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Integration Defended: Berkeley Unified's Strategy to Maintain School Diversity

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The Civil Rights Project
Proyecto Derechos Civiles

INTEGRATION DEFENDED:
Berkeley Unified's Strategy to Maintain School Diversity

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Foreword by Gary Orfield

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ADDITIONAL INFORMATION

The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity at the Berkeley Law School is a multidisciplinary, collaborative venture to produce research, research based policy prescriptions, and curricular innovation on issues of racial and ethnic justice in California and the nation.

The Civil Rights Project/*Proyecto Derechos Civiles* is based at UCLA with a mission to create a new generation of research in social science and law on the critical issues of civil rights and equal opportunity for racial and ethnic groups in the United States.

FOREWORD By Gary Orfield

The Berkeley, California school district has successfully resisted legal restraints to end desegregation efforts and, in the process, provided a possible model for many other districts across the country which want to keep the benefits of integrated schools but must face the limits on voluntary integration plans imposed by the U.S. Supreme Court two years ago.

Urban school desegregation outside the South began not in the big busing battles in Boston and some other cities but with peaceful voluntary plans led by educators in progressive cities, including a number of college communities. The Princeton plan was one of the first strategies to transcend neighborhood segregation and Berkeley, Evanston, Illinois (Northwestern University), and Champaign and Urbana (University of Illinois) saw some of the first plans. Berkeley was an early pioneer in the West. Its plan in the early 1960s began a story that has now stretched over more than four decades and through many changes in politics and law. It began at the peak of the civil rights movement, and survived many different political and social movements. It was maintained through the hostile attitudes of the Reagan and Bush Administrations, and in spite of the retreat of the California Supreme Court in the 1980s and a series of U.S. Supreme Court decisions limiting desegregation orders in the 1990s. Following the Supreme Court's prohibition of popular forms of voluntary desegregation practices in the 2007 *Parents Involved* case, one possible option was that which Berkeley leaders devised as a remarkably original response to California's Proposition 209 that prohibited racial preferences in government decision-making. Berkeley's plan has now been sweepingly upheld by California's courts. At a time when school districts across the country, as well as the Obama Administration, are wondering how they can achieve integrated schools while facing the obstacle course the Court has established, the successful experience in Berkeley deserves national attention. It is the subject of this report.

Sometimes people dismiss the stories of progressive communities as not relevant to the rest of the country. Berkeley, however, cannot be so easily dismissed. It is not a tiny elite community—it is a good sized city confronting very tricky problems with a majority non-white population that has extreme differences of income and substantial residential segregation, particularly in the impoverished black neighborhood directly adjacent to Oakland's black community. There has also been a good deal of local controversy over race relations in the schools. Since California dismantled its desegregation policies under Gov. George Deukmejian in the 1980s, Berkeley has been without support from the state government. Most of the desegregation orders in California's major cities have been dropped and the level of segregation of the state's black and Latino students has soared. In fact, California's Latino students are more segregated than their counterparts in any other state and the segregation of minority students is rarely only by race or ethnicity but also by poverty and, for Latinos, increasingly by language status. There is a very high concentration of the state's nonwhite students, who now make up a large majority of students state-wide, in low achieving schools. Some of these schools are the infamous "dropout factories" where the major product is not students prepared for further education but students who have reached a dead end, lacking any educational credentials in a labor market where both employment and earnings are increasingly linked to educational attainment.

Desegregation is never perfect but it tries to break the pattern of providing the weakest educational opportunities to the most disadvantaged students. Desegregation is an effort to transcend color lines, equalize opportunities, and build a more positive community future but it involves some tradeoffs. In the case of choice-based desegregation plans, it means less respect for the absolute "first choice" schools of all individuals in exchange for more stably and positively integrated schools. Getting children of different races inside the same school buildings does not, of course, eliminate all the attitudes and stereotypes they, their friends, teachers and parents may bring with them but it is better than segregation and it tends to produce important benefits for all children in preparing them to live and work successfully in a multiracial society. There are known ways to increase its benefits.

