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Still Swimming against the Resegregation Tide - A Suburban Southern School District in the Aftermath of Parents Involved

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STILL SWIMMING AGAINST THE RESEGREGATION TIDE? A SUBURBAN SOUTHERN SCHOOL DISTRICT IN THE AFTERMATH OF *PARENTS INVOLVED**

STEPHEN SAMUEL SMITH**

Although many of the nation's school districts have experienced resegregation in the opening decade of the twenty-first century, the school district in Rock Hill, South Carolina has made significant and successful efforts to increase integration even though the school district was not under any court order to do so. This Article discusses how these efforts have been affected by leadership and political will; the development of social purpose politics; the effective use of citizen advisory committees; the local political environment; the district's demographic composition, reputation, resources, and size; and the complex relationship between race and class. This Article also discusses how the district's efforts to pursue balance in pupil assignment have been affected by Parents Involved

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in *Community Schools v. Seattle School District No. 1* and local growth. This Article also compares the Rock Hill experience with the nationally prominent experience of the nearby Charlotte-Mecklenburg Schools in North Carolina. This Article concludes by summarizing the implications of Rock Hill's experience for integration efforts elsewhere.

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INTRODUCTION

Although many of the nation's school districts have experienced resegregation in the opening decade of the twenty-first century,¹ the school district in Rock Hill, South Carolina ("RHSD") has made significant and successful efforts to decrease racial, socioeconomic, and academic segregation. Most noteworthy about these efforts is that RHSD made them even though it was not under any court order to do so. In 2002, the district used the opening of a new elementary school to revamp its elementary pupil assignment plan in a way that sought to increase White enrollment at an elementary school in which the percentage of Black students was almost three times the district-wide percentage.² This effort triggered intense local opposition, a hotly contested school board election, and a lawsuit in federal court.³ But the district remained steadfast, and opponents of the reassignment were soundly defeated in the school board election.⁴ While RHSD had to make some compromises as a result of the lawsuit, the out-of-court settlement allowed the elementary assignment to proceed largely as the district wanted.⁵

1. See GARY ORFIELD & CHUNGMEI LEE, THE CIVIL RIGHTS PROJECT/*PROYECTO DERECHOS CIVILES* (UCLA), HISTORIC REVERSALS, ACCELERATING RESEGREGATION, AND THE NEED FOR NEW INTEGRATION STRATEGIES 3 (2007), available at http://www.civilrightsproject.ucla.edu/research/deseg/reversals_reseg_need.pdf. ("American schools, resegregating gradually for almost two decades, are now experiencing accelerating isolation . . ."). The Charlotte-Mecklenburg school system, once considered a showcase for the success of school desegregation, STEPHEN SAMUEL SMITH, BOOM FOR WHOM? EDUCATION, DESEGREGATION, AND DEVELOPMENT IN CHARLOTTE 66 (2004) [hereinafter SMITH, BOOM FOR WHOM?], is now an example of the national trend toward resegregation. *Id.* at 203; Roslyn Arlin Mickelson, Stephen Samuel Smith & Stephanie Southworth, *Achievement and the Chimera of Choice in Post-Unitary Charlotte-Mecklenburg Schools*, in FROM THE COURTROOM TO THE CLASSROOM 129, 129 (Claire E. Smrekar & Ellen B. Goldring eds., 2009); Stephen Samuel Smith, *Development and the Politics of School Desegregation and Resegregation*, in CHARLOTTE, NC: THE GLOBAL EVOLUTION OF A NEW SOUTH CITY (Heather A. Smith & William Graves eds., forthcoming 2010) (manuscript at 219–20, on file with the North Carolina Law Review) [hereinafter Smith, *Development and the Politics of School Desegregation and Resegregation*].

2. See *infra* Part I.B.2.

3. See *infra* Part I.B.2.

4. See *infra* Part I.B.2.

5. See *infra* Part I.B.2.

Similar developments occurred at the high school level. In 2001, despite intense local opposition, RHSD chose a site for a new high school, the district's third, at a site on the less affluent side of town that would facilitate integration.⁶ Given the bruising battle that had taken place over the elementary school reassignment, RHSD took a different approach to the massive high school reassignment that would be occasioned by the opening of the third high school in 2005.⁷ RHSD appointed a citizens committee to develop the high school reassignment plan.⁸ After months of deliberation, the committee proposed a plan that consciously and successfully sought to remedy longstanding and locally well-known race and class disparities between the district's two existing high schools.⁹

RHSD's efforts to increase diversity are especially noteworthy because Rock Hill is just across the state line from Charlotte, North Carolina, and is thus a suburb of the city whose school system, the Charlotte-Mecklenburg Schools ("CMS"), gave rise to *Swann v. Charlotte-Mecklenburg Board of Education*,¹⁰ a 1970 Supreme Court decision that allowed mandatory busing and the limited use of numerical ratios of Black to White students in desegregation efforts.¹¹ In the aftermath of *Swann*, CMS developed a mandatory busing plan that, from the mid-1970s to the mid-1980s, was one of the nation's most successful integration efforts.¹² However, beginning in the mid-1980s, levels of integration began drifting downward.¹³ Resegregation increased sharply when a legal challenge by a group of White parents led to the reopening of *Swann*, a 1999 federal district court order declaring CMS unitary,¹⁴ and the affirmation of that order by the

6. See *infra* Part I.B.3.

7. See *infra* Part I.B.3.

8. See *infra* notes 96–101 and accompanying text.

9. See *infra* notes 102–05 and accompanying text.

10. 402 U.S. 1 (1970).

11. *Id.* at 25, 30.

12. See generally SMITH, BOOM FOR WHOM?, *supra* note 1 (chronicling the history, effects, and litigation surrounding CMS's mandatory busing for desegregation).

13. *Id.* at 74 fig.3.1 (showing the rise of Black students attending racially identifiable Black schools as well as an increase in White students attending racially identifiable White schools).

14. As Federal District Court Judge Robert Potter said in his opinion declaring CMS unitary, "The term 'unitary status' has no fixed meaning." *Capacchione v. Charlotte-Mecklenburg Schs.*, 57 F. Supp. 2d 228, 242 (W.D.N.C. 1999). Nonetheless, the term is an important one in desegregation law, its significance arising from the Supreme Court's 1968 decision in *Green v. County School Board of New Kent County*, stating that school boards operating previously state-mandated dual (i.e., segregated) school systems, had an "affirmative duty to take whatever steps might be necessary to convert to a unitary system

Fourth Circuit.¹⁵ Since that court order, CMS has largely abandoned the pursuit of desegregation.¹⁶ Although opponents of RHSD's desegregation efforts were keenly aware of developments in CMS and even hired the same attorneys who had succeeded in getting CMS declared unitary, very little of the shadow of events in Charlotte fell on Rock Hill.¹⁷

More important for RHSD than the shadow of events in Charlotte has been the shadow of the 2007 Supreme Court decision in *Parents Involved in Community Schools v. Seattle School District No. 1* ("Parents Involved").¹⁸ In that case, the Court dealt with desegregation efforts by the school districts in Seattle, Washington, and Jefferson County (Louisville), Kentucky.¹⁹ Although neither school district was obliged by court order to do so, both districts, voluntarily and on their own initiative, implemented policies aimed at increasing racial integration.²⁰ A sharply divided Court struck down the policies by a 5–4 margin.²¹ But in a separate opinion, Justice Kennedy, one of the five justices who voted to strike down the policies, indicated that, in his view, there were a variety of policies other than those employed by Seattle and Louisville by which school districts not under a court order could pursue racial integration without running afoul of the Constitution.²² Thus, despite disappointment with the Court's striking down the Seattle and Louisville plans, desegregation advocates took heart from the fact that, as several leading civil rights organizations put it, "a majority of Justices explicitly left the window open for school districts to take race-conscious measures to promote diversity and avoid racial isolation in schools."²³

in which racial discrimination would be eliminated root and branch." 391 U.S. 430, 437–38 (1968).

15. *Belk v. Charlotte-Mecklenburg Bd. of Educ.*, 269 F.3d 305, 312 (4th Cir. 2001) (en banc). See generally Mickelson et al., *supra* note 1 (examining the effect that declaring CMS unitary had on resegregation in the school system).

16. See Smith, *Development and the Politics of School Desegregation and Resegregation*, *supra* note 1 (manuscript at 228–30).

17. See *infra* Part I.B.

18. 551 U.S. 701 (2007).

19. *Id.* at 710.

20. *Id.* at 709–10.

21. *Id.* at 708–09.

22. *Id.* at 789 (Kennedy, J., concurring).

23. NAACP LEGAL DEFENSE AND EDUCATIONAL FUND & CIVIL RIGHTS PROJECT/PROYECTO DERECHOS CIVILES (UCLA), STILL LOOKING TO THE FUTURE: VOLUNTARY K-12 SCHOOL INTEGRATION 3 (2008), available at http://www.naacpldf.org/content/pdf/voluntary/Still_Looking_to_the_Future_Voluntary_K-12_School_Integration_A_Manual_for_Parents_Educators_and_Advocates.pdf.

However, opponents of race-conscious public policy claimed *Parents Involved* as a victory. The chair of the Center for Equal Opportunity ("CEO") said that the Court's ruling vindicated "the principle in *Brown v. Board of Education* that schoolchildren should not be assigned to schools on the basis of skin color. It is a victory for parents and students of all races."²⁴ And, while acknowledging the difference between Justice Kennedy's views and that of the four other Justices who voted to strike down the Seattle and Louisville plans, the CEO's President and General Counsel, Roger Clegg, doubted that the difference "will have much real-world effect."²⁵ The practical effect of *Parents Involved*, Clegg claimed,

will be significant, and is already visible. School-board members across the country will pick up the paper and read what the Court did, and they will conclude that using skin color to determine school assignments is a bad idea. . . . On top of all this, school-board members now know that, when their counterparts in Seattle and Louisville used race-based student assignments, they enmeshed their respective school districts in years of litigation, ultimately losing and ultimately requiring them to pay, not just their own lawyers, but the opposing side's lawyers as well. . . . "No thanks," other school boards will say. The Seattle and Louisville plans were not atypical and were not particularly sloppy or badly thought out, and they were skillfully defended. But they lost.²⁶

Thus, in Clegg's view, the potential harm of litigation costs, along with an unclear standard established by Justice Kennedy, will serve to deter school districts from implementing any race-conscious policies to support desegregation.

RHSD's elementary and high school reassignments took place before the Supreme Court's decision in *Parents Involved*. Since *Parents Involved* was handed down, RHSD has opened additional schools, which has required pupil reassignments.²⁷ Such pupil reassignments markedly differ from the pupil reassignments made pre-*Parents Involved*. Consideration of the extent to which *Parents Involved* has affected the use of race in RHSD's pupil assignment

24. Center for Equal Opportunity, Center for Equal Opportunity Praises Court's School Decisions (Aug. 2, 2007), <http://www.ceousa.org/content/view/391/138/>. The Center for Equal Opportunity ("CEO") had submitted an amicus brief urging the Court to strike down the Seattle and Louisville plans. *Id.*

25. Roger Clegg, *A Good—If Mixed Bag*, NATIONALREVIEWONLINE, July 5, 2007, <http://article.nationalreview.com/320765/a-good----if-mixed-bag-/roger-clegg>.

26. *Id.*

27. See *infra* Part I.B.4.

policies is the first of this Article's major aims. The second major aim is to view Rock Hill as a case study and to discuss the implications of this case study for the pursuit of desegregation in other districts. In discussing RHSD's experience, this Article will make frequent comparisons with that of nearby and nationally prominent CMS.

However, it will be useful to first address several terminological issues. While the word "integration" still plays a large role in contemporary discourse, in RHSD, "balance" has largely replaced both "integration" and "desegregation," which this Article will use interchangeably.²⁸ This change arises from a combination of three interrelated reasons. The first involves legal considerations stemming from *Parents Involved* and the settlement of the litigation that resulted from the 2002 RHSD elementary school reassignment.²⁹ The second is that in Rock Hill, as in many places throughout the United States, it is frequently politically more palatable to phrase issues in socioeconomic terms than in racial ones.³⁰ The third—which arises largely from the first two—is that over the past decade, race has played an increasingly diminished role in RHSD's deliberations over pupil assignment, while an increasingly important role has been played by socioeconomic status ("SES"), as measured by eligibility for free and reduced lunch ("FRL"), and scores on standardized tests.³¹ Since all of these developments will be discussed in greater detail later in this Article, it suffices here to note that, taken together, these three reasons have the consequence of minimizing explicit public consideration of the racial aspects of politics and policy even though these aspects may be very much on the minds of Rock Hill officials and citizens in their discussions of balance.

This Article's terminology will be eclectic but usefully so. In keeping with longstanding historical usage and much contemporary discourse, this Article will generally use segregation, desegregation, or integration. But when focusing on the specifics of pupil assignment in Rock Hill, this Article will generally follow local usage and talk of

28. In other contexts, it may be more appropriate to view desegregation and integration as different points on a continuum, with the former referring to the removal of the legal, social, and political barriers that separate students and to their physical presence in the same schools and classrooms. By contrast, integration "occurs only if there then develops joint participation and mutual acceptance in all activities normally associated with school attendance." GERALD DAVID JAYNES & ROBIN M. WILLIAMS, JR., *A COMMON DESTINY: BLACKS AND AMERICAN SOCIETY* 81 (1989).

29. See *infra* Part I.B.2.

30. See *infra* Part II.B.4.

31. See *infra* Part II.A.

balance, indicating, when necessary, whether it is referring to racial, socioeconomic, or academic balance.³²

Part I of this Article provides background information about the city of Rock Hill and RHSD, summarizes the latter's recent desegregation efforts at the elementary and secondary level, and then calls attention to recent challenges facing the district, including the consequences of *Parents Involved*. Part II discusses RHSD's desegregation by considering seven topics: (i) the relationship between national and local developments as well as the possibility of a new politics (as opposed to that of the civil rights era) of school desegregation; (ii) the importance in RHSD of leadership and the development of social purpose politics;³³ (iii) the contextual factors that facilitated social purpose politics in RHSD; (iv) the role of citizens advisory committees; (v) the relationship between race and class in RHSD's desegregation efforts; (vi) the lessons to be learned by comparing RHSD's experience with that of CMS; and (vii) the extent to which the lessons of RHSD's desegregation experience have been disseminated.

32. There are two additional terminological notes. First, given how in *Parents Involved* Chief Justice Roberts and three of his colleagues talk scathingly of the illegitimacy of efforts solely directed at achieving racial balance, 551 U.S. 701, 726 (2007), this Article emphasizes that its usage of the term *racial (im)balance* (and *balance* in general) is not from a legal perspective. Rather, such usage is from the analytic perspective frequently employed in the social scientific literature, even by scholars skeptical of many desegregation efforts. David Armor, for example, notes that the widely used index of dissimilarity, employed below, "corresponds to the definition of segregation as racial imbalance (or desegregation as racial balance)." DAVID J. ARMOR, FORCED JUSTICE: SCHOOL DESEGREGATION AND THE LAW 164 (1995). Similarly, Christine H. Rossell notes that "the literature assessing desegregation plans to date has usually examined the extent of interracial contact by assessing the amount of racial balance. The measure of racial imbalance most commonly used by social scientists is the index of dissimilarity" CHRISTINE H. ROSSELL, THE CARROT OR THE STICK FOR SCHOOL DESEGREGATION POLICY: MAGNET SCHOOLS OR FORCED BUSING 33 (1990). Second, this Article will generally use race as shorthand for race/ethnicity. The shorthand is stylistically convenient and reflects the fact that the politics of desegregation in RHSD has focused heavily on Black/White issues, as does this Article until the limitations of this focus become apparent from a discussion of recent pupil reassignments. See *infra* Part I.B.4. Similarly, in keeping with the way RHSD reports data and for expository convenience, this Article will use White as shorthand for non-Hispanic-White even though that usage conflates race and ethnicity. For expository convenience, this Article will also use Black and African American synonymously.

33. Social purpose politics refers to the ability of interested parties to go beyond a "narrow understanding of their stake in the education system . . . [and] come together around a larger vision of what is at issue." Clarence N. Stone, *Introduction: Urban Education in Political Context*, in CHANGING URBAN EDUCATION 1, 12 (Clarence N. Stone ed., 1998).

I. ROCK HILL SCHOOL DISTRICT: BACKGROUND INFORMATION

A. *The School District and City of Rock Hill, South Carolina*

Rock Hill is the fourth largest city in South Carolina with a population of approximately sixty-seven thousand in 2008.³⁴ It is also a growing city. Between 2007 and 2008, its population jumped almost four percent, representing the tenth consecutive year in which its population increased.³⁵ Housing patterns in the city, as in many southern communities, still bear the imprint of the Jim Crow era, with the neighborhoods on the north side of town being predominately White, and many areas on the south side of town being heavily Black.³⁶ The south side is also home to significant numbers of working-class Whites and is generally less prosperous than the north side.³⁷ However, the city's Hispanics are concentrated on the north side.³⁸

34. Dan O'Mara, *Census Estimates Show Rock Hill, Fort Mill Populations Still Surging*, HERALD (Rock Hill, S.C.), July 2, 2009. All HERALD articles referenced throughout this Article are available via the Internet only with paid subscription. For more information and for access, please refer to the "Archive" hyperlink at <http://heraldonline.com>.

35. *Id.*

36. See U.S. Census Bureau, TM-P001B. Persons Who Are Black or African American Alone: 2000, http://factfinder.census.gov/servlet/TMSelectedDatasetPageServlet?_lang=en (last visited Feb. 14, 2010) (select "Census 2000 Summary File 1 (SF 1) 100-Percent Data," then select "Next;" populate the following and then select "Next:" geographic type—"Place," state—"South Carolina," geographic area—"Rock Hill City;" select theme "TM-P001B," and then select "Show Result"); U.S. Census Bureau, TM-P001A. Persons Who Are White Alone: 2000, http://factfinder.census.gov/servlet/TMSelectedDatasetPageServlet?_lang=en (last visited Feb. 14, 2010) (select "Census 2000 Summary File 1 (SF 1) 100-Percent Data," then select "Next;" populate the following and then select "Next:" geographic type—"Place," state—"South Carolina," geographic area—"Rock Hill City;" select theme "TM-P001A" and then select "Show Result").

37. Analysis of block group data from the 2000 census indicates that per capita income in block groups on the north side of town was approximately \$22,000 and on the south side it was approximately \$15,000. This block group data also indicates that White per capita income on the north side was approximately \$24,000 and on the south side it was approximately \$18,000. See U.S. Census Bureau, Census 2000, Summary File 3, http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=DEC&_submenuId=datasets_1&_lang=en (last visited Feb. 14, 2010) (select radio button for "Census 2000 Summary File 3 (SF3)—Sample Data," then select "Detailed Tables;" populate the following selections and then select "Next:" geographic type—"Block Group," state—"South Carolina," county—"York," census tracts (adding designated blocks)—"601.02 (blocks 1–3), 602 (blocks 1–3), 603 (blocks 1–3), 604.01 (blocks 1 & 2), 604.02 (blocks 1 & 2), 605.02 (blocks 1 & 2), 606 (block 1), 607 (blocks 1–3), 608.01 (blocks 1 & 2), 608.02 (block 1), 609.01 (block 1), 609.02 (blocks 1–4), 609.04 (blocks 1 & 2), 609.05 (blocks 1 & 2), 612.01 (blocks 1 & 2);" Add Tables P6, P7, P82, P157I, then select "Show Result").

