Hill. *The Aggregate Effects of Federal Education Programs* (Santa Monica, Calif.: Rand Corporation, 1981). Also see Anthony S. Bryk, Valerie Lee, and Patrick Holland, *Catholic Schools and the Common Good* (Cambridge, Mass.: Harvard University Press, 1993); and P. T. Hill, G. Foster, and T. Gendler, *High Schools with Character* (Santa Monica, Calif.: Rand Corporation, 1990).

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focus on low-level skills can discourage children who, though at some disadvantage, are excited about ideas and could be motivated by highly challenging instruction. Moreover, low-status programs may discourage both teachers as well as students and set off a downward spiral of expectations and performance.

There has been a long debate about the educational value and ethical acceptability of the combination of ability grouping and program differentiation,[36] but there is little dispute about the fact that some students are assigned to such programs on the basis of color and family background, and that there can be significant overlaps in the ability of students assigned to less and more challenging programs. Nor is there any doubt that students assigned to some such programs are extremely unlikely to finish their K–12 education. The current system, by the way it designs special instructional programs and assigns students to them, puts some students at a grave disadvantage.

The Baseline Allocation of Opportunity-Limiting Programs

U.C.L.A. education researcher Jeannie Oakes is the most important source of data on the assignment of students to opportunity-limiting courses, called tracking. In her 1985 book *Keeping Track* she shows that schools with different instructional programs for students considered faster and slower consistently assign minority and low-income students to the slower tracks.[37] Though track placement is meant to correlate with student performance on achievement tests and grades in previous classes, Oakes reports significant overlap in ability among children in different tracks. She cites a high school in Rockford, Illinois, in which the math scores of students in high-track courses ranged from the 26th to the 99th

[36]See T. Loveless, *The Tracking Wars: State Reform Meets School Policy* (Washington, D.C.: Brookings Institution Press, 1990).

[37]J. Oakes, *Keeping Track: How Schools Structure Inequality* (New Haven, Conn.: Yale University Press, 1985).

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percentile on national achievement tests; in the same school, the scores of students assigned to lower tracks ranged between the 1st and 99th percentile.[38] Oakes reports similar score patterns in various subjects throughout most of the middle and high schools in the Rockford and San Jose, California, districts.

In many cases, race and class appear to be better predictors of track placement than any academic measure. For example, Oakes found that in San Jose, white students with average scores in national math tests were three times more likely to be placed in high-track math courses than were Latino students with similar scores. The discrepancies for students with higher scores are even more striking: for students scoring between 90th and 99th percentile on national tests, only 56 percent of Latinos were placed in high-track courses, compared with 93 percent of whites and 97 percent of Asians. Similar patterns of discrimination were found at the senior and junior high levels in Rockford.[39]

In a district in Southern California, 88 percent of white students who scored in the top quartile on the Comprehensive Test of Basic Skills were placed in algebra classes; but only 42 percent of Latino and 51 percent of African American students who scored in the top quartile were placed in algebra. For students who scored in the second quartile, 11 percent of Latino and 16 percent of African American students were placed in algebra, compared with 83 percent of Asian and 53 percent of white students.[40] Roslyn Mickelson found similar patterns in the Charlotte-Mecklenburg school district, where white students were far more likely than black students of equal tested ability to be assigned to higher mathematics, laboratory science, and advanced courses in English and history.

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[38]J. Oakes, "Two Cities' Tracking and Within-School Segregation," *Teachers College Record* 96, no. 4 (1995): 681–90.

[39]Ibid.

[40]Unpublished paper by the Achievement Council, Inc., Los Angeles, 1991, cited in *Achievement in America, 2000*, The Education Trust, Inc. <http://204.176.179.36/dc/edtrust/edstart.cfm>.