The Berkeley plan, built around creating and operating schools where parents of all races from all parts of the city will want to send their children, is characteristic of the past three decades of desegregation plans in urban areas in its reliance on school and educational innovation. (Mandatory transfer or

involuntary busing plans were largely products of the 1970s.) These newer plans clearly disprove the claim that we must chose between educational quality and integration. Families of color have never pursued desegregation to sit next to white students. It has been about obtaining equal opportunity and access to the best schools and programs and networks to college, the vast majority of which are in white and Asian communities. The great majority of families of color and white families express a clear preference for integrated schools in public surveys. Our surveys of students of all races in a number of the nation's largest districts show that very large majorities of students in interracial schools feel well prepared to live and work in the diverse communities of our nation's future, something that their parents want for them as well. In choice plans, families of all races are offered a range of choices which are designed to appeal to them in terms of the educational needs and opportunities of their children. The integration that these plans and the magnet schools they often produce is achieved by actively informing and recruiting and welcoming families of all races and ethnicities to their school and, when necessary to accomplish integration, denying some families their first choice of a school in order to assure that all the schools are integrated. Often the vast majority of families receive their first or second choice. Ever since choice and magnet plans became widespread in the 1960s and 1970s, civil rights policies and court orders have required that integration policies limiting completely unrestrained choice be an integral part of these policies.

The Supreme Court's 2007 decision regarding Seattle and Louisville's desegregation plans seemed to be a mortal threat to these policies. A deeply divided Court affirmed that integrated schools were a legitimate compelling interest for public school systems but, in a seeming contradiction, concluded that the popular assignment policies used to achieve integration were illegal because they sometimes determined whether or not a student could attend a particular school solely because of his or her race or ethnicity. The courts had previously ruled in *de jure* segregation cases—like Louisville— that it was necessary to take race into account to overcome the legacy of racial discrimination. School systems had found taking account of a student's race to be an essential part of an integration strategy and there was extensive evidence to show that unrestrained choice would rarely produce stable integration and was likely to rapidly produce unbalanced resegregating schools. It was easy for many educators to interpret the *Parents Involved* decision as a cynical way to give lip service to the ideal but, at the same time, to render it difficult to achieve. Some simply dropped their policies and programs and accepted resegregation. Others sought some set of controls that were somewhat related to race, such as student poverty measured by free lunch status. Berkeley, however, already had in place a model that did something much more sophisticated: it found a way, at least in this city, of using policies that did not assign any individual students on the basis of their race but accomplished desegregation through considering the racial makeup of neighborhoods along with other measures of diversity.

In the Supreme Court's 2007 decision, Justice Kennedy's controlling opinion explicitly recognized the legitimacy of intentionally pursuing integrated schools and taking steps that took race into account but did not deny assignment to any individual student solely on the basis of his or her race or ethnicity. Kennedy approved drawing attendance boundaries and locating schools in ways likely to produce integration as perfectly legitimate approaches. Unfortunately, these techniques generally flied in the face of neighborhood segregation and family mobility. The problem that Berkeley faced was the one that San Francisco, right across the Bay, dealt with when it tried—unsuccessfully—to find a nonracial approach that would produce racial and ethnic integration. Bay Area cities don't have just two racial-ethnic groups, they are profoundly multiracial. There are many neighborhoods where several groups are present so it is very difficult to achieve integration through indirect measures at the neighborhood level. Where there are only two groups and they are sharply segregated from each other sometimes it is relatively easy to find a relatively simple indirect way to produce integration by simply drawing a few lines that define areas that are dominated by one group or the other and assigning neighborhoods from opposite sides of the racial boundary to the same school. Where there are multiple groups, less residential segregation, and overlap in income distributions, no simple indirect measures may work. San Francisco has experienced rapid increases in segregation since its desegregation plan was terminated.

Berkeley's approach, adopted before the 2007 decision, has been one suited for the computer age. Rather than looking at the racial composition of large neighborhoods in the city, it has divided the city into more than 440 micro-neighborhoods. In this system, all the families submit their school choices. If the choices put the school within the range defined as desegregated in the city and the number of choices is equal to or less than the school's capacity, all choices are granted. If the school is out of balance, then the system will give preference

to students from the micro-neighborhoods most likely to foster diversity. Since no one looks at the race or ethnicity of the individual student—in each micro-neighborhood, students from each race are treated identically—and no individual is chosen or rejected for a school on the basis of his or her race or ethnicity, the system squares with the conditions established by the Court. Indeed, when the plan was challenged in California courts both the trial court and the state Supreme Court sweepingly upheld the Berkeley plan.

Needless to say, this plan offers an important alternative to school districts which feel trapped between their desire for, and earlier experience with, desegregated education and the severe double or triple segregation and inequality they will confront if they go to a pure neighborhood school plan. Many communities which have decades of experience with integrated magnet schools, which provide choices strongly desired by families from many backgrounds, want to preserve them and do not know how to do it. The Berkeley plan is a proven success that has been very well received by the courts. It may not work in all circumstances, but it is obviously something that should be considered, particularly in complex multiracial communities. Those of us in universities who could help school districts figure out how to analyze their micro-neighborhoods should be willing to help.