38. U.S. Census Bureau, TM-P001H. Persons Who Are Hispanic or Latino (of any race): 2000, http://factfinder.census.gov/servlet/TMSelectedDatasetPageServlet?_lang=en

In addition to covering the entire city of Rock Hill, RHSD encompasses many areas outside the city.³⁹ In the 2008–09 school year, RHSD had 17,500 students, of whom approximately fifty-four percent were White; thirty-six percent, Black; six percent, Hispanic; two percent, Asian; and two percent, American Indian.⁴⁰ However, the demographic composition of the RHSD electorate differs from that of RHSD's student population. At the time of the school board elections described herein, approximately seventy-six percent of RHSD's registered voters were White, twenty-two percent were Black, and two percent were grouped under the South Carolina Electoral Commission's residual category of "Other."⁴¹

RHSD has never been under a court order mandating desegregation, but in 1965, following passage of the 1964 Civil Rights Act, the district began what would be more than a decade of changes. These changes, especially in pupil assignment, aimed at securing approval from the Department of Health, Education, and Welfare ("HEW") that the district had achieved appropriate levels of desegregation.⁴² HEW found aspects of those changes insufficient in 1968, 1971, 1973, and 1976.⁴³ It was not until 1977 that HEW agreed to dismiss enforcement proceedings against the district.⁴⁴ That dismissal led RHSD to claim it had met its legal obligations, but the district nonetheless paid considerable attention to desegregation issues in

(last visited Feb. 14, 2010) (select "Census 2000 Summary File 1 (SF 1) 100-Percent Data," then select "Next;" populate the following selections and then select "Next:" geographic type—"Place," state—"South Carolina," geographic area—"Rock Hill City," select theme "TM-P001H," and then select "Show Result").

39. The city of Rock Hill covers approximately thirty-four square miles. Official Web site of the City of Rock Hill, S.C., About Rock Hill, <http://www.cityofrockhill.com/dynSubPage.aspx?deptID=4&pLinkID=367> (last visited Feb. 14, 2010). RHSD covers approximately 180 square miles. LYNN P. MOODY, ADVANCED STANDARDS ASSESSMENT—SELF-STUDY 2008–2009 3, available at <http://www.rock-hill.k12.sc.us/UserFiles/rhsd3/Documents/SACS/Standards%20Self%20Assessment%20Report.pdf>.

40. Rock Hill School District Three, Student Distribution: 45th Day Count School Year 2008–2009 (Oct. 23, 2008) [hereinafter Student Distribution: 45th Day Count] (unpublished record, on file with the North Carolina Law Review).

41. South Carolina Election Commission, School Tally (Oct. 1, 2004) (unpublished record, on file with the North Carolina Law Review).

42. See Notice of Opportunity for Hearing, Rock Hill Sch. Dist. No. 3, S.C., No. S-4 (Dep't of Health, Educ., & Welfare Apr. 17, 1973) (on file with the North Carolina Law Review); Order of Dismissal, York County Sch. Dist. No. 3, S.C., No. S-122 (Dep't of Health, Educ., & Welfare Apr. 11, 1977) (on file with the North Carolina Law Review); Letter from William C. Sullivan, Sec'y of the Bd. of Trustees, Sch. Dist. No. 3 of York County, S.C. to the Honorable Francis Keppel, Comm'r of Educ., U.S. Dep't of Health, Educ., & Welfare (Mar. 2, 1965) (on file with the North Carolina Law Review).

43. See *supra* note 42 and accompanying text.

44. Order of Dismissal, *supra* note 42.

subsequent years.⁴⁵ As a result of this attention, the district achieved relatively high levels of racial balance.⁴⁶ But there were some exceptions to this success, the most notable being Sunset Park, a historically Black elementary school.⁴⁷ Moreover, at the high school level, the Black share of enrollment at Northwestern High, located on the north side of town, was much lower than at RHSD's other high school, Rock Hill High, located on the south side.⁴⁸ Beyond purely racial differences, there were also longstanding and widely recognized class differences between the two high schools.⁴⁹

In addition to discussing Sunset Park Elementary, Northwestern High, and Rock Hill High, this Article will make specific mention of five other schools. Four of these other schools opened within the past decade and occasioned the pupil reassignments discussed in this Article.

45. See Cal Harrison, *School Zones Unveiled*, HERALD (Rock Hill, S.C.), May 7, 1996, (available online only through paid subscription service); Judy Longshaw, *Parents Voice Anger at School District's Rezoning*, HERALD (Rock Hill, S.C.), Aug. 25, 1998 (available online only through paid subscription service); Jennifer Woods Parker, *Board OKs School Rezoning*, EVENING HERALD (Rock Hill, S.C.), Dec. 7, 1983, at 1 (on file with the North Carolina Law Review); Jennifer Woods, *School Rezoning to Ignore Race*, EVENING HERALD (Rock Hill, S.C.), May 13, 1983, at 1 (on file with the North Carolina Law Review).

46. See *infra* Figure 1 showing that in the 2000–01 school year, the White/Black dissimilarity index was approximately twenty-seven. The dissimilarity index is a widely used measure of the extent to which the distribution of one group of students in a district's schools is the same as the distribution of a second group. ARMOR, *supra* note 32, at 164. Its value ranges from zero (perfect balance) to 100 (complete segregation). *Id.* Useful guidelines for interpreting the values of the dissimilarity index appear in Brown University's American Communities Project's database of desegregation in schools across the nation. A value of sixty or above is generally viewed as indicating a very high level of imbalance, values between forty and fifty are generally viewed as indicating moderate levels of imbalance, and values below thirty are considered to indicate low levels of imbalance. American Communities Project, *Metropolitan Area Rankings: Populations of All Ages*, <http://www.s4.brown.edu/cen2000/WholePop/WPsort.html> (last visited Feb. 14, 2010) (for figures, select "view sortable list;" for description of dissimilarity index, select "view description").

47. See *infra* Part I.B.2.

48. See *infra* Table 1.

49. See generally Stephen Samuel Smith et al., "Your Father Works for My Father": *Race, Class, and the Politics of Voluntarily Mandated Desegregation*, 110 TCHRS. C. REC. 986 (2008) (discussing the role of demographics and politics in the recent desegregation efforts of the Rock Hill School District).

The four schools⁵⁰ and the concomitant reassignments are:

Old Pointe Elementary	2002 elementary school reassignment (took effect at the start of the 2002–03 school year)
South Pointe High School	2005 high school reassignment (took effect at the start of the 2005–06 school year)
India Hook Elementary	2007 elementary school reassignment (took effect at the start of the 2007–08 school year)
Mt. Holly Elementary	2008 elementary school reassignment (took effect at the start of the 2008–09 school year) ⁵¹

The fifth school, Oakdale Elementary, opened prior to any of these reassignments, but the 2008 elementary school reassignment changed Oakdale's demographic composition in a manner that indicates *Parents Involved's* effect on RHSD.⁵²

B. Recent Desegregation History

1. Dismantling the At-Large System of Electing School Board Members

The series of events that changed pupil assignment patterns began with a challenge to the at-large system of electing board members, a system that militated against the election of Blacks.⁵³

50. The 2008–09 school year saw two additional reassignments. The first was occasioned by the need to address overcrowding at one of the high schools, and the second by the opening of a new middle school. But given this Article's concerns, the issues raised by these two reassignments were similar enough to those in the 2008 elementary school reassignment that there is no need to discuss them herein.

51. See *infra* Part I.B.

52. See *infra* Part I.B.4.

53. Allison Bruce, *Neighborhood Coalition Advocates Single-Member Districts*, HERALD (Rock Hill, S.C.), Aug. 12, 1999 (available online only through paid subscription service); Amy French, *Board Sees Diversity of Ideas in New Faces*, CHARLOTTE OBSERVER, Nov. 9, 2000, at 1Y. Because of the frequent unwillingness of southern Whites to vote for Blacks, in jurisdictions in which Blacks constitute a minority of the population, at-large elections have historically militated against the election of Blacks. See Orville Vernon Burton et al., *South Carolina, in QUIET REVOLUTION IN THE SOUTH: THE IMPACT OF THE VOTING RIGHTS ACT 1965–1990*, at 191, 213 (Chandler Davidson & Bernard Grofman eds., 1994) [hereinafter QUIET REVOLUTION IN THE SOUTH] ("The indisputable finding of our survey [of elections in South Carolina counties] is that African

Moreover, most White board members historically resided on the north side of town, and most board members' children attended Northwestern.⁵⁴ But a group of local African Americans, under the leadership of a retired educator, formed the Neighborhood Coalition Council, which initiated a campaign to change the board's electoral structure⁵⁵ by, among other things, contacting the U.S. Department of Justice.⁵⁶ Under both local political pressure and the threat of a lawsuit by the Department of Justice that the at-large electoral system was a violation of the Voting Rights Act, RHSD moved to a 5-2 plan that divided the school system into five districts, each of which would elect one member of the board.⁵⁷ The boundaries of the five districts were drawn in a way to facilitate the election of Black candidates in two of the districts.⁵⁸ The remaining two board members were to be elected at large.⁵⁹ The new plan went into effect with the November 2000 election, which saw the election of two African American women from the south side, Elizabeth "Ann" Reid and Mildred Douglas.⁶⁰ Walter Brown, a White man who also lived on the south side, won a third district seat.⁶¹

2. Addressing Sunset Park's Situation in the 2002 Reassignment

With a new elementary school, Old Pointe, scheduled to open in August 2002, the board turned its attention to assignment issues shortly after the November 2000 election.⁶² The two recently elected Black board members emphasized the importance of racial balance, which emerged atop the board's list of criteria for the reassignment.⁶³ The administration, under the leadership of Superintendent Phil McDaniel, proposed a plan that, among other things, shifted

Americans in white-majority counties are more fully represented under single-member-district plans than under at-large systems" (footnote omitted)).

54. See Bruce, *supra* note 53.

55. See *id.*

56. See Interview with Anonymous Member of Neighborhood Coalition Council, in Rock Hill, S.C. (Feb. 4, 2004) (on file with the North Carolina Law Review).

57. Allison Bruce, *Members Endorse Plan to Diversify School Board*, HERALD (Rock Hill, S.C.), Apr. 25, 2000 (available online only through paid subscription service).

58. *Id.*

59. *Id.*

60. French, *supra* note 53.

61. *Id.*

62. Amy French, *School Board Shifts Focus to Goals for Reassignment: McDaniel Says Maps May Be Ready for Review in a Month*, CHARLOTTE OBSERVER, Apr. 17, 2001, at 1Y.

63. *Id.*; Rock Hill School District Three of York County, School Attendance Area Information: Board Work Session 2 (Aug. 13, 2001) (unpublished report, on file with the North Carolina Law Review).

attendance zones in a way that would increase White enrollment at Sunset Park, which would improve racial balance given that Blacks constituted ninety-four percent of the school's students.⁶⁴ These shifts triggered the formation of Neighborhoods United ("NU"), a citizens' group that led the high profile and vociferous opposition to the proposal.⁶⁵ NU charged that the proposed plan was illegally based on race, opposed the reassignment of students to Sunset Park, and threatened any board member who supported the plan with defeat in the 2002 school board election.⁶⁶ The original proposal underwent some revision, but the final version still led to a significant increase in Sunset Park's White enrollment and was adopted in November 2001.⁶⁷ The motion to approve the revised plan was made by one of the board's Black members, seconded by the other, received votes from three White members, and passed by a 5–2 margin.⁶⁸

Five months later, with the support of NU, eight families filed suit in federal district court demanding that the reassignment plan be scrapped and that, pending the court's ruling on this demand, RHSD be enjoined from implementing the plan.⁶⁹ Several months later, another group of Rock Hill families intervened in support of the school board.⁷⁰ This second group of families (the defendant-

64. Jason Cato, *Concerns Rise over Proposed Zones*, HERALD (Rock Hill, S.C.), May 30, 2001 (available online only through paid subscription service); Amy French, *2002 Plan Would Mean New Schools for 3,400*, CHARLOTTE OBSERVER, May 30, 2001, at 1Y; see also *infra* notes 87–90 and accompanying text (providing data on student enrollment).

65. Erica Pippins, *Parents Join Forces to Fight Possible Reassignment Plan*, HERALD (Rock Hill, S.C.), July 18, 2001 (available online only through paid subscription service).

66. Amy French, *Neighborhoods United Vows It Won't Go Away*, CHARLOTTE OBSERVER, Nov. 18, 2001, at 1Y [hereinafter French, *Neighborhoods United*]; Amy French, *Parents Furious at School Plan*, CHARLOTTE OBSERVER, Nov. 13, 2001, at 1B; Tiernee Midkiff, *To the Contrary: Don't Bus Our Children*, HERALD (Rock Hill, S.C.), Aug. 25, 2001 (available online only through paid subscription service); Rock Hill School District Three, Summary of Forum Comments: Forum Four (Nov. 12, 2001) (unpublished report, on file with the North Carolina Law Review).

67. Amy French, *Rock Hill School Board OKs Race-Based Reassignment*, CHARLOTTE OBSERVER, Nov. 27, 2001, at 2B; see Board Meeting Minutes, Rock Hill Sch. Dist. Bd. of Trustees (Nov. 26, 2001) [hereinafter Board Meeting Minutes Nov. 2001], available at <http://www.rock-hill.k12.sc.us/board/minutes112601.htm>.

68. Board Meeting Minutes Nov. 2001, *supra* note 67.

69. See Amy French, *Money Raised to Sue Board*, CHARLOTTE OBSERVER, Jan. 23, 2002, at 5B; Amy French, *Parents Sue over School Plan*, CHARLOTTE OBSERVER, May 1, 2002, at 1Y; News Release, Law firm of Parks, Chesin, Walbert, & Miller, P.C., Federal Lawsuit Filed Against Rock Hill School District #3 Challenging Race-Based Elementary School Rezoning and Race-Based Siting of 3rd High School (Apr. 30, 2002) (on file with the North Carolina Law Review).

70. Press Release, NAACP Legal Def. and Educ. Fund, Inc., NAACP Legal Defense Fund Seeks to Intervene on Behalf of Rock Hill Parents in School Assignment and Siting Case (Aug. 2, 2002) [hereinafter NAACP Press Release] (on file with the North Carolina

intervenors) was represented by the NAACP's Legal Defense and Educational Fund and a Charlotte law firm, both of which had represented Black families in the 1999 trial in CMS's reopened *Swann* case.⁷¹

Just as the two groups of attorneys were the same as those in the reopened *Swann* litigation, so too did both the RHSD and reopened *Swann* cases occur in the Fourth Circuit, one of the federal judiciary's most conservative.⁷² However, the district court judges had very different backgrounds. Hearing the Charlotte case was Robert Potter, a Reagan appointee who had been active in Charlotte's 1960s anti-busing movement.⁷³ In contrast, the judge in the Rock Hill case was Matthew Perry, a Carter appointee who was one of South Carolina's most noted civil rights attorneys.⁷⁴

In April 2003, shortly before the case was scheduled to go to trial, negotiations among the plaintiffs, RHSD, and the defendant-intervenors yielded a settlement.⁷⁵ The settlement allowed the reassignment plan to continue,⁷⁶ recognized RHSD's interest in pursuing "meaningful diversity" in its schools,⁷⁷ and allowed the use of satellite zones in future assignment plans if the satellite zones were necessary to avoid racial isolation.⁷⁸ But the definition of racial isolation was a limited one that allowed a bandwidth of plus or minus thirty percent of the system-wide racial composition unless a school

Law Review); *Parents Join School District as Defendants in Lawsuit*, HERALD (Rock Hill, S.C.), Oct. 16, 2002 (available online only through paid subscription service). See generally Proposed Intervenors' Motion to Intervene, *Burris v. Rock Hill Sch. Dist. No. 3*, No. 0-02-1409 (D.S.C. Apr. 11, 2003) [hereinafter Proposed Intervenors' Motion to Intervene] (requesting intervention by additional families from Rock Hill in suit against the school) (on file with the North Carolina Law Review).

71. See NAACP Press Release, *supra* note 70; *Parents Join School District as Defendants in Lawsuit*, *supra* note 70.

72. See Ann C. Hodges, *Lessons from the Laboratory: The Polar Opposites on the Public Sector Labor Law Spectrum*, 18 CORNELL J.L. & PUB. POL'Y 735, 759 (2009) ("The United States Court of Appeals for the Fourth Circuit . . . has a reputation as the most conservative appeals court in the country.").

73. SMITH, BOOM FOR WHOM?, *supra* note 1, at 162.

74. News Release, Am. Bar Ass'n, U.S. District Court Judge Matthew J. Perry Jr. to Receive ABA Liberty Achievement Award (Sept. 30, 2008) [hereinafter Am. Bar Ass'n News Release], http://www.abanet.org/abanet/media/release/news_release.cfm?releaseid=466.

75. See generally Memorandum of Mediated Agreement, *Burris v. Rock Hill Sch. Dist. No. 3*, No. 0:02-1409-10 (D.S.C. Apr. 30, 2003) [hereinafter Memorandum of Mediated Agreement] (describing the terms of the parties' agreement) (on file with the North Carolina Law Review).

76. *Id.* at 2.

77. *Id.* at 4.

78. *Id.* at 2-3.

was “80% or more of any one race.”⁷⁹ Moreover, the settlement indicated that “race will not be the predominant factor in the assignment of students”⁸⁰ and that “[t]he School District shall not employ numerical racial quotas or targets in the assignment of students in any future SAP [student assignment plan], including future high school and middle school SAP’s [sic].”⁸¹ In addition, RHSD made several concessions, including providing transfer options for the plaintiffs’ children and up to fifty additional students.⁸²

Because of its limited definition of racial isolation, restraints on the use of “numerical racial quotas or targets,”⁸³ and transfer provisions, the settlement provided only a partial victory for desegregation proponents. The partial victory is limited even more when one considers that, had the case gone to trial, the judge hearing the case, who was long associated with civil rights causes, may have been more lenient toward the desegregation efforts. By contrast, the 2002 election—the first to take place after adoption of the plan—was a total victory for desegregation proponents. Despite NU’s claims that any board member who supported the plan would suffer electoral defeat, the very opposite occurred. Of the three seats on the ballot, two were held by White incumbents, Kathy Pender and Jim Vining, who had voted for the plan.⁸⁴ Both were reelected: Pender without any opposition and Vining despite a challenge by a member of NU.⁸⁵ The third seat—an open one—was won by a White man, Jason Silverman, who distanced himself from NU and defeated an NU member who also sought the seat.⁸⁶

The new assignment plan made significant strides in reducing racial imbalance, both at Sunset Park and district-wide. Upon implementation of the new assignment plan in August 2002, the Black/White dissimilarity index for elementary schools decreased from 27.5 to 15.8, which is generally viewed as indicating a high level

79. *Id.* at 3.

80. *Id.* at 4.

81. *Id.* at 2.

82. *Id.* at 3–4.

83. *Id.* at 2.

84. French, *supra* note 67.

85. Erica Pippins, *Silverman, Vining Win Seats*, HERALD (Rock Hill, S.C.), Nov. 6, 2002 (available online only through paid subscription service). The NU member whom Vining defeated was Jeff Nicholson. Interview with Jeff Nicholson, Member of High Sch. Reassignment Comm., in Rock Hill, S.C. (Jan. 5, 2005) (on file with the North Carolina Law Review).