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These results held even when the researchers controlled for students' prior achievement, level of effort, and parents' education.[41] In another study, Oakes found that the same student might be in one track or another depending on the district or school he or she attends. Students who might be allocated to a college preparatory track in one school district were likely to be assigned to dead-end general or vocational tracks in another.[42]

Placement in lower tracks virtually guarantees that students are taught more slowly, are exposed to more rudimentary content, and receive high grades for work that would in other settings be considered unacceptable. For example, Oakes found that students in low-track science and mathematics courses were given more worksheets, tests, and other rote forms of instruction than the average- and high-track students. She also reports that students in high-track classes at a disadvantaged school frequently have less qualified teachers than students in low-track courses at a more advantaged school.[43] Mickelson found that students in lower tracks are more likely to have teachers who lack training in the field they are teaching.[44] Several authors have documented the consequences of track placement for students' academic success, high school graduation, completion of higher education, and lifelong income chances. Recently, Heather Rose and Julian Betts have shown how valuable exposure to rigorous college preparatory courses, especially advanced mathematics, can be for minority students.[45]

Besides tracking, labeling students with disabilities is another way schools can separate students from higher-level courses. A

[41]R. A. Mickelson, "Subverting Swann: First- and Second-Generation Segregation in the Charlotte-Mecklenburg Schools," *American Education Research Journal* 38, no. 2 (2001): 215–52.

[42]J. Oakes and G. Guiton, "Matchmaking: The Dynamics of High School Tracking Decision," *American Educational Research Journal* 32, no. 1 (1995): 3–33.

[43]J. Oakes, *Multiplying Inequalities: The Effects of Race, Social Class, and Tracking on Opportunities to Learn Mathematics and Science* (Santa Monica, Calif.: Rand Corporation, 1990).

[44]Mickelson 2001, p. 238.

[45]Rose and Betts, *Math Matters*.

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state-by-state analysis by T. Parrish found that in thirty-eight states, African American students were more than twice as likely as white students to be identified as mentally retarded.[46] In twenty-nine states, African American students were more than twice as likely to be identified as emotionally disturbed. Nationally, although African American students account for 14.8 percent of the school-age population, they account for 34.3 percent of students identified with mental retardation and 26.4 percent of students identified as emotionally disturbed.[47] Students labeled in these ways are usually separated from regular classes and taught in "resource rooms" in which instruction focuses on low-level skills. The likelihood of being labeled mentally retarded or emotionally disturbed does seem to vary from district to district. D. P. Oswald and colleagues found that districts with the lowest proportions of African American students are the most likely to identify those students as emotionally disturbed.[48] According to Ladner and Hammons, in predominantly white districts in Texas, nearly one in four African American students is assigned to special education.[49]

Even more than placement in lower academic tracks, assignment to special education marks students for academic

[46]T. Parrish, "Disparities in the Identification, Funding, and Provision of Special Education," submitted to the Civil Rights Project for the Conference on Minority Issues in Special Education in Public Schools. <http://csef.air.org/civrights.html>.

[47]U. S. Department of Education, Office of Special Education Programs, Twenty-second Annual Report to Congress on the Individuals with Disabilities Education Act (2000); <http://www.ed.gov/offices/OSERS/OSEP/OSEP2000AnlRpt/>.

[48]D. P. Oswald, M. J. Coutinho, A. M. Best, and N. N. Singh, "Ethnic Representation in Special Education: The Influence of School-Related Economic and Demographic Variables," *Journal of Special Education* 32, no. 4 (1999): 194–206.

[49]In studies of district data from Texas and Florida, Ladner and Hammons also found that race influences special education rates more than other predictor variables such as poverty, student-teacher ratio, spending per pupil, and teacher salaries. The effect of race is almost double the next highest variable (poverty) and is stronger than the combination of the other three variables in this study. They also present data suggesting that African American and Hispanic students' placement rate in special education is nearly 10 percent higher in predominately white districts than in predominately minority districts. M. Ladner and C. Hammons, "Special But Unequal: Race and Special Education," in Finn, Rotherham, and Hokanson, eds., *Rethinking Special Education for a New Century* (Fordham Foundation and the Progressive Policy Institute, 2001).