Berkeley's experience is also helpful in another respect. In traditional demographic terms, it is part of the suburban ring in a metro where San Francisco and Oakland are the central cities. Like many suburban districts it is now highly diverse and has been left to devise its desegregation plan largely on its own. It is a district with just one high school and with numbers much more like suburban districts than the large central city systems. Like a growing number of suburban communities across the country, it has severe poverty and affluence separated only by a mile or two. It has parents aiming to get their children to the Ivy League schools they attended and teenage parents who are high school dropouts. Though Berkeley is much older and more urban than many suburbs and is home to a great university, it is a community that suburban leaders could learn much from. The Berkeley plan isn't a simple one and it has not been tried in a wide variety of circumstances over a substantial period of time but it should give the leaders of suburban and small city districts confidence that there are newer creative solutions to the bind they face. Importantly, this is a model that has worked.

Unlike many communities Berkeley has not been passive or defeatist about the possibility of maintaining interracial schools in the face of negative legal and political trends. When the going got tough, the Berkeley leaders got creative and they forged a pathway through the obstacles that would come with the *Parents Involved* decision. Of course, preserving diversity in the elementary schools is only the first step in producing a fully integrated and fair school system. It makes that possible and provides some important opportunities for all children, but, as many in Berkeley are well aware, creating truly integrated schools that offer fair and equal opportunities in a highly segregated and unequal society is a deep and continuing challenge.

With the success that is documented in this report, Berkeley can consider next steps. Now that the plan has been successful in operation and its legality has been so strongly upheld in the courts, it would be good to make a clearer explanation of the mechanics of the process to members of the community—and for leaders of other school districts around the country who might want to try to understand whether this model might be applied to their own district. Continually explaining the plan's goals and advantages along with the complexities and tradeoffs will help to maintain support for the program and understanding in a community with tremendous mobility.

Another issue that should be discussed as the community and its leaders review what they have accomplished is possible expansion of the plan. If it works for the elementary schools, why not expand it to the middle schools? The middle school years are an especially important period where gaps and divisions among students of different backgrounds often widen serious and set the stage for problems certain to manifest in the high school

This report was undertaken in a discouraging time following the Supreme Court's decision and without any certainty about what we would find or how the court challenges to the plan would turn out. The courts have now resolved the questions of legality and this report demonstrates both the feasibility and success of the approach. Berkeley's educational leaders and families deserve to be congratulated. The Obama Administration's civil rights and educational leaders should give serious attention to what may be a viable model for other communities. Those of us who study issues of racial equity in schools should be ready to help other communities consider the possible utility of the model in other circumstances and to help them evaluate the results and make any needed mid-course corrections. And, of course, we all must be continually attentive to the challenges of making schools that are diverse in their enrollments more equitable in treatment of all students.

SUMMARY

IN JUNE 2007, the Supreme Court limited the tools that school districts could use to voluntarily integrate schools. In the aftermath of the decision, educators around the country have sought models of successful plans that would also be legal. One such model may be Berkeley Unified School District's (BUSD) plan. Earlier this year, the California Supreme Court declined to review the appellate court's decision upholding the legality of the district's integration plan; the decision noted the district did not use students' race-ethnicity in a way that violated Proposition 209, an initiative that prohibits the preferential or discriminatory use of race-ethnicity in public institutions. This report explores the BUSD plan and examines what it offers as lessons in a time of growing demographic and legal complexity.

BUSD's integration plan uses two levels of geography—zoning and planning areas, which are 4 - 8 block groups that are coded according to their racial-ethnic, economic and educational demographics — in its "controlled choice" plan. While managing families' school preferences and a set of priorities, the plan seeks to maximize school diversity so that each school reflects its zone-wide diversity as measured by the planning areas. What is innovative about BUSD's plan is that every student living in a particular planning area is assigned the same diversity code, based on the area's population characteristics regardless of their own individual characteristics.