86. Pippins, *supra* note 85. The NU member whom Silverman defeated was Ken Spears. Editorial, *Spears for School Board*, HERALD (Rock Hill, S.C.), Oct. 29, 2002 (available online only through paid subscription service).

of racial balance, and by 2005–06 it had further dropped to 11.4.⁸⁷ At Sunset Park, the new plan resulted in the Black share of enrollment dropping from ninety-four percent to fifty-six percent, and it stayed below sixty percent through the 2005–06 school year.⁸⁸ Thereafter, the Black share of Sunset Park’s enrollment began increasing, and in the 2008–09 school year Black students comprised sixty-three percent of the school’s enrollment, contributing to the change in the board’s approach to the school.⁸⁹

3. Addressing High School Imbalance

RHSD’s growth required construction of a third high school. Just as the switch in electoral systems facilitated the pursuit of balance at the elementary level, so too did the switch facilitate it at the high school level. The Superintendent and many of RHSD’s influential and affluent citizens wanted the new high school to be on the north side of town.⁹⁰ But because the board members from the three south side districts secured support from one board member from the north side, the new high school was built on the south side and subsequently named South Pointe High School.⁹¹

The decision to locate the school on the south side augured changes in long-standing school transportation patterns. As African American leaders in the community often claimed, in the past when RHSD had sought to improve balance in pupil assignment, it generally paid more attention to the preference of affluent Whites for

87. See *infra* Fig. 1. Computation of Black/White dissimilarity indices is based on data obtained from the National Center for Education Statistics’ Common Core of Data (“CCD”). National Center for Educational Statistics, Common Core of Data—Build a Table, <http://nces.ed.gov/ccd/bat/> (last visited Feb. 14, 2010) [hereinafter CCD—Build a Table] (allowing users to build data tables by imputing geographical and other specifications) (on file with the North Carolina Law Review).

88. Data for Sunset Park’s Black enrollment through the 2005–06 academic year was obtained from the CCD. CCD—Build a Table, *supra* note 87.

89. Data on Sunset Park’s Black enrollment beginning with the academic year 2006–07 was obtained from RHSD unpublished reports. Rock Hill School District Three, 45 Day Ethnic Code, (Oct. 12, 2006) [hereinafter 45 Day Ethnic Code] (on file with the North Carolina Law Review); Rock Hill School District Three, Enrollment—All Ethnic Codes (Oct. 25, 2007) [hereinafter Enrollment—All Ethnic Codes] (on file with the North Carolina Law Review); Student Distribution: 45th Day Count, *supra* note 40. Data for 2007–08 and 2008–09 are not currently available from the CCD, and the CCD’s online data for 2006–07 omits a Rock Hill elementary school.

90. See *School Site Presents Bussing Concern*, HERALD (Rock Hill, S.C.), Jan. 9, 2001, (available online only through paid subscription service).

91. *4–3 Vote Ends Battle over Where to Build*, HERALD (Rock Hill, S.C.), Mar. 13, 2001 (available online only through paid subscription service).

shorter bus rides than to other families' identical preference.⁹² But with the new high school on the south side and RHSD hoping for demographic balance among the three schools, travel distances were likely to be more evenly distributed, thus addressing a long-standing Black complaint about the downside of desegregation.

The opening of South Pointe required a large-scale revamping of the high school assignment plan, which had been in effect for more than thirty years.⁹³ RHSD's approach to the high school assignment was very different from its approach to the 2002 elementary school reassignment. The administration unilaterally developed the latter without any public input, which provoked extensive controversy.⁹⁴ To develop the high school reassignment plan, the district, under the leadership of a new Superintendent, Randy Bridges—McDaniel having retired—created a thirty-five-person committee to recommend a plan for the board's approval.⁹⁵ The committee contained a diversity of opinions. As required by the settlement agreement in the elementary school litigation, the committee included a representative of the plaintiffs and a representative of the defendant-intervenors in the case.⁹⁶ It also included parents from every school in the district, some RHSD teachers and administrators, and several additional community members.⁹⁷ More than two-thirds of the committee members were White, among whom were two men who had been members of NU and had run unsuccessfully for the board in 2002.⁹⁸ One of these men, Ken Spears, was elected the committee's chair.⁹⁹ Associate Superintendent Lynn Moody served as the committee's

92. Cal Harrison, *Racial Makeup of New Zones Outrages Parents*, HERALD (Rock Hill, S.C.), May 7, 1996 (available online only through paid subscription service); French, *Neighborhoods United*, *supra* note 66; Interview with Bob Norwood, Chair of Rock Hill Sch. Bd., in Rock Hill, S.C. (Feb. 11, 2009) (on file with the North Carolina Law Review).

93. Erica Pippins, *Group to Begin Task of Filling Rock Hill's Third High School*, HERALD (Rock Hill, S.C.), Apr. 27, 2003 (available online only through paid subscription service).

94. *See supra* Part I.B.2.

95. Erica Pippins, *Bridges Proposes Timetable for High School Redistricting*, HERALD (Rock Hill, S.C.), Dec. 10, 2002 (available online only through paid subscription service).

96. Memorandum of Mediated Agreement, *supra* note 75, at 4–5.

97. *Id.*; Pippins, *supra* note 93.

98. Data on the race of committee members was obtained from Judy Longshaw, a member of the committee. *See* Personal Communication with Judy Longshaw, Comm. Member, in Rock Hill, S.C. (Dec. 28, 2004) (on file with the North Carolina Law Review). In addition to Ken Spears, the other man who had been a member of NU was Jeff Nicholson. Interview with Jeff Nicholson, *supra* note 85; Interview with Ken Spears, Comm. Chair, in Rock Hill, S.C. (Jan. 18, 2006) (on file with the North Carolina Law Review).

99. Interview with Ken Spears, *supra* note 98.

main facilitator.¹⁰⁰ To provide and analyze data for the committee, the district hired the Operations Research/Educational Lab (“OR/Ed”) at North Carolina State University.¹⁰¹

After months of deliberation, the committee approved a plan at its January 2004 meeting that, among other things, assigned several affluent neighborhoods to schools other than Northwestern, even though Northwestern is much closer to these neighborhoods than are Rock Hill High and South Pointe High.¹⁰² Despite strong opposition from residents in these neighborhoods,¹⁰³ the board approved the committee’s recommendation unanimously.¹⁰⁴

Although the high school reassignment plan aroused anger and resentment—some of which remains to this day¹⁰⁵—there was less legal and political fallout from it than from the elementary school reassignment. In contrast to the elementary school reassignment policy, the high school reassignment’s acknowledged efforts to achieve demographic balance in pupil assignment by overhauling attendance zones that went back more than thirty years spurred no legal challenges. Electoral politics were similarly placid. Whereas opponents of the elementary school reassignment did not win any seats on the school board in the first election following its adoption, they did wage two (out of three on the ballot) hotly contested campaigns in that election.¹⁰⁶ However, the first election—that in November 2004—following adoption of the high school reassignment saw no hotly contested races.¹⁰⁷ Five seats were on the ballot.¹⁰⁸ Four

100. Erica Pippins, *Administrator Excited About Task of Redrawing High School Attendance Lines*, HERALD (Rock Hill, S.C.), Apr. 2, 2003 (available online only through paid subscription service).

101. Erica Pippins, *Reassignment Panel Meets for First Time*, HERALD (Rock Hill, S.C.), May 2, 2003 (available online only through paid subscription service).

102. Terry Plumb, *School Zones Rile Parents*, HERALD (Rock Hill, S.C.), Feb. 15, 2004 (available online only through paid subscription service); Personal communication with Judy Longshaw, *supra* note 98.

103. Wendy Bigham, *Parents Voice Views on School Lines*, HERALD (Rock Hill, S.C.), Feb. 3, 2004 (available online only through paid subscription service).

104. Wendy Bigham, *High School Reassignment Plan Approved*, HERALD (Rock Hill, S.C.), Feb. 24, 2004 (available online only through paid subscription service).

105. Interview with Bob Norwood, *supra* note 92.

106. *See supra* Part I.B.2.

107. South Carolina State Election Commission, 2004 Election Returns from Primaries and General Elections (Countywide): York School Trustee Districts 003, 031 01, 033 04, 034 04, 035 05, http://www.scvotes.org/statistics/election_returns_from_primaries_and_general_elections_countywide (select from election menu “2004-General;” select “get the list of races;” select “York” from county menu, then select “get race.” For District Three result, open separately “York School Trustee District 003” and “York School Trustee Chairman District” “031 01,” “033 04,” “034 04,” and “035 05”).

108. *Id.*

of the five incumbents seeking reelection ran unopposed, and the fifth won easily with fifty-eight percent of the vote.¹⁰⁹

The results of the high school reassignment can be seen from Table 1, which provides data from the two years immediately prior to the high school reassignment and the first two years in which South Pointe had the full complement of high school grades.¹¹⁰ Compared with the situation before South Pointe was opened, the FRL disparity has narrowed dramatically.¹¹¹ The difference between the schools with the highest and lowest FRL-eligibility percentages is now less than five points whereas it had previously been above fifteen.¹¹² Racial imbalance among the three high schools is greater than FRL imbalance, but for Whites and students of color, it is less than it was prior to South Pointe's opening.¹¹³ Moreover, the percentage of White students at Rock Hill High is higher than at Northwestern, a striking indication of how the high school reassignment transformed high school attendance patterns that had existed for more than thirty years.¹¹⁴

109. *Id.*

110. Although South Pointe opened at the start of the 2005–06 school year, it did so with only the ninth and tenth grades. See CCD-Build A Table, *supra* note 87. It was not until the 2007–08 school year that it had all four high school grades. *Id.*

111. See *infra* Table 1.

112. See *infra* Table 1.

113. See *infra* Table 1.

114. See *infra* Table 1.

Table 1. High School Characteristics¹¹⁵

Year	High School	% FRL	% White	% Black	% Nonwhite
2003–04	Northwestern	17	70	26	30
	Rock Hill	36	50	43	50
	All	27	61	34	39
2004–05	Northwestern	21	67	28	33
	Rock Hill	38	50	43	50
	All	29	59	35	41
2007–08	Northwestern	42	53	42	47
	Rock Hill	40	60	28	40
	South Pointe	42	47	50	53
	All	41	54	38	46
2008–09	Northwestern	41	53	41	47
	Rock Hill	43	58	30	42
	South Pointe	45	47	49	53
	All	43	53	39	47

4. Sunset Park, the Challenges of Growth, and the Effects of *Parents Involved*

a. *Sunset Park*

Although the 2002 elementary reassignment markedly decreased the Black share of Sunset Park's enrollment,¹¹⁶ in subsequent years the Black and FRL share of the school's enrollment began drifting upward.¹¹⁷ The drift did not result in the extreme disparity between Sunset Park's and system-wide demographics that existed prior to the 2002 reassignment. But the drift, combined with other concerns, led RHSD to implement a series of magnet programs at the school, with the most recent change converting the school into a Center for

115. See CCD—Build a Table, *supra* note 87 (providing data on racial composition for 2003–04 and 2004–05); Enrollment—All Ethnic Codes, *supra* note 89 (providing data on racial composition for 2007–08); Student Distribution: 45th Day Count, *supra* note 40 (providing racial composition data for 2008–09); S.C. Dep't of Educ., *Free and Reduced Meal Eligibility*, <http://ed.sc.gov/topics/researchandstats/reports/tech/erate/> (last visited Feb. 14, 2010), [hereinafter SCED Erate Reports], (providing data on free and reduced lunch ("FRL") composition through 2007–08 academic year); Office of Sch. Food Servs. & Nutrition, S.C. Dep't of Educ., 45 Day ADM Report (Oct. 2008) [hereinafter SCED Food Services Report] (providing data on FRL composition for 2008–09 academic year) (unpublished record, on file with the North Carolina Law Review).

116. See *supra* note 87 and accompanying text.

117. See *supra* note 87 and accompanying text.

Accelerated Studies, many of whose offerings are aimed at gifted and talented students.¹¹⁸

b. Growth and Elementary Reassignment

Although Sunset Park represents the most longstanding challenge to RHSD's balancing efforts, the district's growth poses more pervasive ones. These challenges are illustrated by the elementary school reassignments that were necessitated by the opening of India Hook Elementary in August 2007 and Mt. Holly Elementary in August 2008.

India Hook is on the rapidly growing northern periphery of RHSD and is located on land purchased from the developer of a subdivision adjacent to the school.¹¹⁹ The site's distance from African American neighborhoods aroused considerable concern on the board about the possibility of balancing any school built there, but financial considerations and the absence of suitable alternative sites trumped these concerns about balancing the school.¹²⁰ As opposed to India Hook, Mt. Holly is located on RHSD's southern periphery.¹²¹ Thus, the board decided to limit the 2007 reassignment to elementary schools in the northern portion of the district and the 2008 reassignment to elementary schools in the southern portion.¹²²

In both reassignments, the plans initially presented to the public for comment provoked significant controversy, and the board revised the original proposals in both reassignments in ways that decreased the number of students who would be reassigned.¹²³ In both cases, the

118. See Jessica Schonberg, *Sunset Park Back to Normal Calendar*, HERALD (Rock Hill, S.C.), Mar. 11, 2008 (available online only through paid subscription service); see also Karen Bair, *Year-Round School Passes Board Vote*, HERALD (Rock Hill, S.C.), Mar. 23, 2004 (available online only through paid subscription service) (discussing the implementation of year-round schooling at Sunset Park Elementary School). Full implementation of these programs began in the 2009–10 school year, too late for discussion in this Article. See Schonberg, *supra*.

119. Jessica Schonberg, *Homes, Businesses Also Tend to Spring Up Near the Sites, Developers Say*, HERALD (Rock Hill, S.C.), Aug. 19, 2007 (available online only through paid subscription service).

120. Interview with Bob Norwood, *supra* note 92.

121. RHSD, Attendance Zones Map (2008–2009) [hereinafter Attendance Zones Map] (on file with the North Carolina Law Review).

122. See Interview with Bob Norwood, *supra* note 92.

123. Karen Bair, *Board OKs Redistricting Plan*, HERALD (Rock Hill, S.C.), Sept. 26, 2006 (available online only through paid subscription); Board Meeting Minutes, Rock Hill Sch. Dist. Bd. of Trustees (Nov. 26, 2007) [hereinafter Board Meeting Minutes Nov. 2007], available at <http://www.rock-hill.k12.sc.us/UserFiles/rhsd3/Documents/Minutes/112607.pdf>; Meeting of the Board of Trustees of Rock Hill School District (Oct. 22, 2007) [hereinafter Board Meeting Oct. 2007] (DVD of meeting on file with the North Carolina

board's two Black members preferred the original proposal, but in the India Hook reassignment they voted for the revised reassignment, making the vote for the India Hook reassignment a unanimous one.¹²⁴ However, in the Mt. Holly reassignment, those same board members, citing concerns about racial balance, were the only two board members to vote against the revised plan.¹²⁵ But even board members who voted for the plan, such as Walter Brown, expressed concern about balance:

We've got elementary schools that are so far out of balance in comparison to what you're saying this [south-side] one would be that we would have to take some drastic steps to balance. And I'm talking about India Hook for one. . . . And I think we've reached a point where we have either got to accept the fact that certain schools, we are never going to be able to balance as much as we would like to balance them, or else we're going to have to go back and we're going to have to redo this map.¹²⁶

Given the concerns about imbalance voiced by board members in the debate over the 2008 reassignment, it is not surprising that this reassignment led, as Figure 1 indicates, to increases in system-wide elementary imbalance as measured by the White/Black and FRL/nonFRL dissimilarity indices.¹²⁷ However, in the previous year (2007–08), the FRL/nonFRL dissimilarity index had declined from a four-year plateau,¹²⁸ so only time will tell whether the increase in the 2008–09 FRL/nonFRL dissimilarity index represents a fluctuation about this plateau or the beginning of ongoing increased socioeconomic imbalance.

More definitive comments can be made about the dissimilarity index between Blacks and Whites, the two groups who together constitute ninety percent of RHSD's enrollment and around whom most of the politics of color in Rock Hill continue to revolve. Although RHSD continues to have what are generally considered high levels of racial balance, the 2007 and 2008 reassignments led to

Law Review). I am especially grateful to Elaine Baker for facilitating my access to RHSD's videotapes of board meetings, from which the DVD cited herein was copied.

124. Bair, *supra* note 123.

125. Board Meeting Minutes Nov. 2007, *supra* note 123; Board Meeting Oct. 2007, *supra* note 123.

126. Board Meeting Oct. 2007, *supra* note 123 (remarks by Walter Brown, Rock Hill School Board Member).

127. See *infra* Figure 1.

128. See *infra* Figure 1.

increases in racial *imbalance*. As Figure 1 shows, the Black/White dissimilarity index increased from 12.5 in 2006–07 to 16.2 in 2007–08 (the year India Hook opened), and 22.5 in 2008–09 (the year Mt. Holly opened).¹²⁹ Much of the change in these dissimilarity indices reflects the demographic composition of the two newly opened schools. Thus in 2008–09, the Black share of the enrollment at both India Hook and Mt. Holly was fifteen percent even though Blacks comprised thirty-four percent of total elementary enrollment.¹³⁰ Also contributing to the increased racial imbalance is the situation at Oakdale Elementary, where the 2008 reassignment resulted in the Black share of the school's enrollment jumping from approximately forty-four percent in 2007–08 to approximately sixty-five percent in 2008–09.¹³¹ As a result of this jump, the Black share of the school's enrollment went from being ten points above the system-wide elementary school average to thirty-one points above it, giving Oakdale the highest percentage Black enrollment of any school in the district.¹³² This change occasioned strong complaints from some Oakdale families.¹³³ It also surprised and upset the district's leadership and triggered searching discussions about how to deal with the Oakdale situation and avoid a similar one in the future.¹³⁴ As a result of these discussions, on January 25, 2010, as this Article was going to press, the board voted unanimously to change the attendance zones of Oakdale, Mt. Holly, and another elementary school.¹³⁵

129. See *infra* Figure 1.

130. See Student Distribution: 45th Day Count, *supra* note 40.

131. See *id.*

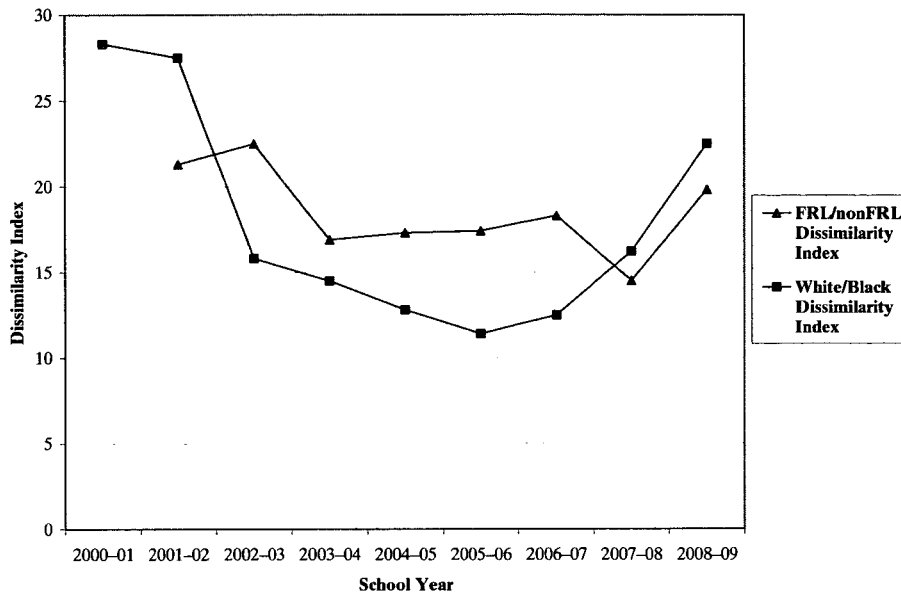
132. See *id.*

133. See Interview with Lynn Moody, Superintendent, Rock Hill Sch. Dist., in Rock Hill, S.C. (Feb. 11, 2009) [hereinafter Interview with Lynn Moody 2009] (on file with the North Carolina Law Review); Interview with Bob Norwood, *supra* note 92.