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failure. According to the National Longitudinal Transition Study of Special Education, African Americans identified as emotionally and behaviorally disturbed had a 66 percent failure rate in school; the failure rate for whites so labeled was 38 percent. African American students with EBD were twice as likely to exit school by dropping out (58.2 percent) as by graduating (27.5 percent).[50]

We do not claim that lower track placements and assignment to special education are always inappropriate; certainly some students do better in those programs than they would in regular or advanced classrooms. However, as these data show, conventional public education uses low-track placement and disability labels liberally, especially for disadvantaged students. The result is often a kind of segregation more complete, and more consequential, for minority students than segregation based openly on race.

Misallocation of Opportunity-Expanding Programs

An awareness of the obligation to teach all students to read and do basic arithmetic defines most elementary schools, and limits the degree to which they can differ from one another. Among the public elementary schools in a given district, the most important differences are due to variations in staff quality, or to school culture difference resulting from habits of staff interaction. Beyond those differences, some schools get programs that others do not. Not every school gets a special program for gifted and talented students. Many districts offer one or two schools designed on a distinctive model of instruction, like Montessori. Gifted programs and special schools based on brand-name instructional approaches are allocated on a squeaky-wheel basis, to neighborhoods with

[50]L. A. Valdes, C. L. Williamson, and M. M. Wagner, "The National Longitudinal Study of Special Education Students, *Statistical Almanac,* vol. 3: *Youth Categorized as Emotionally Disturbed* (Menlo Park, Calif.: SRI International, 1990), as cited in D. Osher, D. Woodruff, and A. Sims, "Exploring Relationships Between Inappropriate and Ineffective Special Education Services for African American Children and Youth and the Overrepresentation in the Juvenile Justice System," draft paper available at <www.law.harvard.edu/civilrights/conferences/SpecEd/osherpaper2.html>.

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activist parents or to areas of town where parents are beginning to depart for private or suburban schools. Thus in most districts, such programs and districts are disproportionately available to middle-class, usually white, children.

High schools have much more varied programs. Not every school has excellent laboratories, an array of advanced placement courses, or enough qualified teachers of mathematics, science, or languages to allow every student to pursue an advanced college preparatory course. In many schools these opportunities are allocated in part by traditional patterns in course enrollment—an approach that may sound reasonable but can create a watering-down of instructional opportunities, so that students in a school where few students have over the years taken advanced courses lose their opportunity to explore such courses. These opportunities are also allocated in response to family and neighborhood pressure, which further favors schools serving middle-class students.

This process is not always one way, however. Urban districts facing criticism about low-performing schools in poor neighborhoods sometimes transfer reputedly "successful" principals from middle-class neighborhoods to these schools. Families in the "nicer" schools often feel deprived in this way, and schools often face difficult adjustments when a principal is pulled out of a smoothly functioning school.

The Baseline Allocation of Opportunity-Expanding Programs

Nationally, both African American and Hispanic children are much less likely to be assigned to gifted programs than students from other groups. According to the Office of Civil Rights (OCR), in 1992 African American students were 57 percent as likely, and Hispanic students 58 percent as likely, as children from other groups to be considered gifted.[51] Economically disadvantaged students are also significantly underrepresented in

[51]D. Y. Ford, "The Underrepresentation of Minority Students in Gifted Education: Problems and Promises in Recruitment and Retention," *Journal of Special Education* 32, no. 1 (1998): 4–14.