Key findings include:

- The district is attractive to residents: the majority (77%) of Berkeley residents enrolled in K-12 schools opt to attend public school.
- The current student assignment plan produces substantial racial-ethnic diversity across the district's elementary schools but is not as effective at integrating schools by socioeconomic status.
- The district proactively engages in a series of practices to counteract the stratifying effect that educational choice policies often have when families of varying resources navigate a school choice system. These practices include offering a simplified application process and ample opportunities to learn about the schools, and conducting outreach to the city's low income residents. In addition, the district monitors each school's applicant pool diversity distribution to ensure enrollments will reflect the projected zone-wide diversity distribution and manages the wait lists in an equitable manner by applying the priority categories and considering diversity goals when offering students new assignments.
- The plan is successful in matching families with their choices: 76% of families received their first choice school or dual-immersion language program for 2008-2009 kindergarten placement, 8% received their second choice, 9% received their third choice and 7% were assigned to a school they did not choose.
- BUSD promotes school-site equity as one of its integration goals for the purpose of making all school choices attractive to families by minimizing differences and discouraging competition between them. While there is variation in faculty racial-ethnic diversity across schools there is not a strong relationship between the percentage of white students and the percentage of white teachers as is often the case.
- There is mixed evidence that BUSD has convinced its families that all elementary schools in the district are equal. There is variation in requests for schools and matriculation rates among families assigned to them. While 80% of families that participate in the earliest round of kindergarten assignments eventually matriculate in the district, there is variation by choice received: 84% of those receiving their first choice matriculate compared with 67% of those who did not receive their first choice. However, the majority of families with higher levels of socioeconomic status matriculate regardless of receiving their first choice.

Drawn from a year-long study of the BUSD integration plan, this report reviews the district's historical commitment to desegregation, describes how the current plan works, analyzes the extent the plan desegregates the schools despite being located in racially and socioeconomically segregated neighborhoods, and discusses the plan's implementation including the policies and practices that promote participation in its controlled choice assignment plan and matriculation once assigned.

INTRODUCTION

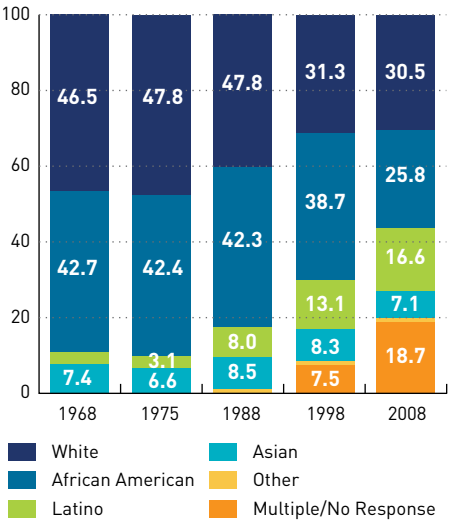
Despite drawing from neighborhoods that are deeply segregated by race-ethnicity and socioeconomic status, the public schools of Berkeley, California each reflect the district's multiracial student population. In 2004, the Berkeley Unified School District (BUSD) adopted a student assignment plan centered on a unique, multi-faceted conceptualization of neighborhood diversity that sought to provide equitable schooling choices for families and to integrate the district's 11 elementary schools by race, household income, and family educational background. As the district implemented the plan, it adopted procedures to ensure that its choice-based system did not advantage any group of families in the district while actively promoting school equity to make all schools attractive options for families.

Importantly, the California Appellate Court recently ruled that the 2004 plan does not violate Proposition 209, a 1996 voter-approved state initiative that prohibits the preferential or discriminatory use of race-ethnicity in public institutions, because the plan does not consider individual students' race-ethnicity in school assignments. The California Supreme Court declined to review this decision in June.

Drawn from a year-long study of BUSD's student assignment plan, this report describes the legal, policy and demographic context within which Berkeley's plan operates. It examines what the plan offers as lessons for other districts that value school diversity in a time of growing demographic and legal complexity.

Berkeley's school integration efforts are important to other districts around the country, even if those districts currently lack the multiracial diversity of Berkeley, or have a different size enrollment, or different history of integration policies.[1] Simply put, for four decades, BUSD has been striving to integrate its schools in the absence of consent decrees or court orders requiring desegregation. BUSD's success is particularly notable given its location in a metropolitan area[2] that includes San Francisco and San Jose, two districts with expired consent decree desegregation plans, high segregation and wavering commitments to furthering race-conscious desegregation.[3] Unlike these and other districts across the nation that have struggled and resisted compliance with state and federal court orders, Berkeley chose integration. Beginning in 1968, it chose to voluntarily pursue mandated school integration to mitigate the city's segregated housing patterns that produced racially segregated schools that were predominantly African-American/non-white and low income on the Westside of the city and white and affluent on the Eastside, patterns that continue to this day. Now on its third major integration plan guiding student assignments, Berkeley has maintained a consistent commitment to diverse schools, even as legal options and political considerations around school integration have shifted and the district's population has changed from a largely black and white one to a multiracial one (see Figure 1).