134. See Interview with Bob Norwood, *supra* note 92; Interview with Lynn Moody 2009, *supra* note 133.

135. See Board Meeting Agenda, Rock Hill Sch. Dist. Bd. of Trustees (Jan. 25, 2010), available at <http://www.rock-hill.k12.sc.us/districtinformation/boardoftrustees/boardmeetingagendas.aspx> (To view Agenda, select "January 25, 2010"); Memorandum Regarding Board Meeting from Hollie Blake, Research Assistant, to Stephen Samuel Smith (Jan. 25, 2010) (on file with the North Carolina Law Review). It will not be until the 2010–11 school year that the effects of this vote on the actual demographic composition of the three schools will begin to be seen. Nonetheless, the fact that the board made this reassignment is yet another indication of RHSD's pursuit of balance.

Figure 1. *FRL/nonFRL & White/Black Elementary School Dissimilarity Indices*¹³⁶



II. DISCUSSION

Before turning to the local factors that facilitated RHSD's pursuit of desegregation and the possible relevance of these factors to other districts, it will be useful to discuss how federal intervention has affected this pursuit.

A. Federal Influence and Rock Hill's Desegregation Efforts

1. Prior to Parents Involved

Federal involvement has been the sine qua non of RHSD's pursuit of desegregation in two major ways. Its recent pursuit was made possible by the change in 2000 in the way board members are elected, and that change was impelled by the Department of Justice's threatened litigation.¹³⁷ Its more long-standing pursuit—as is the case of school districts throughout the South and nation—would not have

136. See CCD-Build a Table, *supra* note 87; 45 Day Ethnic Code, *supra* note 89; Enrollment—All Ethnic Codes, *supra* note 89; Student Distribution: 45th Day Count, *supra* note 40; SCED Erate Reports, *supra* note 115; SCED Food Services Report; *supra* note 115.

137. See *supra* Part I.B.1.

taken place absent *Brown v. Board of Education*¹³⁸ and subsequent federal interventions including that of HEW.¹³⁹

Because RHSD was never under court order, it remained relatively unaffected until recently by the federal courts' growing antipathy to school desegregation, even though RHSD is in the Fourth Circuit, a circuit whose antipathy antedates the Supreme Court's.¹⁴⁰ Indeed, a telling indication of how relatively little the federal judiciary's retreat from desegregation enforcement initially affected RHSD was the school board's willingness to adopt the 2002 reassignment plan with its heavy emphasis on racial balance even after the Fourth Circuit had affirmed the district court's declaration that CMS was unitary.¹⁴¹

However, as the settlement agreement indicates, the lawsuit did limit RHSD's desegregation efforts¹⁴² even though the judge hearing the case had been a prominent civil rights attorney.¹⁴³ There is no way of knowing how the judge would have ruled had the case gone to trial. But it is likely that RHSD benefited from his assignment to the case. Such was the view of the parties to the litigation, including the plaintiffs, whose representative on the high school reassignment committee attributed their amenability to a settlement to reluctance to go to trial before the judge, even though any appeal of his presumed unfavorable (to the plaintiffs) decision would be heard by the Fourth Circuit.¹⁴⁴

The presumed sympathy of the judge to the district's desegregation goals notwithstanding, the settlement agreement limited RHSD's pursuit of desegregation in two main ways. The first was the specific policy limitations noted above.¹⁴⁵ The second was the chilling effect on the district's consideration of race in future pupil assignment decisions.¹⁴⁶ While in toto the settlement agreement is ambiguous, its language prohibiting the use of "numerical racial

138. 347 U.S. 483 (1954).

139. See *supra* Part I.A.

140. See generally *Riddick v. Sch. Bd. of Norfolk*, 784 F.2d 521 (4th Cir. 1986) (allowing a district that had been declared unitary to forsake its desegregation efforts and return to the control of the local school board).

141. *Belk v. Charlotte-Mecklenburg Bd. of Educ.*, 269 F.3d 305, 335 (4th Cir. 2001) (en banc), *cert. denied*, 535 U.S. 986 (2002).

142. See Memorandum of Mediated Agreement, *supra* note 75, at 2-4; *supra* Part I.B.2.

143. See Am. Bar Ass'n News Release, *supra* note 74.

144. Interview with Hollie Bennett, Member of High Sch. Reassignment Comm., Rock Hill Sch. Dist., in Rock Hill, S.C. (Oct. 26, 2004) (on file with the North Carolina Law Review).

145. See *supra* Part I.B.2.

146. See *supra* notes 75-83 and accompanying text.

quotas or targets in the assignment of students in any future SAP [student assignment plan]”¹⁴⁷ made RHSD leery of considering race in pupil assignment.¹⁴⁸ This effect first became apparent during the deliberations of the high school reassignment committee. In one of the committee’s meetings, the plaintiffs’ representative distributed the settlement agreement, saying it forbade the use of race in pupil assignment.¹⁴⁹ However, other committee members wanted to consider race, and Associate Superintendent Moody, the group’s facilitator, said that the agreement was not a blanket prohibition against considering race, but only a prohibition against making race *the* predominant factor.¹⁵⁰ Thus, the group looked at the three schools’ racial compositions projected by the various scenarios prepared by OR/Ed.¹⁵¹ However, much more attention was paid to the schools’ projected FRL and test-score composition.¹⁵² Indeed, the algorithms used to develop the final assignment scenarios did not include race; they included only FRL and test scores along with system-wide transportation distances.¹⁵³ In this respect, the high school reassignment differed from the 2002 elementary school assignment where racial balance had been atop the board’s list of criteria, and its deliberations focused heavily on it.¹⁵⁴

2. The Effect of *Parents Involved*

Parents Involved intensified the chilling effect of the settlement agreement on the consideration of race. The algorithms for the 2008

147. Memorandum of Mediated Agreement, *supra* note 75, at 2; *see supra* Part I.B.2.

148. Cf. Interview with Lynn Moody 2009, *supra* note 133 (“[Y]ou can use [race] as a factor, it just can’t be the predominant factor.”); Interview with Bob Norwood, *supra* note 92 (explaining that “race . . . got us in trouble”).

149. *See* Interview with Ken Spears, *supra* note 98; Personal Communication with Judy Longshaw, *supra* note 98.

150. Interview with Lynn Moody 2009, *supra* note 133; Personal Communication with Judy Longshaw, *supra* note 98.

151. Interview with Lynn Moody 2009, *supra* note 133; Interview with Lynn Moody, Superintendent, Rock Hill Sch. Dist., in Rock Hill, S.C. (Jan. 23, 2006) [hereinafter Interview with Lynn Moody 2006] (on file with the North Carolina Law Review). Data on the projected racial composition of the schools along with their projected FRL and test-score composition were also released to the public. Wendy Bigham, *New Zones May Mean More Travel for Some*, HERALD (Rock Hill, S.C.), Jan. 13, 2004 (available online only through paid subscription service).

152. Interview with Lynn Moody 2006, *supra* note 151; Personal Communication with Judy Longshaw, *supra* note 98.

153. Telephone Interview with Michael Miller, Program Manager, Operations Research/Educ. Lab at N.C. State Univ. (Feb. 4, 2009) (on file with the North Carolina Law Review).

154. *See supra* Part I.B.2.

elementary school assignment—the first to occur after *Parents Involved*—used the same factors that were used in the high school reassignment.¹⁵⁵ But in the 2008 elementary school reassignment, considerations of race were entirely absent from the district's deliberations, according to several board members and senior administrators, including Lynn Moody, now the district's Superintendent.¹⁵⁶ Similarly, when asked about the role of race in these deliberations, an otherwise generally forthcoming board member said, "We're not supposed to talk about it."¹⁵⁷ A telling indication of the lack of consideration of race in the 2008 assignment was Oakdale Elementary, whose African American enrollment surged upon implementation of the assignment.¹⁵⁸ The database used by OR/Ed to develop the reassignment plan contained information on the school's projected racial composition that turned out to be quite accurate.¹⁵⁹ But since RHSD did not consider race, the surge caught the district's leadership by surprise.¹⁶⁰

Importantly, the chilling effect of *Parents Involved* arose more from wariness than from a full or detailed understanding of the Court's decision in *Parents Involved*. In other words, the district leadership knew that *Parents Involved* limited the use of race in pupil assignment but did not know what the nature or extent of these limitations might be.¹⁶¹ In the absence of such knowledge, the attitude was that it is better to be safe than sorry, especially because many of the district's leaders believed that there was no reason to consider race, since they were already considering FRL-eligibility and test scores.¹⁶² Moreover, they also consider race less politically palatable, a topic discussed at length in Part II.B.4.¹⁶³

155. See Interview with Lynn Moody 2009, *supra* note 133; Telephone Interview with Michael Miller, *supra* note 153.

156. Interview with Lynn Moody 2009, *supra* note 133; Personal Communication with Jason Silverman, Sch. Bd. Member, Rock Hill Sch. Dist., in Rock Hill, S.C. (Feb. 16, 2009) (on file with the North Carolina Law Review).

157. Interview with Anonymous Sch. Bd. Member, Rock Hill Sch. Dist., in Rock Hill, S.C. (Jan. 8, 2009) (on file with the North Carolina Law Review).

158. See *supra* Part I.B.4.

159. OR/Ed, Segment Analysis (2008) (on file with the North Carolina Law Review). The OR/Ed database divides RHSD into over 300 planning segments. *Id.* The author assessed the accuracy of the projections based on this database by analyzing the demographic characteristics of the segments that ended up in Oakdale's attendance zone in the 2008–09 school year. See *id.*; Attendance Zones Map, *supra* note 121. A more comprehensive discussion of the database's projections appears *infra* in Part II.B.4.

160. See *supra* Part I.B.4.

161. Interview with Lynn Moody 2009, *supra* note 133.

162. *Id.*

163. See *infra* Part II.B.4.

3. A New Politics of School Desegregation?

The chilling effect of *Parents Involved* illustrates what Karen Kedrowski, Joseph Ellis, and I have called a possible new politics of school desegregation.¹⁶⁴ We raised that possibility prior to *Parents Involved* based on the experience of RHSD and CMS between 1995 and 2005.¹⁶⁵ The many differences between their desegregation histories during this decade notwithstanding, in both CMS and RHSD, local politics were more favorable to desegregation proponents than the federal judiciary was. In RHSD, the settlement agreement was only a partial victory for desegregation proponents, but school board elections were a total victory.¹⁶⁶ In CMS, the difference between the courts and local politics was even more marked. In that district, the workings of local politics in the two school board elections before the 1999 trial and the two elections after it resulted in each of the four elections producing a school board on which a majority of the members vigorously sought to preserve the district's historic commitment to desegregation.¹⁶⁷ It was the federal judiciary that ordered the end to these desegregation efforts.¹⁶⁸ The decentralized nature of U.S. public education makes it difficult to obtain data on the number of other districts nationwide where the school board has recently been more supportive of desegregation than the federal judiciary has been. But as *Parents Involved* indicates, Seattle and Louisville are two very prominent examples where local venues have been more supportive. The extent to which there are additional examples merits investigation.

During the civil rights era the relative favorability of federal and local venues to desegregation advocates was the very opposite of what it has recently been in RHSD, CMS, Seattle, and Louisville. At that time, even though education was (and still is) primarily a local responsibility, desegregation proponents—as exemplified by *Brown*, *Swann*, and numerous other cases—sought to move the battle for desegregation to the federal courts because of the hostility of local school boards. There are several reasons for this change in the

164. See generally Stephen Samuel Smith, Karen M. Kedrowski & Joseph M. Ellis, *Electoral Structures, Venue Selection, and the (New?) Politics of School Desegregation*, 2 PERS. ON POL. 795 (2004) (discussing differences between the federal courts and local political arenas in their receptivity to desegregation efforts in the civil rights era and at the turn of the twenty-first century).

165. See generally *id.* (using events in CMS and RHSD to illustrate changes in the receptivity of the federal courts and local political arenas to desegregation efforts).

166. *Id.* at 796.

167. See SMITH, BOOM FOR WHOM?, *supra* note 1, at 215–16.

168. *Id.* at 168–71.

relative receptivity of local and federal venues to desegregation proponents. The most obvious is the influence of federal judges appointed by Presidents Reagan, George H. W. Bush, and George W. Bush.¹⁶⁹ Second, local political venues reflect the post-civil rights era changes in race relations, and these venues also bear the stamp of the 1965 Voting Rights Act and its amendments, which facilitated the registration and election of peoples of color.¹⁷⁰ Finally, coupling between federal and local venues on desegregation-related issues is looser than it was during the civil rights era.¹⁷¹ At that time, desegregation proponents' success at the federal level translated into success at the local level because of relatively tight coupling between federal and local venues. This tight coupling resulted from the 1964 Civil Rights Act and the 1965 Elementary and Secondary Education Act which, taken together, gave the federal government effective sticks and carrots in battles over school desegregation with recalcitrant local school boards.¹⁷² Indeed, it was the federal

169. The influence of these three presidents can be seen in the outcomes of the cases that are the focus of this Article and that went to trial. All five of the Justices—Chief Justice Roberts, Justice Scalia, Justice Kennedy, Justice Thomas, and Justice Alito—who voted to strike down Seattle's and Louisville's desegregation plans in *Parents Involved* were nominated to the Supreme Court by one of these three presidents. See Federal Judicial Center, Judges of the United States Courts, <http://www.fjc.gov/history/home.nsf> (last visited Feb. 14, 2010) (To find information on each specific Justice, enter the Justice's last name into the search box and select "Go." Then select on the link for the Justice's name). As noted in Part I.B.1, the district court judge, Robert Potter, who declared CMS to be unitary was a Reagan appointee. See *supra* text accompanying note 73. Of the seven judges on the Fourth Circuit who voted to affirm the declaration of unitary status, five judges—Chief Judge Williams, Judge Wilkinson, Judge Wilkins, Judge Niemeyer, and Judge Luttig—had been nominated to the Fourth Circuit by one of these three presidents. See Federal Judicial Center, *supra*. By contrast, all four judges—Judge Michael, Judge Motz, Judge King, and Judge Gregory—who voted to reverse the declaration of unitary status were nominated by President Clinton. *Id.*

170. See Voting Rights Act of 1965, Pub. L. 89-110, 79 Stat. 437 (current version at 42 U.S.C. §§ 1973 to 1973aa-6 (2006)). For consequences of the Voting Rights Act, see generally QUIET REVOLUTION IN THE SOUTH, *supra* note 53.

171. Smith et al., *supra* note 164, at 795. For additional discussion of venue coupling see generally FRANK R. BAUMGARTNER & BRYAN D. JONES, AGENDAS AND INSTABILITY IN AMERICAN POLITICS (1993).

172. See Title VI of the 1964 Civil Rights Act, 42 U.S.C. §§ 2000d to 2000d-7 (2006); Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 (2006). As Professor Davison M. Douglas notes:

Faced with a potential cutoff of federal funds, hundreds of southern school districts altered their pupil assignment plans to conform to the demands of the [HEW desegregation] guidelines. Although every southern state would eventually have at least one school system lose federal funds under the Title VI fund cutoff, most southern school systems sought to comply with the guidelines in order to preserve their funding.

government's use of these sticks and carrots that contributed to RHSD's desegregation in the civil rights era.¹⁷³ However, in the early twenty-first century, the coupling is looser. For example, despite the manifest hostility of the George W. Bush administration to school desegregation, there was little chance that RHSD's pursuit of desegregation during the Bush administration would lead to any significant reduction in federal aid.¹⁷⁴

To be sure, court opinions such as those in *Parents Involved* will have important consequences for school districts around the country, including RHSD. But insofar as (i) there is looser coupling between local venues and Congress and the executive branch on desegregation issues than there was in the civil rights era, and (ii) the federal government has largely abandoned its efforts to promote desegregation, the new politics of desegregation is likely to be more piecemeal than it was in the civil rights era and more likely to occur on a district-by-district basis, since it is more dependent on local conditions and developments.

B. *The Importance of Local Politics and Conditions*

While federal intervention—especially that of HEW in the civil rights era—has been a necessary condition of RHSD's desegregation efforts, it has not been a sufficient condition. Numerous other districts have also been affected by similar interventions,¹⁷⁵ but few have pursued desegregation as successfully and voluntarily in recent years as RHSD has. To understand the reasons for RHSD's success, it is necessary to consider local factors, which can be broken down into three broad categories: leadership and the development of social

DAVISON M. DOUGLAS, *READING, WRITING, & RACE: THE DESEGREGATION OF THE CHARLOTTE SCHOOLS* 125 (1995).

173. Jean Denton, *Savage Says Some Redistribution Likely*, EVENING HERALD (Rock Hill, S.C.), Feb. 17, 1973, at 1 (on file with the North Carolina Law Review); Jean Denton, *Sunset Park Integration Course Being Charted by School Officials*, EVENING HERALD (Rock Hill, S.C.), Mar. 31, 1973, at 1 (on file with the North Carolina Law Review); see *supra* note 42 and accompanying text.

174. Perhaps the Obama administration will be more sympathetic to school desegregation than its immediate predecessors were, but whether such a change would affect the tightness of the coupling between federal and local venues remains to be seen, as does the extent to which Obama's appointments to the federal judiciary may affect its desegregation-related decisions.

175. For the effects of HEW intervention on RHSD, see *supra* Part II.A. Given that CMS's mandatory busing plan of the 1970s and 1980s was frequently considered one of the nation's most successful, CMS provides perhaps the most significant example of a district subject to intervention by the federal judiciary, (i.e., *Swann*), that has not pursued desegregation in recent years as successfully as RHSD has.

purpose politics, the role of citizen advisory committees, and the interaction of race and class. The discussion of each of these three factors will include consideration of their likely implications for other districts.