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gifted education. Only 9 percent of students in gifted and talented education programs were in the bottom quartile of family income, while 47 percent of program participants were from the top quartile in family income.[52]

Another measure of minority students' separation from opportunity-expanding programs is their low participation in advanced placement (AP) courses. These are often the most advanced courses offered by high schools, and students who attain high scores on national tests can gain college credit. Nationally, African American and Latino students are far less likely than white and Asian students to take AP courses. Statewide AP data for Texas also fit this pattern. In 1998–99, 10.9 percent of all high school students, but only 4.2 percent of African American and 7.1 percent of Hispanic students, took AP courses. However, African Americans and Hispanics are also less likely than others to score 3 or above on the tests: 31 percent and 48 percent compared with 58 percent of all AP-takers.[53]

To some degree, these figures may reflect differences among school districts, especially since minority students cluster in districts that offer only a few—if any—AP courses. Within-district data are more telling about the consequences of bureaucratic processes. Bernhole and colleagues have shown that for one district (Wake County, North Carolina) African American students make up 24 percent of the high school population but only 3.5 percent of students taking AP examinations.[54] The corresponding percentages for Hispanic students are 2.3 and 1.8, and for whites, 70 and 78. Of course, AP courses are meant only for well-prepared students, so that enrollment differences might reflect the numbers of different groups prepared for these courses. This might explain some of

[52]National Education Longitudinal Study (NELS) of 1988 in National Center for Education Statistics, *Urban Schools: The Challenge of Locational Poverty* (Washington, D.C.: U.S. Department of Education, 1996).

[53]Texas Education Agency, Office of Policy Planning and Research. *Advanced Placement and International Baccalaureate Examination Results in Texas, 1998–99* (2000).

[54]A. Bernholc, N. Baenen, and R. Howell, *Measuring Up: 1998-99 Advanced Placement Exam Results* (Wake County Public Schools, Evaluation and Research Department, 2000).

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the exclusion of black students, since only 56 percent of those who took AP courses (compared with 78 percent of white students) got scores equal to or above 3, usually considered the threshold for college credit. This pattern is reversed, however, for Hispanic students: 87 percent of those who took AP courses made scores of 3 or above.

Oakes and colleagues had similar findings when comparing low- and high-income neighborhood schools in the Los Angeles Unified School District. Of twelve very large high schools in low-income neighborhoods, only 639 students took AP exams in math and science and only 18 percent, or 117 students, earned a score of 3 or above. Conversely, five high schools in the district's high-income neighborhoods had 890 students take the math and science AP exams, with 71 percent, or 629 students, receiving a pass score.

Table 1 summarizes what we have learned about the baseline against which choice programs should be compared.

TABLE 1
Our Best Estimates on Incidence of Segregated Placements and Resource Inequities

Category of Comparison	*Current System Performance*
Racially isolated schools	Schools often exceed district-wide average proportion black or white by 20% or more
Inequitable allocation of dollars and teachers	Most experienced and expensive teachers cluster in "nicest" neighborhoods; per pupil expenditures unequal
Inequitable allocation of opportunity-expanding programs	White and middle-class children 3 times more likely to enroll in gifted and AP programs
Inequitable allocation of opportunity-limiting programs	Minority and lower-income children 3 times more likely to be enrolled in lower tracks and out-of-class special education

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The next section summarizes what little we know about the effects of choice programs.

WHAT IS KNOWN ABOUT CHOICE PROGRAMS

Choice programs, whether based on vouchers or on school chartering, must confront the same realities that limit the current system: economics, neighborhood segregation, fertility trends, and costs of transportation. Critics and supporters of choice differ on whether it is likely to increase or decrease segregation and inequities in the allocation of dollars, quality teachers, and opportunity-limiting or opportunity-expanding programs.

With Respect to Segregation. Critics of choice fear that it can exacerbate the problem by allowing privileged families to take advantage of their superior access to information to select the best schools; by tolerating admissions processes that let privileged families monopolize access to the most attractive schools; and by allowing the most sought-after schools to handpick the easiest-to-educate students.

Defenders of choice programs would respond that these abuses could be eliminated by good program design. Choice programs can promote desegregation in ways conventional public school systems do not—by encouraging out-of-neighborhood school placement, by allowing the formation of new schools accessible to students in overcrowded schools, and by encouraging expansion or reproduction of oversubscribed schools.