FIGURE 1
Berkeley Unified School District Enrollment, 1968-2008



Sources: U.S. Commission on Civil Rights, 1977; California Department of Education

THE IMPORTANCE OF THE BERKELEY PLAN AFTER THE 2007 SUPREME COURT RULING IN *PARENTS INVOLVED IN COMMUNITY SCHOOLS (PICS)*

The BUSD integration plan has recently received attention in the wake of the 2007 Supreme Court ruling regarding race-conscious student assignment in Seattle, Washington and Louisville, Kentucky. This is because Berkeley's current student assignment plan has successfully integrated all of its elementary schools without considering the race-ethnicity of individual students, a practice that a majority of Justices deemed was unconstitutional.[4]

1. We use the terms integration and desegregation interchangeably in this report.

2. Case studies of voluntary desegregation efforts sometimes refer to nearby districts' desegregation experiences as motivation for their policy decisions. Wake County studies often reference the legal decisions that were going on in Charlotte—even though as a legal matter the two were subject to different precedents because one was voluntary and one was mandatory. See Flinspach and Banks, 2005; Lynn, MA adopted its voluntary plan after watching the difficult desegregation experience in Boston & subsequent white flight from the district. See Cole, 2007.

3. These nearby desegregation struggles may have indirectly influenced Berkeley's. For a description of SFUSD see Biegel, 2008. See Koski and Oakes, 2009 for a description of SJUSD.

4. The two voluntary integration policies considered by the court were *Parents Involved in Community Schools v. Seattle School District No. 1* and *Meredith v. Jefferson County Board of Education.*

Instead of the techniques the Justices struck down, BUSD uses geography on two different levels: (1) three attendance zones and (2) 400 plus 4–8 residential block sized "planning areas" that are assigned a diversity code according to their racial-ethnic, economic and educational demographics. All students residing in each planning area have the same diversity code for school assignment purposes as other students in that planning area. While the current plan considers the racial composition of each planning area, it does not consider the race-ethnicity of individual students, a critical difference and a major reason the Justices rejected Seattle and Louisville's plans.

Berkeley is also an important case study because of its multiracial diversity and the deep racial polarization of its neighborhoods, two conditions that pose unique challenges for school integration. Since the 1960s, diversity in BUSD has become more complex with the increase of non-black students of color, and with some groups experiencing residential segregation while others do not. Likewise, intra-district school desegregation remedies typically involved mandatory school assignments and school busing, practices whose effectiveness rely on parents to accept them.

As the country grows more racially diverse and both racial and economic segregation continue to deepen, understanding BUSD's student assignment plan is important for communities that may be transitioning from primarily biracial districts to multiracial ones with three or more racial or ethnic groups of students. Decades ago, the legal challenge to segregation, culminating in the *Brown* decision, was based on the fact that segregated schools denied students equal protection under the Constitution. While there are no longer laws mandating school segregation, advocates and educators continue to argue against segregation because of decades of research and experience about its educational harms.

A growing percentage of American students attend segregated minority schools. The typical white, black, and Latino student in the U.S. attends a school where, on average, a majority of students are from his or her own racial-ethnic group.[5] In 2006-07, nearly 40% of black and Latino students were in schools that were 90-100% minority. Additionally, students of every racial-ethnic background are more likely to be in schools with growing percentages of low-income students (though black and Latino students are exposed to larger percentages of such students).

Racially and economically segregated schools typically have fewer educational resources such as highly qualified, stable teaching forces or advanced curricular offerings, and lack large numbers of middle- and upper-class students.[6] All these factors have implications for students' learning. Not surprisingly, graduation rates at segregated minority schools are much lower.[7] Conversely, there are benefits for students of all races who attend racially integrated schools, particularly when these schools are structured in ways that maximize the benefits of diversity.[8] Integrated schools provide important academic and psychological benefits for all their students, such as increased cross-racial friendships, reduced prejudice and reduced stereotyping.[9] They connect students from underserved neighborhoods to networks that will help them get into college or get professional, high-paying jobs.[10] Students who attend integrated schools are also more comfortable living and working in integrated settings.[11]

In sum, students who attend diverse schools may be better prepared as citizens in our diverse country and future employees in the global workforce. This large body of research prompted a majority of the Supreme Court to hold that school districts had compelling interests to adopt policies seeking to reduce racial isolation and increase student diversity.[12] This, too, is another reason why an in-depth study of Berkeley's integration plan is important.