1. Leadership and the Development of Social Purpose Politics

A key reason for RHSD's success in pursuing balance has been the commitment of the district's leadership to balance. A second key reason is the way in which this leadership has facilitated a local discourse about pupil assignment that has been characterized by what Clarence Stone has called social purpose politics, the ability of interested parties to go beyond a "narrow understanding of their stake in the education system . . . [and] come together around a larger vision of what is at issue."¹⁷⁶ And just as social purpose politics facilitates the development of what Stone calls civic capacity,¹⁷⁷ so too, has social purpose politics contributed to the development of RHSD's capacity to pursue balance, as can be seen from the statements of Rock Hill citizens and RHSD leaders.¹⁷⁸

Before considering these statements, it is worth noting that the importance of RHSD's leadership's commitment to desegregation can be appreciated by comparisons with CMS, especially the administration of Eric Smith, the superintendent under whose leadership CMS adopted the 2002 race-neutral pupil assignment that led to a sharp jump in the district's resegregation.¹⁷⁹ In his 1996 job interview, Smith told the school board "that the one thing I would not do as superintendent was intentionally re-segregate the Charlotte-

176. Stone, *supra* note 33, at 12.

177. "Civic capacity refers to the mobilization of varied stakeholders in support of a communitywide cause." *Id.* at 15. By enabling interested parties to go beyond "a narrow understanding of their stake" and "come together around a larger vision of what is at issue," social purpose politics contributes to mobilization "in support of a communitywide cause." *Id.* at 12, 15. The concept of social purpose politics can be put in broader perspective by noting that it implicitly assumes the possibility for what Jürgen Habermas has called communicative action. *See generally* 1 JÜRGEN HABERMAS, THE THEORY OF COMMUNICATIVE ACTION: REASON AND THE RATIONALIZATION OF SOCIETY (Thomas McCarthy trans., 1984) (comprising a theory of communicative action through the utilization and development of themes from other social theorists); 2 JÜRGEN HABERMAS, THE THEORY OF COMMUNICATIVE ACTION: LIFEWORLD AND SYSTEM (Thomas McCarthy trans., 1987) (arguing, *inter alia*, that through language, humans are able to coordinate their activities because of a mutually agreed upon understanding that the objectives of these activities are worthy and reasonable).

178. *See infra* notes 187–99 and accompanying text.

179. *See supra* notes 1–9 and accompanying text.

Mecklenburg Schools.”¹⁸⁰ Along with a majority of CMS’s school board, he vigorously defended the system’s desegregation goals during the 1999 trial.¹⁸¹ But the outcome of the 1999 trial altered his perspective. Although a majority of the board still wanted to preserve as much as possible of CMS’s historic commitment to desegregation, Smith was much more focused on adopting a plan that would be sure to avoid any additional legal challenges, would appeal to advocates of neighborhood schools, could be implemented quickly, and would satisfy a Charlotte business elite worried that uncertainty in pupil assignment was jeopardizing corporate relocations to Charlotte.¹⁸² Thus, Smith rejected proposals that CMS consider FRL or other socioeconomic criteria in developing its new plan even though such criteria were legal, and without such criteria, the new plan was sure to increase the number of high-poverty schools.¹⁸³ Smith was aware of the many problems posed by high-poverty schools, but he felt that CMS and the broader community had the resources and will to deal with these problems.¹⁸⁴ Indeed, when asked by a local journalist “whether concentrating low-income kids in inner city schools made the job harder, he replied, ‘I don’t think it matters.’ ”¹⁸⁵

Things played out differently in Rock Hill. To be sure, the district was not under a court order declaring it unitary, but RHSD did undergo a lawsuit filed by the same attorneys who had prevailed against CMS, a bitterly contested school board election in 2002, and a wrenching high school reassignment that challenged longstanding community allegiances and commitments to the existing high schools.¹⁸⁶ Despite these challenges, both the board and three different superintendents have largely stayed the course in their voluntarily initiated commitment to pursuing balance.

The views and actions of Board Chair Bob Norwood bespeak how reasoned argumentation, deliberation, and persuasion have resulted in the development of social purpose politics. In the meeting at which the school board approved the 2002 elementary school reassignment, Norwood, then the board’s vice-chair, spoke about how his initial skepticism about the reassignment had been transformed

180. Eric Smith, *Achieving Equity: Why Diversity, High Expectations Matter*, CHARLOTTE OBSERVER, Mar. 9, 1999, at 13A.

181. SMITH, BOOM FOR WHOM?, *supra* note 1, at 161–71.

182. *Id.* at 178, 186–89.

183. *Id.* at 188–89.

184. *Id.* at 189; see Ed Williams, *How Will We Educate Disadvantaged Children?*, CHARLOTTE OBSERVER, Dec. 12, 1999, at 3C.

185. SMITH, BOOM FOR WHOM?, *supra* note 1, at 189.

186. See *supra* Parts I.B.1–3.

into support for it and, more generally, for the importance of balance.¹⁸⁷ The transformation had both empirical and normative components. The empirical aspect included increased awareness of and reflection about the relationships among classroom composition and academic achievement as well as about the daunting challenges facing teachers in classrooms with large numbers of at-risk students.¹⁸⁸ Those considerations shape the way Norwood has tried to persuade others of the importance of balance, including parents in the affluent neighborhoods of Wedgewood and Huntington. These neighborhoods are near Northwestern High, the school to which residents had long been assigned until the high school reassignment committee moved them to South Pointe to achieve greater balance. As Norwood explains:

I remember talking to several families who lived in Wedgewood and Huntington, asking them how they would feel if they were on the other side of the argument. If they were going to be put in a high school that was 75% or 85% poor students, free and reduced lunch students, wouldn't you want a Wedgewood and a Huntington in there with you? Don't you think you can roll up your sleeves and make South Pointe as good a school as Northwestern or Rock Hill High. And I think there was some headway made in that argument because . . . those are the families that were on the front row . . . when South Pointe won the state championship [in football in December 2008].¹⁸⁹

Moreover, the importance the board attaches to balance helps set the parameters of debate in the broader community, as illustrated by how parents who appear before the board challenging reassignment proposals now frame their objections with reference to balance. Earlier in his term on the board, Board Chair Norwood said, parents who objected to a reassignment plan would invariably make their arguments along the lines of:

[M]y child's used to these teachers, they're nice to my child here, they're used to this school, and now if you put them over here, they're not used to it, it's going to be disruptive, it's just

187. See Interview with Bob Norwood, *supra* note 92; see also Bob Norwood, *School Rezoning Best Hope for Leveling Playing Field*, HERALD (Rock Hill, S.C.), Dec. 23, 2001 [hereinafter Norwood, *School Rezoning*] (available online only through paid subscription service) (discussing Norwood's initial reaction to reassignment).

188. See Interview with Bob Norwood, *supra* note 92; see also Norwood, *School Rezoning*, *supra* note 187 (discussing the factors contributing to Norwood's changed opinion about the reassignment).

189. Interview with Bob Norwood, *supra* note 92 (alterations in original).

not going to be good for my child. Those were the arguments we got early on in the process of trying to get the schools balanced. But during the last two [reassignments], the arguments were: we've done our homework, and . . . if you move these three segments and those two segments, you'd still have this balanced and this balanced, and we'd be happier. So they tried to make their arguments to fit into our philosophy more so than just an individual need for their child.¹⁹⁰

Among the parents about whom Norwood was speaking was Kim Neely, who spearheaded the successful opposition to the initial proposal for the 2008 reassignment.¹⁹¹ Part of the reason she studied how moving various segments would affect balance was that her outlook broadened during the debate over the proposal.¹⁹² Although she remained convinced that traffic patterns and travel distances justified her opposition to the initial proposal, she developed a greater understanding of how the board's concern with balance stemmed from its need to consider what was best for the entire district:

[W]hen I got involved, I had blinders on. . . . I was looking at my issue, my little area's issue. But once I saw the big picture, I don't know that there is a perfect answer to balancing the schools. [Be]cause when you have the ones who don't have their parents at home with them at night, not there to help them with their homework . . . you can't put twenty of those kids in one classroom. It's unfair to the child, and it's unfair to the teacher.¹⁹³

Equally telling indications of the development of social purpose politics involve the deliberation and debate on the high school reassignment committee. As the committee's facilitator, then Associate Superintendent Moody, put it:

I never thought we would get close enough to take [a recommendation on the board] to the board. [The committee members] were so diverse in their thinking, in what they truly believed. We would go back to our ground rules about, Are we doing this for all children or just for our neighborhood? See, just the way the committee was set up . . . by their schools. . . . They all came with their individual agendas. I'm going to

190. *Id.* (alterations in original).

191. *Id.*; Interview with Kim Neely, Parent, Rock Hill Sch. Dist., in Rock Hill, S.C. (Feb. 16, 2009) (on file with the North Carolina Law Review).

192. Interview with Kim Neely, *supra* note 191.

193. *Id.* (second alteration in original).

protect Sullivan; I'm going to take care of Oakdale; I'm going to take care of Old Pointe. . . . They saw themselves as a representative to fight for that community, to the people who lived in that community, not to come up with something that was comprehensive for all children. But yet when they set their ground rules—we had a lot of conversation, we went back to it and back to it—and they challenged each other: Who are you talking about? Do you really believe in all children? Well, then why are you saying that? I think it was a soul searching of each other, a real challenge of each other. . . . I don't think anyone of them would say they didn't have to do some compromising.¹⁹⁴

The process Moody describes is reflected in the transformative experience of Ken Spears, the citizen who chaired the committee. Prior to serving in that capacity, Spears had been a member of NU and had run for school board in opposition to the 2002 reassignment.¹⁹⁵ Another member of the committee, Spears noted,

wanted everyone to go [to] their closest school, period. And when we first started, that's kind of the train of thought I had. But then we started doing the data and looking at it, it didn't work. It was too far out of balance. And again, where I came from, and how I was raised, I just didn't feel that was right.¹⁹⁶

Spears's comments about where he came from and how he was raised were references to his childhood economic circumstances. Although Spears is now a successful building contractor, during his school days, his family "didn't have a lot of money," and he and his siblings were "on free lunch."¹⁹⁷ As Spears explained, "I know the struggles that a lot of the people have. I have been on that side of the tracks and I have not forgotten where I came from."¹⁹⁸

Awareness of where he "came from" and knowing on which side of the tracks Rock Hill High was situated helped Spears become a proponent of increasing demographic balance:

[A] lot of people in town felt there was an uneven balance there, that [Rock Hill High] always got the shaft. I was one of the ones who fussed about it, but not to the extent that some of them did. My point of fussing was the free and reduced and minority and that kind of thing, not the fact that one [school]

194. Interview with Lynn Moody 2006, *supra* note 151.

195. Interview with Ken Spears, *supra* note 98.

196. *Id.*

197. *Id.*

198. *Id.*

got a wrestling mat, or one got a uniform for the band before the other did.¹⁹⁹

From these quotes it can be seen that determined, thoughtful, and skillful leadership contributed to the development of social purpose politics that, in turn, has enabled RHSD to swim against the resegregation tide. Adding weight to this implication is the fact that such social purpose politics developed at a time when the United States was characterized, according to prominent observers such as Robert Putnam, by a lack of community engagement, civic trust, and a concern for the public good.²⁰⁰ Of course, there is no way that RHSD's experience with leadership and social purpose politics can be bottled and easily applied elsewhere. But the way in which RHSD has been able to increase integration despite the many challenges,²⁰¹ should inspire and provide guidance to other districts that similarly recognize the importance of integration, but are stymied in their pursuit of it.

2. The Importance of Context in Developing Social Purpose Politics

Significant and inspiring as the implications of RHSD's experience may be, neither leadership nor social purpose politics develops in a vacuum. Rather, both are affected by context and social structure. Thus, without in any way diminishing the importance of leadership in Rock Hill, it is important to discuss the context within which that leadership was exercised as a way of illustrating the contextual factors that can facilitate other districts' pursuit of desegregation. Five contextual factors stand out: the local political environment, RHSD's demographic composition, the district's reputation and the relative paucity of exit options, the district's resources, and the district's size.

RHSD's emphasis on balance has been facilitated by significant aspects of the local political environment. As is the case with many southern localities, Rock Hill's history is littered with gruesome racial incidents, among which was the first assault in 1961 upon the Freedom Riders, including future Member of Congress John Lewis.²⁰² But city leaders have worked hard to overcome much of this

199. *Id.*

200. See generally ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000) (alleging great changes in American society and communities throughout the twentieth century).

201. See *supra* Parts I.B.1–2.

202. JOHN LEWIS WITH MICHAEL D'ORSO, *WALKING WITH THE WIND: A MEMOIR OF THE MOVEMENT* 133–43, 455 (1998).

gruesome history and to promote the kind of tranquil, perhaps progressive, race relations that exemplify what the New South²⁰³ is supposed to be about.²⁰⁴ The hospitality and profuse apologies given to Lewis symbolize these efforts.²⁰⁵ They also include, among other things, the creation of a No Room for Racism Committee more than a decade ago that has instituted a range of programs, including posting signs on major thoroughfares stating that Rock Hill is a city with “no room for racism,” and that has received national recognition.²⁰⁶ The presence of Winthrop University has contributed significantly to a more progressive local political culture. The university is one of Rock Hill’s largest employers, and many of its politically liberal faculty, administration, and staff have played important roles in local political and civic affairs.²⁰⁷ The editorial page of Rock Hill’s daily newspaper has generally backed RHSD’s efforts to achieve balance, and when the paper has disagreed with the school board—as it did about the

203. As illustrated by Charlotte’s Levine Museum of the New South, New South is a widely used term to characterize the economic, cultural, social, and political transformation of the South that has occurred since the Civil War. Levine Museum of the New South, About Us, http://www.museumofthenewsouth.org/about_us/ (last visited Feb. 14, 2010).

204. For the relationships among desegregation, race relations, and Charlotte’s economic growth, see SMITH, BOOM FOR WHOM?, *supra* note 1, at 1, 2, 37–44, 217–20.

205. See, e.g., Jessica Schonberg, *Thank You, My Brother*, HERALD (Rock Hill, S.C.), Jan. 22, 2008 (available online only through paid subscription service).

206. Editorial, *No Room for Racism Here*, HERALD (Rock Hill, S.C.), Apr. 9, 1998 (available online only through paid subscription service).

207. For example, the current mayor, Doug Echols, is a Winthrop graduate, and has served as the university’s associate athletic director. Doug Echols Our Mayor, Getting to Know Doug Echols, <http://www.dougechols.com/About.html> (last visited Feb. 1, 2010). It was Echols who spearheaded efforts to issue the formal apology to Congressman Lewis. Schonberg, *supra* note 205. Other Winthrop personnel who have played important roles in local civic and political affairs include: Biology professor Richard Houk, who spearheaded efforts as early as 1972 to change RHSD school board elections in a way that would allow greater Black representation on the board, COMM. TO STUDY POSSIBILITY OF ELECTING ROCK HILL SCH. DIST. NO. 3 TRUSTEES FROM WARDS OR OTHER GEOGRAPHICAL AREAS, FINAL COMMITTEE REPORT 1 (Dec. 27, 1972) (on file with the North Carolina Law Review); History professor Jason Silverman who, as noted *supra* Part I.B.2 and *infra* Part II.C.4, beat a candidate of Neighborhood United when first elected to the board and continues to serve on the board; Psychology professor Rachel Collopy, who was one of the defendant-intervenors in the elementary school reassignment litigation, Proposed Intervenor’s Motion to Intervene, *supra* note 70; and Melford Wilson, political science professor and vice-president for academic affairs who served on the Rock Hill City Council from 1978 to 1984 and was “recognized as the leading progressive voice on city council.” CRAIG M. WHEELAND, EMPOWERING THE VISION: COMMUNITY-WIDE STRATEGIC PLANNING IN ROCK HILL, SOUTH CAROLINA 66, 71 (2004); Winthrop University Faculty Biography of Melford A. Wilson, Jr., <http://www2.winthrop.edu/plsc/MelfordWilson.htm> (last visited Feb. 15, 2010).

location of the third high school—it has not let that disagreement affect its more general support of the district's emphasis on balance.²⁰⁸

Moreover, RHSD's balancing efforts have been facilitated, and in many ways impelled, by Black political mobilization. It was this mobilization that led to the dismantling of the at-large electoral system which, in turn, led to greater racial and geographic diversity on the school board.²⁰⁹ The board's two new Black members played a key role in the elementary reassignment, and they, together with the new White member from the south side, played a decisive role in the siting of the third high school on the south side of town.²¹⁰ Furthermore, a similar mobilization led to the formation of the multi-racial group of parents who intervened in support of RHSD in the elementary school litigation.²¹¹ In addition to providing RHSD with a legal ally, the intervention furnished important support for RHSD in the battle for public opinion about the elementary school reassignment.²¹²

The demographic context has also been important. Just as the White share of public school enrollment has been falling nationally, so too has it been falling in Rock Hill.²¹³ But in 2008–09, the White share of RHSD's enrollment was still fifty-four percent,²¹⁴ a percentage that falls within the range that scholars generally view as consistent with high levels of desegregation between Whites and peoples of color.²¹⁵ Moreover, the Black share of the RHSD's enrollment is such that the Black share of the district's electorate has

208. See, e.g., *Judge's Ruling Spares District*, HERALD (Rock Hill, S.C.), July 26, 2002 (available online only through a paid subscription service); Terry Plumb, *School Fight a Power Play*, HERALD (Rock Hill, S.C.), May 5, 2002 (available online only through paid subscription service); *Rock Hill's School Plan*, HERALD (Rock Hill, S.C.), Nov. 28, 2001 (available online only through paid subscription service).

209. See *supra* Part I.B.1.

210. See *supra* Parts I.B.2–3.

211. See Personal Communication with Charles Martin “Chuck” Davis, Defendant-Intervenor, in Rock Hill, S.C. (Aug. 14, 2003) [hereinafter Personal Communication with Chuck Davis] (on file with the North Carolina Law Review).

212. See Andrew J. Skerritt, *Parents Come to School District's Defense*, HERALD (Rock Hill, S.C.), Aug. 7, 2002 (available online only through paid subscription service).

213. In 1996–97, Whites comprised sixty-four percent of the public school enrollment nationally; in 2006–07, the corresponding figure was fifty-six percent. NATIONAL CENTER FOR EDUCATIONAL STATISTICS, DIGEST OF EDUCATION STATISTICS: 2008, at tbl.41 (2008), http://nces.ed.gov/programs/digest/d08/tables/dt08_041.asp?referrer=list. In RHSD, the White share of the enrollment was sixty-three percent in 1996–97; and in 2006–07, it was fifty-five percent. See CCD-Build a Table, *supra* note 87.

214. See Student Distribution: 45th Day Count, *supra* note 40.

215. See ARMOR, *supra* note 32, at 222; Charles T. Clotfelter, Helen F. Ladd & Jacob L. Vigdor, *Segregation and Resegregation in North Carolina's Classrooms*, 81 N.C. L. REV. 1463, 1485 (2003).

facilitated significant Black political influence, resulting in the election of two Black board members after the district was forced to dismantle its at-large electoral system.²¹⁶

RHSD also benefits from a reputation of generally having “good schools,” as indicated by a recent *Business Week* article citing Rock Hill’s public schools as one of the reasons why the magazine named the city as the best place in South Carolina to raise kids.²¹⁷ RHSD was also recently recommended for district-wide Southern Association of Colleges and Schools accreditation,²¹⁸ a recommendation that less than half of South Carolina’s districts have received.²¹⁹ In addition to benefiting from its reputation, RHSD also benefits from a relative paucity of exit options from the district. Of the three other districts in the same county (York) as RHSD, the one whose schools are frequently considered the county’s best has generally higher housing costs than Rock Hill.²²⁰ Moving to Charlotte is deterred by ongoing publicity about CMS’s problems, including efforts spearheaded by Whites in outlying areas and a member of the school board to break the district up into smaller ones.²²¹ Thus, RHSD’s location within the Charlotte metropolitan area facilitates the district’s balancing efforts.

Also contributing to the relative paucity of exit options from RHSD is the situation with respect to charter and private schools.

216. See *supra* Part I.B.1.

217. Prashant Gopal, *The Best Places to Raise Your Kids 2009*, BUS. WEEK, Nov. 17, 2008, http://images.businessweek.com/ss/08/11/1110_best_places_for_kids/index.htm (from the first page of the article, use the right arrow key next to the article title to scroll to page forty-one—of fifty-two—for information on Rock Hill).