With Respect to Dollar and Human Resource Inequities. Critics fear that choice will lead to heavier financing of schools preferred by privileged families, and concentration of the ablest teachers in schools with the most money and the most rewarding students.

Defenders of choice point out that voucher and charter plans all start with transparent allocation of dollars to schools and equality of per pupil spending. Supply-side choice also constrains schools to live within defined real-dollar budgets, so that no school can afford to hire all the

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highest-paid teachers. Choice supporters admit, however, that there is nothing to prevent schools with the best reputations from hiring the very best teachers or using their funds much more efficiently than other schools.

With Respect to Opportunity-Limiting Programs. Schools of choice could come under the same pressures as existing public schools, to avoid slowing down faster students by creating lower-track programs for the disadvantaged. Organizations that ran networks of several schools (for example, charter school networks or Catholic archdioceses) could also create specialty schools targeted to children of different ability levels. Some "special" schools and programs might become unchallenging and low status, and students might be assigned to them on the basis of race or social class.

Defenders of choice argue that competition makes these results unlikely: schools that create highly differentiated programs will be inefficient and lose out to schools that offer a limited number of focused courses;[55] and families will leave schools that put their children in dead-end courses. There is some favorable evidence about existing schools of choice: charter schools and parochial schools offer more restricted sets of courses than public schools, and parochial schools make sure that disadvantaged students experience mainstream college prep courses.[56] These facts, however, apply to a limited number of schools of choice, most of them operated by groups with strong commitments to social justice. No one can say for sure whether some schools in a much larger school choice sector might allocate minority students to opportunity-limiting programs.

With Respect to Opportunity-Expanding Programs. Under any choice scheme, entrepreneurs (charter school

[55]See Hill, "The Supply Side of Choice."

[56]See James S. Coleman and Thomas Hoffer, *Public and Private High Schools* (New York: Basic Books, 1987). See also James Coleman, Thomas Hoffer, and Sally Kilgore, *High School Achievement: Public, Catholic, and Private Schools Compared* (New York: Basic Books, 1982).

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operators, nonprofit organizations, for-profit contractors) could choose to locate their schools in areas more accessible to "easy to educate" children. Competition will naturally limit the number of schools that can succeed by this strategy, but poorer neighborhoods could still get more "bare bones" schools. This could happen for two reasons: school providers could decide that there is insufficient demand for advanced courses of study in poorer neighborhoods; and organizations running more than one school could try to run lower-cost operations in poorer neighborhoods in order to subsidize the more excellent programs needed to compete in richer neighborhoods.

Defenders of choice argue that school providers have a strong incentive to demonstrate that they can serve the populations that public schools now serve badly. They point to evidence, such as that provided by John Chubb in Chapter 4 of this book, that organizations that manage many schools of choice serve a lower-income and more heavily minority clientele than their surrounding school districts.[57]

WHY EVIDENCE ON THE EFFECTS OF CHOICE IS LIMITED

Empirical evidence is thin on all sides of these arguments. Current voucher and charter school programs are small in scale and many are focused on serving poor and minority children. The results of those programs show that some independently run schools will serve the disadvantaged. But they do not prove that systems of universal choice would have the same benign results.

[57]With respect to charter schools, see U.S. Department of Education, *The State of Charter Schools 2000* (Washington, D.C.: January 2000), esp. sec. C, p. 2. Nationally, white students make up 48 percent of the charter school population compared with 58 percent of the population served by conventional public schools. Charter school student populations are disproportionately white in Arizona, California, Colorado, and Georgia, and disproportionately minority in Florida, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Pennsylvania, Texas, and Wisconsin.