ORGANIZATION AND DATA SOURCES FOR REPORT

This report reviews the history of desegregation efforts in BUSD, an important context for the development and implementation of the current integration plan; analyzes the extent to which BUSD attracts residents of all backgrounds and how these students are distributed across schools; and considers what practices, goals, and policies

5. It is important to note that white students are the most isolated students of any racial-ethnic group—because of the importance of this trend for white students (who are thus denied widespread exposure to students of other groups) and because of the impact white isolation has on the integration of minority students.

6. See generally Linn & Welner, 2007; Brief of 553 Social Scientists, 2006; Mickelson, 2009.

7. See Balfanz and Legters, 2004; and Swanson, 2004.

8. Hawley, 2007.

9. See generally Schofield, 1995; and Pettigrew and Tropp, 2006.

10. See Braddock and McPartland, 1982; and Wells and Crain, 1994.

11. See Kurlaender and Yun, 2005.

12. See Justice Kennedy's and Justice Breyer's decisions in *Parents Involved*, 2007.

help make BUSD's controlled choice plan attractive to residents and produce integrated schools. In Part I we review the history of Berkeley's desegregation efforts beginning in the 1960s through the current plan. Part II describes the school district, city demographics, and residential segregation within the city of Berkeley, important to understand given the geographic-based nature of the integration plan. In Part III, we analyze the extent to which BUSD attracts residents of all backgrounds and how these students are distributed across schools. In Part IV we describe the practices and policies BUSD uses to implement its policy and desegregate the schools and to make its controlled choice plan attractive to residents.

This report draws upon several sources of data to investigate BUSD's integration practices. First, BUSD has a wealth of information on its website describing the student assignment system, the rationale behind it, the methodology in constructing diversity categories, and the district's integration goals. We supplemented this information with interviews of key district personnel: Francisco Martinez, former Manager of the Admissions Office; Melisandra Leonardos, current Manager of the Admissions Office; Bruce Wicinas, founder of Assignware, the student assignment software used by the district; and Michele Lawrence, the former Superintendent of BUSD who implemented the current student assignment system. These interviews illuminated additional details about the plan's mechanics not available in public documents. We also relied upon documents written by Bruce Wicinas that describe key dates and events from 1993 through 2007. Lastly, we obtained data from BUSD on families that participated in the Kindergarten assignment process for the 2008-2009 year, including demographics, choices, assignments and matriculation.

Finally, we analyzed data from a number of publicly-available data sources: current enrollment demographics, school characteristics and test score data from the California Department of Education; historical enrollment data from the National Center for Education Statistics Common Core of Data; and U.S. Census and American Community Survey for population characteristics of Berkeley and comparable municipalities.

I. SCHOOL DESEGREGATION EFFORTS IN BERKELEY UNIFIED SCHOOL DISTRICT

The current desegregation plan is the latest in a series of innovative desegregation efforts in a district of substantial diversity. BUSD's first efforts to desegregate its schools were put in motion in the wake of the 1954 Supreme Court decision on *Brown v. Board of Education*. In the 1960s, Berkeley became one of the first urban school districts to voluntarily desegregate its schools. Since then, the district has reformulated its student assignment system twice with the goal of promoting diversity in the school system, each time with opportunities for community input. Notably, the current plan reflects the changing focus for a district that has shifted from a predominantly black-white district to a district with a multiracial student body. Further, while BUSD's first major desegregation effort involved mandatory student assignment, as did many plans of that era, its current plan incorporates a substantial use of family choice while also retaining important features to ensure that choice does not lead to segregation by race or socio-economic status. The community's commitment to maintaining integrated schools despite neighborhood segregation remained constant as the legal and educational climate shifted. In sum, this history of evolving desegregation efforts demonstrates the district's long-running commitment to school integration, and provides context for the district's current diversity policies.

THE 1968 PLAN

Following the NAACP's complaints of *de facto* school segregation several years earlier, the school board appointed a "De Facto Segregation Study Committee" in the fall of 1962. At the time, the city was 74% white, 20% African-American and 6% other non-white with racially segregated housing patterns. The Committee, made up of 36 citizens appointed by the school board, released a report the following year documenting the city's racially segregated schools. More than half of the fourteen elementary schools in the district at that time were majority white, with most more than 90% white; five schools were predominantly non-white (mostly African-American).[13] The Committee lamented the "under-educated condition of all children with respect to living democratically and harmoniously in our heterogeneous community" and recommended a voluntary transfer program between paired elementary schools and redistricting the middle schools to promote racial integration.[14] These

13. Two of the three middle schools were also highly segregated with each being over 85% white or non-white while the third had a racial-ethnic composition that reflected the district-wide composition. See Berkeley Unified School District, 1963.