218. District Accreditation Overview, http://www.advanc-ed.org/accreditation/district_accreditation (last visited Feb. 6, 2010) (follow “Schools/Districts” tab; then follow “School/Districts Listings” hyperlink; then follow “South Carolina” hyperlink; then search “Rock Hill School District”).

219. *Rock Hill Schools Celebrates the 2008 and 2009 Successes of Its Students, Staff and Schools!*, POINTS OF PRIDE (Rock Hill Schools, Rock Hill, S.C.), 2009, at 1, available at http://www.rock-hill.k12.sc.us/UserFiles/rhsd3/Documents/Students/RHSD_Points_brochure_final.pdf; see AdvancED-Find Accredited Institutions, <http://www.advanc-ed.org/oasis2/u/par/search?charter=&category=&postalCode=&name=&institutionType=DISTRICT&d-7676942-p=1&countryCode=US&stateCode=SC&schoolType=&city=> (listing the accredited districts in South Carolina).

220. For example, from April 2009 to June 2009 the median sale price of homes in Rock Hill was \$130,500. Trulia.com, Rock Hill Average and Median Listing Prices, http://www.trulia.com/real_estate/Rock_Hill-South_Carolina/ (last visited Feb. 14, 2010). During that same period, the median sale price in Fort Mill, the town that is the heart of the other district, was almost \$210,000. Trulia.com, Fort Mill Average and Median Listing Prices, http://www.trulia.com/real_estate/Fort_Mill-South_Carolina/ (last visited Feb. 14, 2010).

221. Smith, *Development and the Politics of School Desegregation and Resegregation*, *supra* note 1 (manuscript at 238–39).

Currently, the only charter school in York County is one operated by RHSD for abused or neglected children, which enrolls about twenty students.²²² Moreover, students seeking an elite private school education must travel to Charlotte.²²³ Rock Hill does have several private schools, but analysis of private school enrollment trends suggests that RHSD has done a relatively better job of “competing” with such schools than the rest of South Carolina’s public schools have done.²²⁴

222. South Carolina law allows public school districts to operate charter schools. South Carolina Charter Schools Act of 1996, S.C. CODE ANN. § 59-40 (2002 & Supp. 2009). In 2002, RHSD converted one of its existing public schools into a Montessori charter school, but the school reverted to non-charter status in 2006 though it still offers a Montessori curriculum. See Shawn Cetrone, *York County Charter School Organizers Await State’s OK*, HERALD (Rock Hill, S.C.), July 9, 2009 (available online only through paid subscription service); Erica Pippins, *The Children’s School Brings New Traditions to Sylvia Circle*, HERALD (Rock Hill, S.C.), Oct. 21, 2002 (available online only through paid subscription service); The Children’s School at Sylvia Circle: Our Mission, <http://cs.rock-hill.k12.sc.us/ourmission.aspx> (last visited Feb. 14, 2010). In July 2009, a group of citizens received approval to open a charter school, York Preparatory Academy, in Rock Hill in August 2010. Shawn Cetrone, *York Prep Founders Receive Charter*, HERALD (Rock Hill, S.C.), July 10, 2009 (available online only through paid subscription service); SOUTH CAROLINA CHARTER SCHOOLS (COMPOSITE) 2009–2010, available at <http://ed.sc.gov/agency/Innovation-and-Support/Public-School-Choice-and-Innovation/Charter-Schools/ListofCharterSchools.html>. It remains to be seen how the school will affect RHSD’s enrollment.

223. Charlotte has three elite private schools, Charlotte Latin, Charlotte Country Day, and Providence Day, whereas Rock Hill has none. See DIV. OF NON-PUB. EDUC., N.C. DEP’T OF ADMIN., NORTH CAROLINA DIRECTORY OF NON-PUBLIC SCHOOLS 53, 59 (2009), available at <http://www.ncdnp.org/documents/hhh119k.pdf>.

224. Analyzing private school data is fraught with methodological problems, among which is the fact that neither South Carolina’s nor the National Center of Educational Statistics’ (“NCES”) data provide information about where students reside. Thus, enrollment data for a private school in Rock Hill may include students who live elsewhere, and, similarly, enrollment data for a private school outside Rock Hill may include students who live in Rock Hill. Thus, any comparison of enrollment trends can only be suggestive, but it is nonetheless worth analyzing these trends since obtaining data on students’ residences is a Herculean effort well beyond the scope of this Article.

Both South Carolina and the NCES surveyed private schools in the 2003–04 school year, which provides a useful baseline because it is the year in which the board’s adoption of the high school reassignment plan augured a major shift in the demographic composition of the district’s high schools. See S.C. DEP’T OF EDUC., ENROLLMENT IN PRIVATE AND PAROCHIAL SCHOOLS (2004) [hereinafter 2003–2004 ENROLLMENT REPORT] (on file with the North Carolina Law Review); NATIONAL CENTER FOR EDUCATIONAL STATISTICS, PRIVATE SCHOOL UNIVERSE STUDY, <http://nces.ed.gov/surveys/pss/pssdata.asp> (last visited Feb. 14, 2010). The NCES also conducted a survey for the 2007–08 school year, by which time the India Hook reassignment had also gone into effect, and South Carolina conducted a survey for the 2008–09 school year, by which time the Mount Holly reassignment, too, had gone into effect. See NATIONAL CENTER FOR EDUCATIONAL STATISTICS, *supra*; S.C. DEP’T OF EDUC., SOUTH CAROLINA PRIVATE SCHOOLS, 2008–2009 SCHOOL YEAR (2009) [hereinafter 2008–2009 PRIVATE SCHOOLS REPORT] (on file with the North Carolina Law Review).

The relationship between RHSD's pursuit of balance and its demographic composition, reputation, and resources is reasonably straightforward. But the relationship between integration and a district's enrollment and/or area is more complex. As Gary Orfield has pointed out, there is noteworthy evidence linking large, consolidated districts to lower levels of segregation, and in politically balkanized, residentially segregated metropolitan areas, metropolitan-wide desegregation plans are generally viewed as the most effective.²²⁵ Moreover, the belief that larger jurisdictions facilitate a politically salutary diversity is a crucial claim of Federalist No. 10, one of the founding documents of the U.S. political tradition.²²⁶

However, much of the evidence about the association between large districts and higher levels of intradistrict desegregation is based on an era characterized by court-mandated desegregation.²²⁷ Desegregation efforts that are court mandated benefit from the coercive aspects of the (externally imposed) court order. In voluntarily initiated desegregation efforts, such externally imposed coercion is, by definition, absent. Given the absence of such externally imposed coercion in voluntarily initiated desegregation efforts, these efforts depend much more on local political support than do court-mandated desegregation efforts. That support is facilitated by social purpose politics, a component of which is being able to identify with the whole. That identification, in turn, is likely facilitated by smaller, rather than larger, communities, as is suggested

Analysis of NCES data indicates that between 2003–04 and 2007–08, K-12 enrollment in both Rock Hill's and the rest of the state's private schools declined. See NATIONAL CENTER FOR EDUCATIONAL STATISTICS, *supra*. But the decline was greater (thirteen percent) in Rock Hill than throughout the rest of South Carolina (five percent). *Id.* Similarly, analysis of South Carolina data indicates that between 2003–04 and 2008–09, the decline in Rock Hill was greater (twenty-one percent) than in the rest of the state (twelve percent). See 2003–2004 ENROLLMENT REPORT, *supra*; 2008–2009 PRIVATE SCHOOLS REPORT, *supra*; see also Shawn Cetrone, *Trinity Christian School to Close*, HERALD (Rock Hill, S.C.), July 22, 2009 (available online only through paid subscription service) (providing enrollment data for Trinity Christian School that was not provided in other South Carolina reports). The fact that both comparisons indicate that the decline was greater in Rock Hill than in the rest of the state provides suggestive evidence that whatever objections there might be to RHSD's reassignments, Rock Hill families nonetheless find local public schools relatively more attractive (compared with private school alternatives) than do families elsewhere in the state.

225. Gary Orfield, *Metropolitan School Desegregation: Impacts on Metropolitan Society*, 80 MINN. L. REV. 825, 825–27 (1996).

226. THE FEDERALIST NO. 10, at 53 (James Madison) (J.R. Pole ed., 2005); see also Orfield, *supra* note 225, at 835 (explaining that Madison believed a “bigger polity would make more probable both genuine freedom and effectiveness”).

227. See Orfield, *supra* note 225, at 832.

by the longstanding distinction in sociological theory between *gemeinschaft* and *gesellschaft*.²²⁸ In fact, part of Madison's argument about the advantages of larger jurisdictions is that they militate against identification with broader causes, interests, and identities because of the much greater likelihood of conflicting, competing, and cross-cutting allegiances, identities, and interests.²²⁹

Logistical considerations also call attention to the advantages of a smaller size in facilitating intradistrict desegregation. As David Armor notes, "[t]he larger the number of schools [in a district], the greater the logistical challenge for increasing desegregation and racial balance at all grade levels."²³⁰ The likelihood of such logistical challenges is one explanation that Clotfelter, Ladd, and Vigdor provide for their finding of a strong positive relationship between enrollment and segregation in North Carolina school districts.²³¹

The relevance of such logistical considerations to RHSD can be seen by recalling how Rock Hill's population growth occasioned the building of India Hook and Mt. Holly. Both of these schools are located in predominantly White, outlying areas and their opening has increased racial imbalance in RHSD.²³² However, the very fact that this increase stemmed from the opening of these schools in outlying

228. The distinction originates with Frederick Tönnies's claims that the difference between village and urban life largely corresponds to the differences between *gemeinschaft* and *gesellschaft*. FERDINAND TÖNNIES, *COMMUNITY & SOCIETY (GEMEINSCHAFT UND GESELLSCHAFT)* 33–35 (Charles P. Loomis, ed. & trans., Transaction Books 1988) (1887). *Gemeinschaft* (roughly translated as "community") is frequently viewed by contemporary scholars as being "characterized by a strong identification with the community . . . and holistic conceptions of other members of the community (i.e., . . . viewing a person as significant in her own right rather than as a means to an end)." GEORGE S. WOOD, JR. & JUAN C. JUDIKIS, *CONVERSATIONS ON COMMUNITY THEORY* 150–51 (2002) (quoting LARRY J. LYON, *THE COMMUNITY IN URBAN SOCIETY* 7 (1987)). By contrast *gesellschaft* (roughly translated as "society") "is characterized by little or no identification with the community, affective neutrality, legalism, and segmental conceptions of other members of the community." *Id.* (quoting LARRY J. LYON, *THE COMMUNITY IN URBAN SOCIETY* 7 (1987)). The extent to which Tönnies was correct in viewing the village/urban distinction as coterminous with the *gemeinschaft/gesellschaft* distinction has been the subject of extensive study. But even one of the most effective challenges to their being coterminous acknowledges that the empirical literature has shown how "the rhythms of collective life and participation in common activities, reinforced by collective symbols, help to create a strong sense of identity with place in smaller communities of place." Steven Brint, *Gemeinschaft Revisited: A Critique and Reconstruction of the Community Concept*, 19 SOC. THEORY 1, 5 (2001).

229. THE FEDERALIST NO. 10, *supra* note 226, at 53.

230. ARMOR, *supra* note 32, at 183.

231. Clotfelter et al., *supra* note 215, at 1484 ("[Thirty-seven percent] of the variation in segregation is associated with variation in the size of school districts.").

232. See *supra* Part I.B.4.

areas is evidence of how RHSD's balancing efforts prior to their opening were facilitated by the district's relatively small size.²³³

3. The Role of Citizen Advisory Committees

As indicated by the account of the high school reassignment, the citizen advisory committee played a key role in the reassignment success.²³⁴ The use of such committees might be viewed as obligatory at a time, such as the present, in which terms such as "inclusiveness" and "citizen involvement" are buzzwords for much of what civic life is supposed to be about. Moreover, the controversy that erupted over the 2002 elementary school reassignment that was initially proposed without any significant community input may seem to have made the very different approach to the high school reassignment a no-brainer. But the scholarly literature on such committees presents a sobering picture of their consequences.

For example, an early review of citizen involvement concluded, "[t]he less the public is asked for its opinion during the period of policy-formation, the greater the likelihood that the public will accept the integration plan."²³⁵ A subsequent study of ten districts found that "much citizen participation in planning is more symbolic than real," but also indicated that such participation "may have a positive effect in avoiding conflict if participation takes place *before* specific decisions about how to desegregate are made."²³⁶ The most thorough study of the issue was conducted by Jennifer Hochschild, who notes that such involvement may have certain advantages.²³⁷ But she, too, provides a generally pessimistic appraisal of citizen participation:

[I]f citizens become involved early in the process, if their roles and responsibilities are clear, if their work is relevant and actually influences the process, they may improve the plan and increase white acceptance. But these conditions are seldom met, and—a big constraint—their outcomes usually come at the relative expense of minorities. Minorities seldom end up worse

233. The advantages of RHSD's relative small size become even more apparent when comparisons are drawn with CMS's much larger size. See *infra* Part II.C.1.

234. See *supra* Part I.B.3.

235. Morton Inger & Robert T. Stout, *School Desegregation: The Need to Govern*, URB. REV., Nov. 1968, at 35, 36.

236. Susan L. Greenblatt & Charles V. Willie, *School Desegregation and the Management of Social Change*, in COMMUNITY POLITICS AND EDUCATIONAL CHANGE: TEN SCHOOL SYSTEMS UNDER COURT ORDER 319, 340 (Charles V. Willie & Susan L. Greenblatt eds., 1981).

237. JENNIFER L. HOCHSCHILD, *THE NEW AMERICAN DILEMMA: LIBERAL DEMOCRACY AND SCHOOL DESEGREGATION* 101 (1984).

off than they started when citizens design plans, but they always come out with more of the burden. . . . But the point is worth reiterating: citizen planning and advisory groups are generally ineffective, and whites are generally more effective participants than blacks. Thus we should not be surprised to find that citizen planning for desegregation has few positive and many negative effects on desegregation goals.²³⁸

However, the conditions these scholars cite as explanations for the ineffectiveness and/or harmfulness of such committees help explain the success of the high school reassignment committee because conditions in RHSD were the very opposite. In particular, citizens were involved very early on in the process, their roles were clearly specified, and their work was of considerable influence.²³⁹ Moreover, the committee benefited from the membership of several RHSD employees, especially teachers.²⁴⁰ At one point in the committee's discussions, several teachers attested to the difficulty posed by schools and classrooms with high percentages of low-income, low-achieving students.²⁴¹ Their remarks helped persuade some previously skeptical committee members of the importance of pursuing balance in pupil assignment.²⁴² Moreover, the teachers' communication skills and understanding of educational issues helped clarify other issues for the committee.²⁴³

The committee also benefited from the fact that RHSD had the financial and personnel resources to effectively support the committee's work.²⁴⁴ These resources allowed the district to hire OR/Ed to provide data and help educate committee members to use and interpret the data.²⁴⁵ These resources also allowed one of the district's three associate superintendents, Lynn Moody, to devote very large amounts of her time and energy for almost a year to facilitating the work of the committee.²⁴⁶ A strong proponent of balance, Moody worked hard to strike a balance between

238. *Id.* at 101–02, 106.

239. *See supra* Part I.B.3.

240. *See* Interview with Ken Spears, *supra* note 98; Personal communication with Judy Longshaw, *supra* note 98.

241. *See* Interview with Ken Spears, *supra* note 98; Personal communication with Judy Longshaw, *supra* note 98.

242. *See* Interview with Ken Spears, *supra* note 98; Personal communication with Judy Longshaw, *supra* note 98.

243. *See* Interview with Ken Spears, *supra* note 98; Interview with Lynn Moody 2006, *supra* note 151; Personal communication with Judy Longshaw, *supra* note 98.

244. *See* Interview with Lynn Moody 2006, *supra* note 151.

245. *See supra* Part I.B.3.

246. *See* Interview with Lynn Moody 2006, *supra* note 151.

encouraging the committee to pursue balance and jeopardizing her credibility with members skeptical about the importance of balance.²⁴⁷ It is not surprising that Moody's leadership received praise from members who shared her belief in the importance of balance.²⁴⁸ More significant testimony on her leadership comes from the committee member, Hollie Bennett, who had been one of the plaintiffs in the legal challenge to the 2002 elementary school reassignment. Bennett was critical of RHSD and the committee's work. She thought that "the district knew what [assignment plan] map they wanted, and this is what they pushed for. I don't think the process was fair . . . and it was highly directed by district administration."²⁴⁹ She considered "Lynn's ability to manage the group very stifling," but added, "She's a wonderful lady, I have a lot of respect for her. She has great ability to get results that she had pre-set in her mind, and she did a remarkable job at that. I certainly wish I had some of those skills."²⁵⁰ That this person could find Moody's management "stifling," but admire her ability to get results is strong evidence that the Associate Superintendent's leadership contributed to the adoption of a plan that placed great emphasis on balance.

This discussion of the high school reassignment committee has important implications for the role of citizens advisory committees in voluntary desegregation efforts. Although the scholarly literature calls attention to the downsides of citizen advisory committees,²⁵¹ RHSD's experience calls attention to the benefits that such committees can provide. Moreover, there are strong reasons for thinking that whatever these downsides, such committees may be especially worth using nowadays. All of the studies quoted above appeared more than twenty years ago and thus drew heavily on desegregation efforts that stemmed from federal mandates or pressure.²⁵² Although community support was important to the successful implementation of federally mandated desegregation, such support is, virtually by definition, more important to the development and successful implementation of voluntarily initiated desegregation efforts. Citizen committees seem like a good way to try to build this support, especially if they have the resources, leadership, and

247. *See id.*

248. *See* Interview with Leila Hicklin, Comm. Member, in Rock Hill, S.C. (Dec. 28, 2004) (on file with the North Carolina Law Review); Interview with Ken Spears, *supra* note 98.

249. Interview with Hollie Bennett, *supra* note 144.

250. *Id.*

251. *See supra* notes 235–38 and accompanying text.

252. *See supra* notes 235–38 and accompanying text.

opportunities for relevant input that RHSD's high school reassignment committee had.

The importance of resources merits additional comment. The success of the high school reassignment committee notwithstanding, in the subsequent elementary assignments, RHSD has taken a different approach. Although it has appointed committees to work with the administration, board, and OR/Ed in developing these assignment plans, the committees played a smaller role, contained fewer parents, included at least one RHSD board member, and did not meet for as long a period as the high school reassignment committee.²⁵³ One significant reason for the change was the district's desire to avoid devoting the large amount of financial and personnel resources to the elementary assignments that had been necessary to support the high school reassignment committee.²⁵⁴ Such financial considerations will likely weigh on other districts, especially if current economic conditions continue.

But such costs should be weighed against the benefits of such committees, especially their potential—as was the case of RHSD's high school reassignment committee—to facilitate community acceptance of a plan in a manner that minimizes political turmoil and/or avoids legal challenge, either of which can take a heavy toll on a district's financial, political, and administrative resources. Moreover, one of the main reasons the high school reassignment committee required extensive resources—especially the time of Associate Superintendent Moody and other RHSD administrators and staffers—was that the district had no prior experience with such committees. As Moody subsequently indicated, in leading the committee, she had no models from which to draw, “[f]elt we were experiencing things for [the] first time,” and “went month by month, almost by the seat of [our] pants.”²⁵⁵ To the extent RHSD's experience with these committees can be disseminated,²⁵⁶ other districts using such committees, even for the first time, may not face

253. See Interview with Anonymous School Board Member, *supra* note 157.

254. See Interview with Lynn Moody 2009, *supra* note 133; Interview with Lynn Moody 2006, *supra* note 151.

255. Interview with Lynn Moody 2006, *supra* note 151. Moody's feeling that “we were experiencing things for [the] first time,” *id.*, jibes with the assessment of the scholarly literature by Arlene K. Brown and Karen W. Knight whose “expanded literature search” found “[n]o professional articles specifically related to how urban school districts set school boundaries with respect to diversity variables.” Arlene K. Brown & Karen W. Knight, *School Boundary and Student Assignment Procedures in Large, Urban Public School Systems*, 37 EDUC. & URB. SOC'Y 398, 401 (2005).