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The evidence is also incomplete in another way: current voucher and charter programs do not have the kinds of supply-side effects that universal choice programs are likely to have. Groups that start new schools must now accept less money per pupil than public schools get, and they know that the charter or voucher program on which they rely could be canceled almost at any time. Starting a new school would be a much easier proposition if children came with the full public per pupil expenditure and if choice programs were stable. Until such a program exists we cannot know how many new schools will arise, or what courses of instruction they will offer, or whom they will serve.[58]

It is important to say why the evidence is so thin. Most choice-oriented policies, including charter school laws and voucher initiatives, are constructed politically. Groups like teachers unions and school administrators associations oppose such policies, but when it is obvious that some forms of choice will be permitted, they focus on limiting their size and scope.[59] An example of this was the success of groups opposing the original voucher program in Alum Rock, California, who were able to constrain it so that few parents had choices and few new schooling options were created.[60] Today, groups opposing voucher programs work to limit the numbers of families that may choose and the numbers of schools that can be chosen. Opponents also work to limit the amount of money that follows children to schools of choice, often ensuring that charter schools and private schools accepting vouchers receive less money per pupil than is spent in local public school districts. Moreover, teachers unions

[58]The British experience with choice shows that large-scale choice programs have much more equitable effects than do small-scale programs, and that results become more equitable the longer a choice program is in place. See Gorard, Fitz, and Taylor, "School Choice Impacts."

[59]See R. C. Bulman and D. L. Kirp, "The Shifting Politics of School Choice," in Sugarman and Kremerer, eds., *Choice and School Controversy.*

[60]See Stephen S. Weiner and Konrad Kellan, *The Politics and Administration of the Voucher Demonstration in Alum Rock, The First Year, 1972–1973* (Santa Monica, Calif.: Rand Corporation, 1974).

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and school boards often unite to cushion public schools from the financial impact of losing students.[61] Taken together, such constraints limit what can be learned from choice programs. Limits on who may choose schools can bias choice programs—in some cases toward serving disproportionate numbers of poor or minority children, and in some cases toward excluding poor families that cannot pay extra tuition or provide volunteer services that underfunded schools must require.

Table 2 illustrates the kinds of constraints that have been imposed on choice programs, on both the supply and demand sides. No wonder the evidence about how choice would work in the real world is so limited.

CONCLUSION

Until a serious choice experiment is tried—one that is large and long-lasting enough to gauge supply-side effects as well as families' decisions—we cannot be certain whether choice would provide worse outcomes than the current system, nor can we say how tightly choice must be regulated. For the time being, however, it appears that those who oppose choice and defend the current public system have failed to recognize that they, not the proponents of choice, must bear the burden of proof. Opponents condemn choice because it creates opportunities for alert and aggressive parents to gain the best of everything for their children. They argue that choice is risky and that the existing public education system is a safer and more just alternative. However, as this chapter has shown, the existing public education system, which restricts choice by assigning children to schools and limiting the supply of available publicly funded schools, does not accomplish desegregation or give disadvantaged children equitable access to good schools. Public school systems are segregated, particularly in the big

[61]See National Governors' Association, *Strategic Investment: Tough Choices for America's Future* (Washington, D.C., 1993).

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TABLE 2
Constraints That Reduce the Evidence Value of Choice Programs

Supply-side Constraints	*Demand-side Constraints*
Rules limiting the numbers of schools of choice that may be created [*a, f*]	Limits on the numbers of students (or the percentage of students in a locality) who may choose schools [*a, b, c, f*]
Rules preventing private groups from operating publicly funded schools [*a, d*]	Rules eliminating former private school students from receiving vouchers [*b*]
School board refusal to approve more than token numbers of charters [*e*]	Rules allowing only students with certain characteristics (e.g., poverty or racial minority status) to choose schools [*b, c*]
Laws allowing only existing public schools to receive charters [*d*]	Limits on the neighborhoods from which a family may choose schools [*a, d*]
Regulations controlling who may teach in schools, what methods they employ, and how they use time and money [*a, d*]	"Legacy" arrangements that give families who live near a school first choice of whether to attend it [*a*]
Lower per pupil funding for vouchers or for charter schools (relative to district-run schools [*b, c, f*]	Rules limiting family choice only to schools that will accept small vouchers (less than public per pupil expenditure) as full tuition [*b, c*]

Legend:

[a]Alum Rock voucher program; see, for example, J. R. Henig, *Rethinking School Choice: Limits of the Market Metaphor* (Princeton, N.J.: Princeton University Press, 1994).

