

A Fair Future vs. Bristol Public Schools

Bristol is a North Carolina city of 218,000 with nearly equal black and white populations. Bristol has had a vibrant African-American population throughout its history, and in the 1920s the city was home to the so-called “black Wall Street,” where a number of prominent African American-owned businesses were headquartered.

Despite this history, Bristol’s socioeconomic indicators are starkly drawn along demographic lines. Black families primarily live in West Bristol, which is 68% black, and white families primarily live in East Bristol, which is 73% white. The average income in East Bristol is nearly twice that in West Bristol; the median adult level of education in East Bristol is a Bachelor’s degree, while the median level in West Bristol is less than a high school diploma; and the average life expectancy is six years longer in East Bristol than in West Bristol.

Bristol has no history of legal segregation in its 45 public schools. However, Bristol Public Schools (BPS) decided in 2004 to change the system by which it assigned students to a given public school. Previously, the school district had drawn borders around each of its public schools, ensuring that most students attended the school nearest their homes. This was true for all students except those with nontraditional needs; BPS provided free busing to bring developmentally or severely physically disabled students to one of the two schools in the city equipped for special needs education.

Under the 2004 system, which is still in place, students are assigned to schools based on a formula that considers their family income, preferred school choice, and neighborhood. The formula requires that the median, 25th percentile, and 75th percentile family income in each school be within \$15,000 of the city of Bristol’s median, 25th percentile, and 75th percentile family income.

This policy was not applied to students who were already in a Bristol public school in 2004. Since the policy was adopted, however, each student preparing to enter Bristol public schools for the first time must list his or her top three school choices. The BPS formula considers every student’s preferences and family income to assign school placement in the most desirable way possible; that is, the formula attempts to assign students to their first choice school, then their second, then their third, in each case provided that assigning the student to a given school would provide the requisite income distribution. When a student cannot be assigned to any of his or her top three choices while maintaining the appropriate range of family incomes in all schools, that student may be assigned to the closest school not among his top three choices that provides the appropriate income distribution. Students are bused, free of charge, to the assigned school when it is not within a reasonable walking distance of a student’s home.

The preamble to the 2004 BPS policy recognizes the “disparities in resources and opportunities on the basis of socioeconomic status” and “the importance of diversity and equal opportunity, which are cornerstones of our educational mission.” The policy, which passed the Bristol School Board 6-3, makes no mention whatsoever of race.

However, the President of the School Board, a supporter of the policy, stated during deliberations, “we need to do something to integrate our schools... which are increasingly becoming black schools and white schools.” Another member of the Board, a lawyer by training, voted against a previous proposal that would require relatively equal racial distributions in each school. She explained her vote by saying, “if we adopt this policy, we’ll be in the courts within three years... if racial integration is our goal, we need a more clever scheme that will pass constitutional muster.” This Board member then proposed the policy that is now in place.

In 2007, the children of three white couples from East Bristol, all of whose family incomes were above the city’s 75th percentile, were assigned to schools in West Bristol that were not among their top three choices. These schools, though in West Bristol, were close to the students’ homes, and by assigning the students to these schools the required income distribution was achieved. These couples formed the group “A Fair Future” to lobby BPS, hoping for a return to the school assignment system in place before 2004.

When BPS refused to change the system, A Fair Future sued BPS, alleging that the intent of the assignment system was to use race in allocating students to schools, thus requiring strict scrutiny, and that no compelling government interest was advanced by this race-based system.

BPS, the respondent in this case, claimed that it did not have a racial intent, as evidenced by the facial neutrality of the policy in question, and so the rational basis test (rather than strict scrutiny) was appropriate. It argued, further, that its system would meet even the requirements of strict scrutiny, as the benefits of diversity of income—which meant diversity of race, parents’ education, life experiences, and the like—represented a compelling state interest.

The Fourth Circuit Court of Appeals ruled in favor of Bristol Public Schools. After reviewing the ruling of the Fourth Circuit, the United States Supreme Court granted certiorari in 2008.

Issues

- What is the appropriate level of scrutiny in this case?
- Are the interests the BPS policy promotes and the means it uses to achieve them sufficient for the level of scrutiny?

Cases

Students may use the following cases (and no others) in their arguments:

- *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)
- *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977)
- *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. ___ (2007)
- *Grutter v. Bollinger*, 539 U.S. 306 (2003)
- *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971)
- *Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256 (1979)
- *Washington v. Davis*, 426 U.S. 229 (1976)