14. Berkeley Unified School District, 1964.

recommendations were implemented by fall 1965. Over the next two years, 250 black elementary school students were bused voluntarily to schools in East Berkeley.[15]

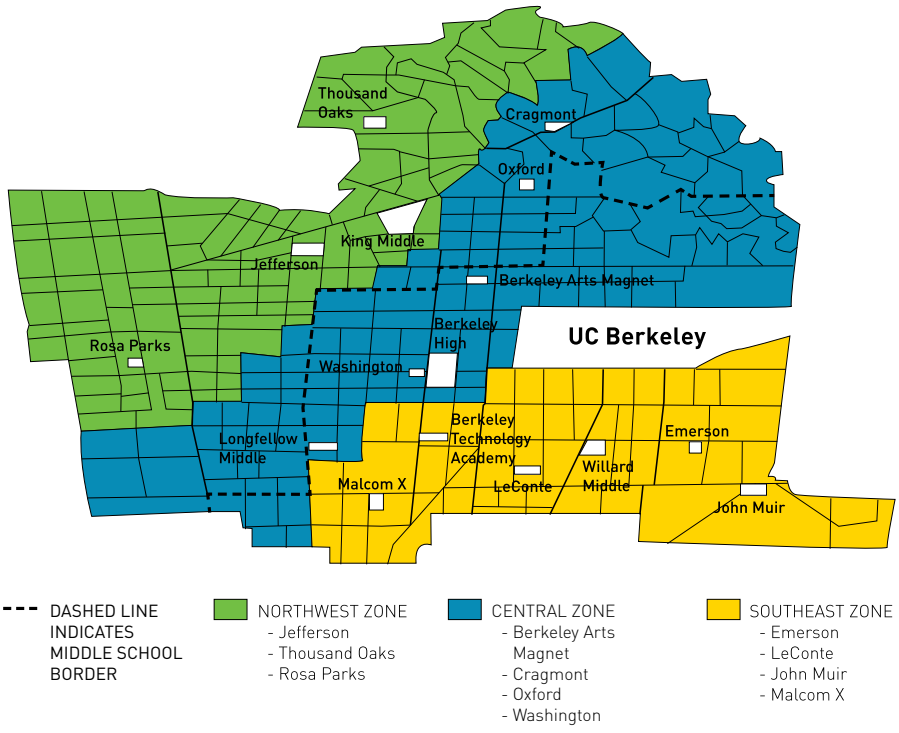
A district task force described the limitations of the voluntary transfer plan in a 1967 report, noting that non-white students bore the burden of busing. On January, 16, 1968, the school board voted unanimously to create four attendance zones that ran from the hills of Berkeley (which were largely white) to the "flats" that were largely non-white. All 14 elementary schools were restructured: schools in the hills and middle of the city were changed to serve children in kindergarten through third grade while schools in the south and west of the city served grades four through six. Students were assigned to schools within their zones with the goal of balancing each elementary school and classroom so that each was 50% white, 41% black, and 9% "other". The desegregation plan was implemented in September 1968. During the first year, 3,500 out of 9,000 elementary school students were bused.[16]

CONTROLLED CHOICE STUDENT ASSIGNMENT

The district's commitment to school desegregation and mandatory assignment to elementary schools remained in place throughout the 1970s and 1980s. By the early 1980s, 7 out of 12 elementary schools were racially imbalanced with African-Americans constituting over 53% of total enrollment at four of these schools.[17] In addition, many white families were opting out of the district because of busing and the growing concern over the need for students to transition to a new school four times between K-12 given the grade configuration of the schools. Finally, a 1992 city bond measure that supported the repair, rebuilding, and upgrading of schools forced the district to reevaluate the capacities of all schools and who would be served by them.[18]