[b]State-funded voucher programs in Milwaukee and Cleveland; see P. E. Peterson, J. Greene, and C. Noyes, "School Choice in Milwaukee." *Public Interest* 125 (1996): 38-56.

[c]Private voucher programs, e.g., those sponsored by CEO America.

[d]Weak charter school laws, e.g., Georgia's; see P. T. Hill and R. J. Lake, *Charter Schools and Accountability in Public Education* (Washington D.C.: Brookings Institution Press, 2002), ch. 4. See also B. Hassel, *The Charter School Challenge: Avoiding the Pitfalls, Fulfilling the Promise* (Washington, D.C.: Brookings Institution Press, 1999), and Center for Education Reform, *Charter School Laws Across the States* (2001), <http://edreform.com/charter_schools/laws/>

[e]Charter school laws that do not establish criteria for school board approval of charters.

[f]Virtually all charter school laws.

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cities where poor and minority children are most concentrated. This is so in spite of decades of serious effort and unwavering declaratory policy in favor of desegregation and equity.

The existing public education system also creates inequities that are unlikely to occur under choice: it allows the best-paid teachers to cluster in middle-class schools, causing serious within-district inequities in per pupil spending. It allocates excellent learning opportunities, including advanced placement courses and programs for the gifted, disproportionately to schools serving higher-income children of well-educated parents. It assigns poor and minority students disproportionately to low-track courses, and assigns minority children, particularly African American males, to forms of special education that separate them from regular classes and virtually guarantee that they will drop out before graduating from high school.

Not all these actions on the part of the existing public education system are unambiguously harmful: some children benefit from placement outside the college prep sequence and some children need treatment for emotional disturbance even if that means they miss class. Any system of publicly funded education, whether based on universal choice or run by a public monopoly, would need some special programs for severely disruptive children or children who need unusual forms of instruction. However, given the radical forms of "sorting" prevalent in existing public school systems, it is hard to see how choice could produce worse segregation, resource inequity, denial of access to excellent programs, or assignment to opportunity-limiting programs than the current system.

Choice programs must not be ruled out because they can lead to some inequities. Every system of allocating opportunities known to man creates some inequities. No matter how opportunities are allocated, parents will seek the best for their own children. Systems should be designed to minimize inequities, and programs should be compared according to

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the scope and seriousness of inequities they permit. In particular, choice programs must be carefully designed to prevent segregation, and any program that produces levels of segregation as great as those now prevailing in the public education system should be scrapped or redesigned.[62] As later chapters in this book will show, there are ways to regulate both the demand and the supply sides of choice to prevent discrimination more effectively than do the bureaucratic processes of conventional public school systems.

[62]Among serious analysts even those most worried about choice admit that ensuring equity is a matter of thoughtful program design. From Casey D. Cobb and Gene V. Glass, "Ethnic Segregation in Arizona Charter Schools," *Education Policy Analysis Archives* 7, no. 1 (January 14, 1999): "The social consequences of choice in education are mediated by the policies under which choice operates. Depending on the degree of public oversight, choice can serve contradictory purposes. Consider two extreme scenarios. Under regulated conditions, choice can correct for severe levels of segregation and ensure the stable integration of schools (e.g., controlled open enrollment plans, magnet programs). Minneapolis, Minnesota, and Cambridge, Massachusetts, endorse such policies. Conversely, unregulated choice can intensify ethnic stratification by allowing parents to remove their children from integrated schools (e.g., white flight). Arizona's laissez-faire charter legislation appears to fall in this latter group."