

NewsRelease

For Immediate Release

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LDF Statement on Supreme Court Rulings in Voluntary School Integration Cases

Today's decision striking down voluntary school integration plans in Louisville, KY and Seattle, WA is a step backward from *Brown v. Board of Education*. LDF is deeply disappointed that five Justices of the Supreme Court today struck down the voluntary racial integration plans of the Seattle, Washington, and Louisville, Kentucky, school systems as unconstitutional because they were not "narrowly tailored" to take race into account to the minimum extent necessary.

We stand with local governments, school boards, and families committed to providing a high-quality, inclusive, integrated and diverse education for all students. Americans have long understood, and the courts, Congress and local governments have repeatedly recognized that to strive for anything less would do a grave disservice to our children and to the legacy of *Brown v. Board of Education* and that unanimous decision's mandate to end racially-segregated schools.

We believe that the four dissenting Justices, who joined in an opinion authored by Justice Stephen Breyer, explained the compelling necessity for the measures pursued by these school systems to avoid racially isolated schooling and unequal opportunities for children -- especially but not solely minority children -- that inevitably accompany those circumstances.

It is critically important to realize that today's decision does *not* categorically reject the use of race-conscious measures, or hold that it is unconstitutional for school districts to take steps, including steps that have a racial component, to create racially and ethnically diverse schools. While this split decision has both positive and negative implications for our nation and Constitution, we are very pleased that a majority of the Justices recognize educational diversity and overcoming our history of segregation to be compelling governmental interests -- among our country's highest priorities -- that can be pursued through careful race-conscious efforts.

Although Justice Kennedy concurred with the Chief Justice John Roberts's opinion in finding the specifics of the plans at issue to be unconstitutional, Kennedy refrained from joining them in their conclusion that the school districts did not have an interest in providing their children with an inclusive, integrated education. "My views do not allow me to join the balance of the opinion by The Chief Justice, which seems to me to be inconsistent in both its approach and its implications with the history, meaning, and reach of the Equal Protection Clause [of the Fourteenth Amendment]," he wrote.

Instead Justice Kennedy stated unequivocally: "To the extent the plurality opinion suggests the Constitution mandates that state and local school authorities must accept the status quo of racial isolation in schools, it is, in my view, profoundly mistaken..." Further, he wrote, "A compelling interest exists in avoiding racial isolation, an interest that a school district, in its discretion and expertise, may choose to pursue."

To achieve such a goal, a majority of the Justices made clear that a range of other, affirmative measures remain available to communities committed to diversity in schools. Justice Kennedy delineated a number of these options, including, strategic site selection of new schools; drawing attendance zones with consideration of neighborhood demographics; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance and other statistics by race.

Even Chief Justice Roberts's opinion reaffirmed the holding of *Grutter* that "[t]he importance of . . . individualized consideration" in the program was "paramount, and consideration of race was one factor in a highly individualized, holistic review."

In 1954, the *Brown* Court spoke in one voice of the importance of education in the battle against prejudice and inequity, as the foundation of "our most basic public responsibilities... of good citizenship." It also stated that education "is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment."

Instead of speaking with one voice, today a deeply divided Court has narrowed the voluntary integration options for schools seeking to fulfill *Brown's* promise.

Today, the nation's public schools are more segregated than they were in 1970. It is of vital importance for communities to identify ways of fashioning solutions to this problem and to put these plans into action. These decisions have made their job much harder and, as a result, put America that much further away from providing the kind of educational experience necessary for America to not just compete but also thrive in the 21st century.

We call on communities and leaders around our country to pursue the tools that remain available to achieve the important goals of equal educational opportunity and inclusion that a majority of the Court endorsed today.

Americans value the differences that have made our nation as technologically, culturally, and ideologically innovative as it is today. We will remain a country committed to diversity -- no court decision can change that.

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