256. See *infra* Part II.D.

the extensive costs associated with the necessity of flying by the seat of their pants.

4. Race and Class

There is rapidly growing literature about the relationship between race- and class-based desegregation efforts. The amicus brief signed by 553 social scientists submitted on behalf of the respondents in *Parents Involved* views this literature as generally expressing skepticism about the extent to which efforts at achieving socioeconomic integration will also result in racial integration.²⁵⁷ By contrast, other scholars are more optimistic that socioeconomic integration can result in racial integration.²⁵⁸ Moreover, it is often claimed, socioeconomic integration faces fewer political and legal obstacles than racial integration does.²⁵⁹

RHSD's recent desegregation efforts provide support for each position, as can be seen by discussing the political aspects of these efforts as well as the consequences of these efforts for pupil assignment.

a. The Politics of Race and Class

The high school reassignment involved more students than the 2002 elementary assignment and was a wrenching experience for more families.²⁶⁰ In addition, the high school reassignment revamped thirty-plus year attendance patterns and longstanding school allegiances in a way that the 2002 elementary assignment did not. But no litigation resulted from the high school reassignment. Moreover, the elementary school reassignment resulted in a sharply contested school board election, but in the election following the high school assignment, four of the five incumbents on the ballot had no opposition, and the fifth won easily.²⁶¹

257. See Brief of 553 Social Scientists as Amici Curiae in Support of Respondents at 13, app. at 48–50, *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007) (Nos. 05-908 & 05-915).

258. RICHARD D. KAHLENBERG, CENTURY FOUNDATION, *RESCUING BROWN V. BOARD OF EDUCATION: PROFILES OF TWELVE SCHOOL DISTRICTS PURSUING SOCIOECONOMIC SCHOOL INTEGRATION* 3 (2007), <http://www.tcf.org/publications/education/districtprofiles.pdf>.

259. *Id.* See generally RICHARD D. KAHLENBERG, *ALL TOGETHER NOW: CREATING MIDDLE-CLASS SCHOOLS THROUGH PUBLIC SCHOOL CHOICE* (2001) (advocating for the socioeconomic integration of public schools).

260. See *supra* Part II.B.1.

261. See *supra* Part I.B.3.

Much of the difference between the two assignments can be attributed to how the development of the high school plan by the citizens committee—rather than by RHSD’s administration, as had been the case with the elementary plan—facilitated acceptance of the plan. However, both the development of the plan by the committee and the minimal electoral fallout from it were also facilitated by the fact that the high school reassignment was generally viewed as addressing issues of class as well as race, which was very different from the way the elementary reassignment was viewed.

Both proponents and opponents of the 2002 elementary assignment viewed it as an attempt to remedy Sunset Park’s racial imbalance by reassigning Whites from relatively modest economic circumstances to Sunset Park.²⁶² By contrast, the high school reassignment did not exempt some affluent White families from what they viewed as the less desirable reassignment from Northwestern to South Pointe.²⁶³ The reassignment of these affluent White families was one of the many reasons why the high school reassignment was more widely perceived as remedying longstanding disparities that had hurt not only Blacks, but also working-class Whites. That view is reflected in the statements of the high school reassignment committee’s (White) chair about how growing up in a family without a lot of money, he had not forgotten where he came from and was thus concerned about the “free and reduced, and the minority” composition of the high schools.²⁶⁴

To note that the high school reassignment was seen as benefiting Blacks and working-class Whites is not, however, to say that voting and preferences on the high school reassignment committee necessarily followed class or race lines. They did not. Some of the strongest proponents of balance on the committee were Whites from economically comfortable families who felt compelled to address the longstanding imbalances in high school assignment, which they viewed in race, class, academic, and other terms. As a White committee member who is the wife of a physician said:

When I look back on the history of our city . . . I will say personally that for years I don’t think the high schools have

262. See Erica Pippins, *District Settles Year-Old Suit*, HERALD (Rock Hill, S.C.), May 1, 2003 (available online only through paid subscription service); Johnny Walker, Editorial, *Don’t Draw School Lines Based on Race*, HERALD (Rock Hill, S.C.), May 2, 2002 (available online only through paid subscription service); Interview with Bob Norwood, *supra* note 92; Interview with Ken Spears, *supra* note 98.

263. See *supra* Part II.B.3.

264. See *supra* text accompanying notes 195–99.

been balanced. And it's been used around town that [Northwestern] is white collar and [Rock Hill] is blue collar, and I think most people on committee wanted to change that concept. And that's why I'm happy with that outcome [of the reassignment] because if statistics are right, balance should be much better than when we started. . . . [W]hen I say balance, I just don't mean racial balance, I mean, I like to say, parental participation balance . . . , [a]nd obviously SES and SAT scores. . . .²⁶⁵

Just as the difference in political fallout from the two assignment plans calls attention to the political advantages of an issue being seen at least as much in class terms as in race terms, so, too, does the event that provided the impetus for much of the events recounted in this paper: the dismantling of the at-large electoral system. The challenge to the at-large electoral system was initiated almost exclusively by middle-class African Americans.²⁶⁶ But they framed the issue not as one that focused on race, but as one that focused on place. They named the organization that spearheaded their efforts the Neighborhood Coalition Council, and that organization emphasized the need to increase the representation of the historically underrepresented and less affluent south side of town.

b. Political Implications

RHSD's recent experience provides considerable support for arguments touting the greater political viability of reassignment plans and political strategies that are viewed as benefiting working-class Whites as well as peoples of color. However, two additional observations must accompany this conclusion. Race was not invariably subsumed under class, but at various key points, each had a life of its own and was considered both separately as well as in connection with the other. Thus, as indicated by statements of members of the high school reassignment committee,²⁶⁷ members thought about both race and class, and each of the many possible assignment scenarios provided data on the projected racial and FRL composition of the three high schools.

The second observation involves the key role of race in political mobilization. Even though the Black activists who spearheaded the struggle against the at-large electoral system framed the issue as

265. Interview with Leila Hicklin, *supra* note 248.

266. See *supra* Part I.B.1.

267. See Interview with Leila Hicklin, *supra* note 248; *supra* Part II.B.1.

primarily one of place not race, they were motivated primarily by the desire to remedy the racial discrimination built into an at-large electoral system that kept Blacks from winning any seats on the board in three successive elections despite the fact that African Americans constituted twenty-two percent of the registered voters.²⁶⁸ It is thus only a slight exaggeration to say that the south-side Whites who also benefited from the change in electoral system were riding on the coattails of a struggle initiated by and waged primarily by Blacks. Similarly, much of the impetus to recruit families (both Black and White) to intervene in support of RHSD in the elementary school litigation came from African Americans.²⁶⁹ Thus, the Rock Hill experience is a reminder of the probable shortcomings of any political strategy whose focus on class leads it to neglect the extent to which racial oppression is a distinctive source of political mobilization with the potential to address issues of class as well as those of race that trigger the mobilization.

c. Race and Class in Pupil Assignment Plans

Just as RHSD's experience indicates the complexity of the political aspects of the relationship between race and class, so, too, does it illustrate the complexity of discerning the extent to which socioeconomic and racial integration go hand in hand in with pupil assignment.

Because of the longstanding class and race differences between Northwestern High and Rock Hill High,²⁷⁰ the debate over the location of the third high school saw a strong overlap between class and racial interests, and the decision to build the school on the south side facilitated both the racial and socioeconomic balance that the high school reassignment committee was seeking. By reversing longstanding attendance patterns, the high school reassignment benefited both Blacks and working class Whites, a notable achievement given how often school desegregation is viewed as pitting peoples of color against working class Whites.²⁷¹ Finally, the generally parallel character of the trends in the White/Black and

268. See *supra* Parts I.A.1, I.B.1.

269. Personal Communication with Chuck Davis, *supra* note 211.

270. See *supra* Part I.A.

271. See generally RONALD P. FORMISANO, *BOSTON AGAINST BUSING: RACE, CLASS, AND ETHNICITY IN THE 1960S AND 1970S* (1991) (stating that one reason why working-class Whites have opposed desegregation efforts is that many desegregation plans, perhaps most famously Boston's, have required much greater changes in pupil assignment for Blacks and working-class Whites than they have required for more privileged, affluent, and politically influential Whites).

FRL/non-FRL dissimilarity indices in Figure 1 is consistent with claims that socioeconomic and racial integration can frequently go hand in hand. Nonetheless, RHSD's two most recent pupil assignments—India Hook (2007) and Mt. Holly (2008)—raise doubts about the extent to which the use of class in pupil assignment eliminates the need to also consider race.

The Mt. Holly reassignment led to a sharp jump in the Black enrollment at Oakdale Elementary in the 2008–09 school year.²⁷² That jump resulted from changes in Oakdale's attendance zone caused by the juggling of several schools' zones that was necessitated by Mt. Holly's opening.²⁷³ The consequence of all the changes, planning scenarios indicated, would be that the percentage of FRL-eligible students in Oakdale's attendance zone would increase to approximately fifty-three percent, only eleven points above what the scenarios considered to be the system-wide percentage FRL-eligibility and within the \pm fifteen percent bandwidth to which RHSD has generally tried to adhere.²⁷⁴ However, this same planning data indicated that the Black share of Oakdale's enrollment would increase to approximately sixty-two percent.²⁷⁵ Even though that figure was three points lower than Oakdale's actual Black enrollment in 2008–09, it was twenty-seven points above what the projections considered to be the system-wide Black enrollment.²⁷⁶ But since RHSD did not consider race in the 2008 reassignment, the district did not look at the racial composition of the neighborhoods removed from or added to Oakdale's attendance zone or at the projected racial composition of the school's enrollment.²⁷⁷ Thus, the dramatic change in Oakdale's racial composition caught the district by surprise and has triggered intensive discussion about how to address Oakdale's situation and prevent similar ones in the future.²⁷⁸

272. *See supra* Part I.B.4.

273. *See supra* Part I.B.4.

274. *See supra* note 159 and accompanying text. This data coded students as White or non-White. To compute the percentages of Black students reported in this paragraph, I multiplied the number of non-White students by the 2008–09 Black share of Oakdale's non-White enrollment. It should also be noted that the FRL-eligible share of Oakdale's enrollment increased more than expected. But the difference is likely attributable to the staggering economy, the well-known difficulties districts face in accurately assessing FRL-eligibility, technical considerations in the use of FRL data for planning purposes, and so forth. Indeed, the very fact that FRL data is influenced by such factors is another reason for questioning the extent to which its use eliminates the need for also considering race.

275. *See supra* notes 159, 274 and accompanying text.

276. *See supra* notes 159, 274 and accompanying text.

277. *See supra* Part I.B.4.

278. *See supra* Part I.B.4.

The India Hook reassignment also suggests why it is necessary to consider race as well as socioeconomic factors. As Figure 1 indicates, this reassignment led to a marked decrease in the FRL/non-FRL dissimilarity index but a marked increase in the White/Black dissimilarity index. To understand a crucial reason why the two indices moved in opposite directions, it is necessary to broaden the previous discussion to include Hispanics and the ethnic, not just racial, aspects of desegregation. Hispanics comprise approximately six percent of RHSD's enrollment.²⁷⁹ The rate of poverty among Hispanic students is roughly the same as that of Black students; approximately seventy-five percent of Hispanic children were FRL-eligible in 2008–09 as opposed to seventy percent of Black children (and twenty-six percent of White children).²⁸⁰ But as opposed to Blacks who predominantly reside on Rock Hill's south side, the vast majority of Hispanics live on the north side and are thus heavily concentrated in several north side schools.²⁸¹ Consequently, Black/Hispanic imbalance is greater than both White/Hispanic and White/Black imbalance. In 2008–09, the elementary school Black/Hispanic dissimilarity index was 39.3, the White/Hispanic index was 33.0, and the White/Black index was 22.5.²⁸²

Given India Hook's location near outlying, economically well off and heavily White north side neighborhoods, RHSD was able to include the predominantly Hispanic north side neighborhoods in the school's attendance zone as part of its efforts to achieve socioeconomic balance. As a result, when India Hook opened in 2007–08, its FRL enrollment was approximately eight points below the system-wide percentage and easily within the \pm fifteen percent bandwidth.²⁸³ By contrast, the Black enrollment of seventeen percent was half the system-wide percentage and outside the \pm fifteen percent bandwidth.²⁸⁴ Because Hispanics constituted only six percent of RHSD's student population, India Hook's twelve percent Hispanic enrollment was within the \pm fifteen percent bandwidth, but it was twice the system-wide percentage.²⁸⁵

279. See *supra* note 40 and accompanying text.

280. Rock Hill School District, Student Distribution—Free/Reduced Lunch Totals 2008–2009 (unpublished record, on file with the North Carolina Law Review).

281. See *supra* notes 38, 89 and accompanying text.

282. Student Distribution: 45th Day Count, *supra* note 40.

283. Enrollment—All Ethnic Codes, *supra* note 89.

284. *Id.*

285. *Id.*

The point of recounting the India Hook experience is not to broach the challenging issue of what pupil assignment policy would best serve the distinctive needs of the district's Hispanic students, which is a topic well beyond the scope of this Article. Rather, the point of discussing India Hook is to call attention to a more modest but nonetheless important implication of Rock Hill's experience: even in this district, whose racial/ethnic composition is less complex than that of many other districts, the relationship among socioeconomic and racial/ethnic integration is multi-dimensional. An exclusive focus on socioeconomic integration runs the risk of overlooking important aspects of racial/ethnic integration.

C. *Comparisons Between RHSD and CMS*

The increase in racial imbalance resulting from the construction of India Hook and Mt. Holly in RHSD's heavily White outlying areas bears some resemblance to events in the history of CMS. During the *Swann* era, the increase in CMS's enrollment led to the building of many new schools in predominantly White, outlying areas, locations that undermined efforts to maintain a racially balanced school system.²⁸⁶ It is worth discussing this resemblance for two reasons.

The first is to further emphasize the importance of local developments in affecting desegregation's trajectory. At the time CMS built these schools, it was not under an ill-defined shadow of a

286. SMITH, *BOOM FOR WHOM?*, *supra* note 1, at 167, 194, 226. Given the complex politics of pupil assignment during the two decades in which CMS built these new schools, it would be a bootless exercise in counterfactual historical speculation to try to ascertain with any precision the extent to which racial imbalance would have increased had these schools been built in other areas. But the location of these schools in outlying, predominantly White areas in and of itself contributed to the growing racial imbalance in CMS during the *Swann* era.

Although the locations of these schools adversely affected CMS's pursuit of desegregation, the extent to which these locations constituted a violation of the court orders in the original *Swann* litigation was a key legal issue when the case reopened. *See* *Capacchione v. Charlotte-Mecklenburg Sch.*, 57 F. Supp. 2d 228, 236-39 (W.D.N.C. 1999) (memorandum of decision and order) (remanded by *Belk v. Charlotte-Mecklenburg Bd. of Educ.*, 233 F.3d 232 (4th Cir. 2000), but ultimately affirmed before remand hearing). The district court ruled that the measures taken by CMS to desegregate its schools complied with the orders set forth in *Swann*. *See id.* at 284. But a three-judge panel of the Fourth Circuit ruled that the district court had not adequately considered all relevant issues and remanded the case for additional testimony. *Belk v. Charlotte-Mecklenburg Bd. of Educ.*, 233 F.3d 232, 266 (4th Cir. 2000) (remanding to the district court for determination of whether CMS achieved unitary status in regard to "student assignment, facilities, transportation, and student achievement"), *rev'd in part*, 269 F.3d 305 (4th Cir. 2001). However, the full Fourth Circuit disagreed with the panel and upheld the district court's unitary status declaration. *Belk v. Charlotte-Mecklenburg Bd. of Educ.*, 269 F.3d 305, 335 (4th Cir. 2001) (*per curiam*) (*en banc*).

Supreme Court decision, such as *Parents Involved*, limiting the pursuit of desegregation. But CMS was under an explicitly-defined court order *requiring* it to pursue desegregation. That legal obligation, however, did not trump the local political, financial, and real estate considerations that ultimately led CMS to build these additional schools, thereby showcasing the power of local influence on desegregation efforts.²⁸⁷

The second is to argue that, despite this resemblance, there are four reasons that, taken in toto, militate against the likelihood that RHSD will experience a long-term drift in resegregation similar to CMS's even if RHSD's enrollment continues to increase. These reasons involve the district's size, planning capacity, choice of superintendents, and school board composition.

1. Size

RHSD covers slightly less than one-third the area that CMS does.²⁸⁸ A discussion of this difference further illustrates the point about how RHSD's relatively small area militates against the severity of logistical impediments to balancing efforts.²⁸⁹ Whatever logistical difficulties are posed by the building of schools on RHSD's periphery, the distance between such schools and African American neighborhoods remains considerably less than that between many of the distances that resulted from CMS's decisions about where to build new schools. Particularly important is the example of CMS's 1988 decision to acquire land for a school (McKee Road) on the district's predominantly White southern periphery, more than 11.6 miles from the school with which, CMS administrators claimed, McKee Road could be paired to achieve balance.²⁹⁰ That claim turned out to be

287. SMITH, BOOM FOR WHOM?, *supra* note 1, at 225–27.

288. RHSD's area is approximately 180 square miles. *See supra* note 39 and accompanying text. CMS, which is coterminous with Mecklenburg County, covers approximately 546 square miles. USA Counties, <http://censtats.census.gov/cgi-bin/usac/usatable.pl> (last visited Feb. 14, 2010) (Select "Try Again;" then select "North Carolina" from the state menu, "Mecklenburg" from the county menu, and "Land Area" from the table menu).

289. *See supra* notes 227–33 and accompanying text.

290. SMITH, BOOM FOR WHOM?, *supra* note 1, at 98; Ricki Morrell, *Vote to Build School Near Union County Assailed*, CHARLOTTE OBSERVER, Mar. 10, 1988, at 1D. The distance of 11.6 miles was computed from the "Get Directions" feature of Google maps using the addresses of McKee Road and Billingsville Elementary, the school with which McKee Road, it was claimed, could be paired. Google Maps, <http://maps.google.com/> (last visited Feb. 7, 2010) (to compute the distances between the schools, input the addresses for McKee Road and Billingsville Elementary, respectively, into "Get Directions:" 4101 McKee Road, Charlotte, N.C. 28270; 124 Skyland Avenue, Charlotte, N.C. 28205).

wrong, and the school became severely racially imbalanced shortly after opening.²⁹¹ Moreover, the construction of that school made it harder for CMS to resist demands from other growing outlying areas for schools in these neighborhoods, even if the schools would be hard to balance.²⁹² By contrast, the distance in Rock Hill between heavily Black neighborhoods and even India Hook—the site whose acquisition involved the most debate—is less than eight miles.²⁹³

291. SMITH, BOOM FOR WHOM?, *supra* note 1, at 98.

292. *Id.* at 226.

293. According to the “Get Directions” feature of Google Maps, it is 8.2 miles from Sunset Park to India Hook, but neighborhoods with high concentrations of African Americans are more than a mile closer to India Hook. Google Maps, <http://maps.google.com/> (last visited Feb. 7, 2010) (to compute the distances between the schools, input the addresses for Sunset Park and India Hook, respectively, into “Get Directions:” 1036 Ogden Road, Rock Hill, S.C. 29730; 2068 Yukon Drive, Rock Hill, S.C. 29732). Thus, there are approximately 6.5 miles between India Hook and the neighborhoods designated as Segments 200, 201, and 202 in the database used to by RHSD to develop the elementary school pupil assignment plan for 2008–09. *See supra* note 159 and accompanying text. According to the database, non-White students comprise ninety-five percent of the students living in those segments. *Id.* Visual inspection of those neighborhoods indicates that their population is overwhelmingly African American. *Id.* Thus, if the figure of ninety-five percent is multiplied by the African American share of the district’s non-White students in 2008–09, a conservative estimate is that Black students constitute seventy-eight percent of the students in these neighborhoods. *See id.*

Also relevant are travel times, especially during the morning commute. In December 2009, the time from India Hook to Sunset Park was approximately eighteen minutes, and the time from Sunset Park to India Hook only about a minute longer. Memorandum from Hollie Blake Regarding Travel Times Between Schools (Dec. 9, 2009) (on file with the North Carolina Law Review). The time from Billingsville to McKee was about twenty-four minutes, but the time from McKee to Billingsville was about thirty minutes, approximately twenty-five percent longer. Memorandum from Stephen Samuel Smith regarding Travel Times Between Schools (Dec. 15, 2009) (on file with the North Carolina Law Review). This difference arises from the fact that the route from McKee to Billingsville is one that is heavily traveled by drivers commuting from Charlotte’s periphery to downtown.

Of course, none of these times takes account of the time a school bus would spend driving around neighborhoods to pick up students. But the difference between the times to and from Billingsville calls attention to the especial challenge of busing students in the morning from neighborhoods near McKee to Billingsville, which is what pairing the schools required. When CMS paired an elementary school in a Black neighborhood with one in a White neighborhood, K–3 Black students were typically bused to the school in the White neighborhood, and White students in grades four through six were typically bused to the school in the Black neighborhood. *See* SMITH, BOOM FOR WHOM?, *supra* note 1, at 63.

Nor can one assume that driving times in 2009 are the same as they were in the late 1980s when CMS scrapped plans for pairing the newly built McKee with Billingsville. But traffic congestion was a major issue in Charlotte in the late 1980s, so much so that it led to the upset defeat of Charlotte’s incumbent mayor in 1987. Foon Rhee, *Myrick’s TV Ad Campaign Hits Airwaves*, CHARLOTTE OBSERVER, Oct. 31, 1987, at 2B; Erik Spanberg, *Transportation Is Taking Center Stage*, CHARLOTTE BUS. J., Jan. 9, 2009,

Although survey data is lacking, there is considerable anecdotal evidence that RHSD's smaller size also facilitates the development of social purpose politics. Opposition to RHSD's balancing efforts has typically come from parents, such as Kim Neely, whose concern about transportation and/or views about particular schools have trumped considerations of balance.²⁹⁴ But Neely is a longtime resident of Rock Hill with a strong allegiance to it.²⁹⁵ By contrast, much of the opposition to CMS's desegregation efforts was spearheaded by recent arrivals to Charlotte who had minimal attachment to the city.²⁹⁶ The White parent who initiated the reopening of the *Swann* litigation had moved to Charlotte from California three years before filing suit, and he would return there before the 1999 trial opened.²⁹⁷ Three of the additional six White plaintiffs in the case had also moved to Charlotte in the mid-1990s.²⁹⁸ Allegiance to and identification with the larger community is hardly a sufficient condition of the development of social purpose politics, but it is probably a necessary condition, and in this respect RHSD seems in a better position than CMS to withstand challenges to its pursuit of balance.

2. Planning Capacity

In addition to benefiting from its smaller size, RHSD also benefits from the differences between planning capacity in the first decade of the twenty-first century and planning capacity in the 1980s when CMS's drift toward resegregation began. The intervening two decades have seen noteworthy improvements in the hardware (e.g., desktop computers with sophisticated graphics capabilities) and software (e.g., geographical information systems and modeling systems) necessary to deal with the complex issues involved in developing assignment plans that take account of balance, transportation distances, and other factors.²⁹⁹ Moreover, with the help

available at <http://charlotte.bizjournals.com/charlotte/stories/2009/01/12/story4.html>; Robin Toner, *Charlotte Mayor's Defeat Echoes Far*, N.Y. TIMES, Nov. 9, 1987, at B9.

294. See Interview with Kim Neely, *supra* note 191; see *supra* Part II.B.1.

295. See Interview with Kim Neely, *supra* note 191.

296. See SMITH, BOOM FOR WHOM?, *supra* note 1, at 101–02.

297. *Id.* at 159.

298. *Id.*

299. See Telephone Interview with Michael Miller, Program Manager, Operations Research/Educ. Lab at N.C. State Univ. (Dec. 4, 2009) (on file with the North Carolina Law Review). OR/Ed has consulted with RHSD in the development of the district's pupil assignment plans. See *supra* Part I.B.3.

of OR/Ed, RHSD has been able to make effective use of these improvements in technology and software.³⁰⁰

3. Choice of Superintendents

A third difference between CMS's situation when it began drifting toward resegregation two decades ago and RHSD's current situation involves the differences between the two districts' superintendents. The same years in which CMS began drifting toward resegregation also saw the 1986 resignation (to take a position with the state's university system) of a superintendent, Jay Robinson, whose political acumen, passionate support for desegregation, and nine-year tenure greatly facilitated the busing plan's success.³⁰¹ His replacement was Peter Relic.³⁰² A devoted and talented educator, Relic lacked the administrative and political skill to lead the district, and the board sought his resignation after only three years.³⁰³ In Relic's place, the board hired John Murphy.³⁰⁴ A nationally prominent superintendent, Murphy initiated a school reform program that attracted attention from across the country.³⁰⁵ But his abrasive style, preoccupation with his compensation package, public dalliance with job openings in other districts, and the many alchemy-like aspects of his reform program bitterly divided the district during his five-year leadership.³⁰⁶ Moreover, despite the Murphy administration's implementation of a magnet plan aimed at maintaining CMS's desegregation commitment, resegregation increased during his administration, as did disparities in resource allocation among schools.³⁰⁷ Following Murphy's resignation, the board chose Eric Smith who, as previously discussed, abandoned CMS's commitment to desegregation goals.³⁰⁸

By contrast, RHSD had done much better in choosing superintendents. Just as CMS experienced the loss of a long-time superintendent (Robinson) committed to pursuing racial balance at a

300. See *supra* Part I.B.3.

301. See SMITH, BOOM FOR WHOM?, *supra* note 1, at 71–86 (discussing Jay Robinson's tenure as superintendent of CMS).

302. *Id.* at 96.

303. See *id.* at 96–106 (discussing the administration of CMS under the leadership of Peter Relic).

304. *Id.* at 108.

305. See *id.* at 108–09.

306. See generally *id.* at 117–46 (discussing John Murphy's tenure, shortcomings, and resignation as superintendent of CMS).

307. *Id.* at 74, 118–20.

308. See *supra* Part II.B.1.

crucial point in its desegregation history, so, too, did RHSD with the retirement of Phil McDaniel at the end of the 2001–02 school year.³⁰⁹ It was under McDaniel's leadership that RHSD developed the 2002 assignment plan that redressed racial imbalance at Sunset Park.³¹⁰ But his resignation occurred during the litigation over the reassignment plan and as the district was just beginning to deal with the massive high school reassignment that would be occasioned by the opening of the third high school.³¹¹ However, unlike what turned out to be CMS's ill-fated choices of Relic and then Murphy, RHSD chose wisely in the appointment of Randy Bridges.³¹² As indicated by the creation of the high school reassignment committee, Bridges shared McDaniels's commitment to pursuing balance but recognized the importance of a more inclusive approach to the high school reassignment than had been taken with the Sunset Park reassignment.³¹³ In addition to creating that committee, the Bridges administration authorized the hiring of OR/Ed to help the committee and allocated significant financial and personnel resources to help the committee, all of which go a long way toward explaining the success of the high school reassignment.³¹⁴ It was also during Bridges's administration that RHSD settled the elementary school litigation, which allowed the district to maintain its reassignment plan even though it placed certain limits on future balancing efforts.³¹⁵ When Bridges resigned after four years to accept a job in his native North Carolina, the board appointed as his replacement the Associate Superintendent, Lynn Moody,³¹⁶ whose leadership of the high school reassignment committee was a key reason for its success.³¹⁷ As also indicated by committee members' views about Moody's work with the committee,³¹⁸ she shares Bridge's approach and skill in dealing with reassignment issues and maintains a deep commitment to pursuing

309. Op-Ed, *Superintendent Leaving*, HERALD (Rock Hill, S.C.), Feb. 14, 2002 (available online only through paid subscription service).

310. See *supra* Part I.B.2.

311. *Superintendent Leaving*, *supra* note 309; see *supra* Part I.B.3.

312. Wendy Bigham, *Bridges Excited About Upcoming Move to Rock Hill*, HERALD (Rock Hill, S.C.), July 25, 2002 (available online only through paid subscription service); see *supra* Part I.B.3 (describing RHSD's decision to hire Bridges and his desire to improve communication between RHSD and the public).

313. See Pippins, *supra* note 95.

314. See *supra* notes 244–46 and accompanying text.

315. See *supra* Part I.B.2.

316. Karen Bair, *Moody Selected to Oversee District*, HERALD (Rock Hill, S.C.), Aug. 18, 2006 (available online only through paid subscription service).

317. See *supra* Part II.B.3.

318. See *supra* notes 248–50 and accompanying text.

balance, recently remarking that despite all the difficulties such pursuit entailed, she could not see herself working anywhere that balance and diversity were not highly valued.³¹⁹

4. The School Boards

Finally, there is RHSD's board itself. Following the dismantling of the at-large electoral systems in both RHSD and CMS, the workings of electoral politics resulted in both boards having a majority for whom balance was a very high priority.³²⁰ But in CMS the workings of electoral politics also resulted in the victories of several board members sufficiently opposed to CMS's desegregation policies that three of them—all of whom were on the board at the time—testified against CMS and on behalf of the White plaintiffs during the 1999 trial.³²¹ It is difficult to imagine RHSD's present school board ever coming close to being so sharply divided. To be sure, reassignment votes have often not been unanimous ones, and the most recent pupil assignment debate called attention to the district's increased difficulties in pursuing balance.³²² But balance remains a benchmark for the current board, and this board has been an electorally durable one. Two current members (Norwood and Vining) antedate the dismantling of the at-large electoral system in 2000.³²³ Three additional board members (Brown, Douglas, and Reid) have served since the dismantling of the at-large system in 2000.³²⁴ The two additional members (Silverman and Rentschler) have been on the board since 2002 and 2003, respectively.³²⁵

Of course, a board's composition can change dramatically. But given the advantages of incumbency, the generally low salience of school board elections, and the time-consuming nature of board membership, such dramatic changes are usually preceded by intense and/or widespread dissatisfaction with a school system.³²⁶ In the absence of survey data, it is hard to ascertain with any rigor the level

319. See Interview with Lynn Moody 2009, *supra* note 133.

320. See *supra* Part II.A.3.

321. SMITH, BOOM FOR WHOM?, *supra* note 1, at 162.

322. See *supra* Parts I.B.1, I.B.4.

323. Nicole Gustin, *New Members Tackle Tough Issue First Night*, HERALD (Rock Hill, S.C.), Nov. 12, 1996 (available online only through paid subscription service); Judy H. Longshaw, *Incumbents, Vining Sweep School Board Race*, HERALD (Rock Hill, S.C.), Nov. 4, 1998 (available online only through paid subscription service).

324. French, *supra* note 53; see *supra* Part 1.B.2.

325. Wendy Bigham, *PTO President to Fill Pender's Seat*, HERALD (Rock Hill, S.C.), Dec. 9, 2003 (available online only through paid subscription service); see *supra* Part I.B.2.

326. See Christopher R. Berry & William G. Howell, *Accountability and Local Elections: Rethinking Retrospective Voting*, 69 J. POL. 844, 856–57 (2007).

of public (dis)satisfaction with the Rock Hill School Board. But if the results of the elections following the controversial 2002 elementary and 2005 high school reassignments are any indication, the threshold of community anger necessary to oust board proponents of balance is a very high one in Rock Hill.

Perhaps a greater threat than board turnover is board weariness. In talking about the many reassignments with which the board has dealt since 2000, all the work that went into the 2008 reassignment, and the consternation caused by the situation at Oakdale, Board Chair Norwood recently acknowledged doubts on the board about whether this kind of reassignment “is something we can continue doing” and how

we’ve all wrung our hands recently about the weariness of the journey. We’ve seen parents come before us, [asking us to] explain why [kids are bused past three schools]. Is this something we want to keep doing, can we keep doing it, can we give the answer that this is the right thing to do? So this is what we’ve been talking about. What it takes to piece it together, what it will cost, how defensive do you have to be?³²⁷

But he also emphasized that the board is

not ready to give up on what we think is best for the district. It’s the same thing you’d say if you were doing anything that’s difficult—climbing a mountain, taking a long trip—you’re tired at the end of it. It’s more being weary from the battle than not believing the battle is worth it . . . I don’t want to mislead you into thinking we’re ready to abandon anything we tried . . . not this board, because this board has been together longer than any board in a long time. I think we’re all together on our philosophy.³²⁸

Asked what might alleviate this weariness, Norwood talked about the importance of increased validation, especially from the Rock Hill community.³²⁹ But he also commented that additional validation from outside the district would be helpful.³³⁰

327. Interview with Bob Norwood, *supra* note 92.

328. *Id.*

329. Personal Communication with Bob Norwood, Chair of Sch. Bd., Rock Hill Sch. Dist., in Rock Hill, S.C. (Mar. 4, 2009) (on file with the North Carolina Law Review).

330. *Id.*

D. (Not) Learning from RHSD's Experience

Norwood's comment about the utility of validation from outside Rock Hill calls attention to the issue of how other school districts have responded to RHSD's balancing efforts, the significance of this response, and the relationship between this response and the possibility of increased validation.

Actually, it is not the response that merits discussion, it is the lack of response. Clearly, RHSD's balancing efforts have nowhere near the visibility and importance that CMS's nationally touted busing plan had a generation ago. But RHSD's balancing efforts have not exactly flown beneath the radar. They have been the target of a lawsuit whose plaintiffs were represented by some of the nation's most prominent opponents of race-conscious public policy,³³¹ discussed in an article in a leading scholarly publication,³³² highlighted on OR/Ed's Web site,³³³ and, probably most importantly, the subject of an article by school board member Jason Silverman that appeared more than two years ago in *The American School Board Journal*, a publication of the National School Board Association with a national audience.³³⁴ But Silverman received only one inquiry about that article, and his reply inviting additional discussion was never answered.³³⁵ His experience is not unique. Neither Board Chair Norwood nor Superintendent Moody has received any inquiries; they were not even approached on this topic by the superintendent of a nearby district whose reassignment proposals were encountering objections to schools' demographic characteristics similar to the objections that RHSD has been facing for years.³³⁶ And, Moody noted:

It's so funny because, out of all the conferences and meetings we go to, change in attendance boundaries and dealing with that, you hear very little of, rarely . . . [Y]ou would think you would go to anybody who has recently done it and say, "What's the latest?" "What do you know?"³³⁷

331. See *supra* Part I.B.2.

332. Smith et al., *supra* note 49, at 988–89.

333. See Operations Research/Education Laboratory Case Studies and Clients, <http://itre.ncsu.edu/ored/CaseStudies/index.html> (last visited Feb. 14, 2010).

334. Jason Silverman, *Moving the Lines: Redistricting Presents a Series of Challenges and Hard Choices for School Board Members*, AM. SCH. BD. J., Jan. 2007 at 17, 17–18.

335. Personal Communication with Jason Silverman, *supra* note 156.

336. Interview with Lynn Moody 2009, *supra* note 133; Personal Communication with Bob Norwood, *supra* note 329.

337. Interview with Lynn Moody 2009, *supra* note 133.

It is beyond this Article's scope to discuss why there has been relatively little discussion among districts, boards, and superintendents about the nuts and bolts of doing pupil assignment in a way that effectively deals with balance. But in a symposium about the future of integration, it is worth noting that an increase in the opportunities for districts to learn from one another could be extremely beneficial. Among other things, such increased interdistrict communication would likely help validate the efforts of districts like RHSD that have been trying to swim against the resegregation tide. More important, such increased communication would help other districts take the important strokes that districts such as RHSD already have.

CONCLUSION

Although her colleagues in other districts may not have asked Moody about RHSD's integration efforts, a review of the district's experience suggests four sets of implications for the pursuit of integration in the aftermath of *Parents Involved*. Foremost among these implications is the importance of a commitment to integration by the board and administration of a school district. In RHSD, the steadfastness and political acuity with which that commitment was pursued go a long way toward explaining the development of social purpose politics. They also go a long way toward framing local discourse in a manner that leads opponents of a particular assignment plan to acknowledge the importance of balance and frequently claim that their alternative plan would not adversely affect balance and might even improve it. However, it is important to note that in maintaining this commitment, RHSD's leadership has benefited from many factors that may or may not be present in other districts. These factors include the district's demographic composition, its access to resources, its reputation for having good schools, and its relatively small size. These factors also include a supportive daily newspaper, a relative paucity of exit options from the district, and a local political culture characterized by effective Black political mobilization and by important efforts of civic leaders to decrease racism and make up for the injustices and outrages of the Jim Crow era.

The second set of implications involves the role of citizen advisory committees in desegregation planning. Although the scholarly literature is generally skeptical about such committees, in RHSD the high school reassignment committee was extraordinarily successful. But here, too, RHSD benefited from things that may or may not be present in other districts, especially in the current

economic crisis. Foremost among these are the resources that allowed the district to hire expert consultants and allow one of its three associate superintendents to devote the lion's share of her time for almost a year to facilitating the committee's work.

The third set of implications involves the relationship between race and class. Many aspects of RHSD's experience bespeak the political advantages of framing things in terms of class or place, rather than in terms of race. But RHSD's experience also testifies to the likely shortcomings of any political approach whose focus on class leads to neglecting the ways in which racial oppression can be a distinctive source of political mobilization that can address issues of class as well as of race. Similarly, the results of RHSD's pupil assignment plans indicate that socioeconomic integration and racial integration frequently go hand in hand, but that it is also necessary to consider race/ethnicity in addition to socioeconomic factors.

The fourth set of implications is the importance to desegregation proponents of finding ways for experiences of districts such as RHSD to be disseminated in a way that would be accessible and helpful to other districts that are wrestling with similar problems.

As a result of its elementary and high school reassignments in the opening decade of the twenty-first century, RHSD has taken significant and successful strokes in swimming against the resegregation tide that have important implications for other school districts. But recent events in RHSD call attention to the challenges posed by *Parents Involved* and the district's growth. The way the RHSD handles these challenges will affect the future of integration in the district, merit ongoing attention, and may also have important implications for the pursuit of integration nationally.