Educational choice was growing in popularity across the country as were magnet schools as a possible avenue for "natural" desegregation through parental choice. Many Berkeley community members expressed concern over introducing a choice system in BUSD, noting inequality in time and resources among community members to make informed choices. In late 1993, however, the school board voted to phase out the two-way mandatory busing plan and incorporate a controlled choice integration plan. The district recognized that schools needed to be strengthened to encourage families to choose schools outside of their neighborhood.[19] The new plan reconfigured all the elementary schools to serve grades K-5 and divided the district into three elementary school zones (Northwest, Central, Southeast), each of which incorporated hills and flats (see Figure 2). The zones were created by mapping the entire city into 445 "planning areas" that are 4-8 city blocks in size and geo-locating student residential patterns by race-ethnicity. The goal of the plan was to assign students so that each elementary

FIGURE 2 | Berkeley Unified School District Attendance Zones



15. Berkeley Unified School District, 1967.

16. For the then-BUSD superintendent's accounting of this time period see Sullivan and Stewart, 1969.

17. Based on authors' calculations of data retrieved April 20, 2009 from the California Department of Education's California Basic Educational Data System file titled "Enrollment by Ethnic Group and School."

18. See Holtz, 1989; and Slater, 1993.

19. See Herscher, 1993; and Olszewski, 1994.

school had a racial-ethnic distribution (defined as "White", "Black", "Other") that reflected the school's zone-wide racial-ethnic distribution within plus or minus five percentage points.[20] Families were allowed to choose and rank up to three elementary schools within their zones, but the final decision resided with the district, which considered choice, sibling and zone priorities as well as the race-ethnicity of individual students. All of the middle schools were reorganized to serve grades 6 – 8, and the district was divided into two middle school zones with one middle school serving each zone. In the first round of assignments for the 1995–1996 academic year, nearly 90% of families received their first choice.[21]

Legal Challenge to Controlled Choice Plan. In 1996, the voters of California passed Proposition 209, a state ballot proposition that prohibits the discriminatory or preferential use of race and ethnicity in public education, including schools and state colleges and universities, employment and contracting.[22] In the years following, at least two California school districts were the subjects of lawsuits regarding their usage of race-ethnicity in student assignment;[23] and in 2003 the Pacific Legal Foundation filed a challenge to BUSD's student assignment plan, *Avila v. Berkeley Unified School District*, alleging violation of Proposition 209. Alameda County Superior Court Judge James Richman ruled that BUSD's plan did not violate Proposition 209 because race was just one of several factors considered when assigning students to schools and because race was not used to grant preferential treatment or to discriminate. The decision also noted that the Equal Protection Clause of California's Constitution requires school districts to remedy school segregation, regardless of its cause.[24]

THE CURRENT BUSD STUDENT ASSIGNMENT PLAN

As seen, BUSD has a long history of desegregation efforts, which over time have incorporated family choice preferences in meeting the district's diversity goals. In 2000, the school district explored revising its student assignment policy to go beyond race-ethnicity and include measures of socioeconomic status. These efforts resulted in a new student assignment policy that was implemented for the 2004–2005 academic year and is still in use.

In 2000, then-BUSD Superintendent Jack McLaughlin convened the Student Assignment Advisory Committee (SAAC), composed of principals, administrators and a parent from each school. Over the next few years, the SAAC developed a "4-Point Statement of Beliefs" that stressed the right to an education for all Berkeley children, equal opportunities for all, diversity as a community value, and the benefits of diversity, hosted community meetings, and explored a number of possible alternatives. Noting that residential segregation within Berkeley remained entrenched, the SAAC explored the use of neighborhood demographics as a factor in diversifying schools, including family incomes, home sale values, and the percentage of households headed by single females. Committee member, parent, and software engineer, Bruce Wicinas, who developed a customized software program to create the zones for the prior plan, facilitated these simulations, but the board did not act on these proposals.[25] Once *Avila* was filed in 2003, three former members of the SAAC resumed efforts to refine the student assignment plan based on neighborhood demographics.[26]

In January, 2004, then-Superintendent Michele Lawrence submitted a proposal to the school board to change the student assignment plan. The plan retained the three elementary school zones, two middle school zones, and parental choice. It differed from the

20. In 1993, the racial-ethnic distributions for whites, Blacks and "other" were 32%, 42% and 25% in the Central Zone, 32%, 35%, and 33% in the Northwest Zone, and 32%, 45% and 22% in the Southeast Zone, respectively. District-wide, the racial-ethnic distribution among 3,420 elementary school students was 32%, 41% and 27%, respectively. Email communication with Bruce Wicinas, February 13, 2009.

21. See Olszewski, 1995.

22. Referred to as the "California Civil Rights Initiative" by its supporters, this ballot proposition specifically prohibits the discriminatory or preferential use of "race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting." The proponent of the initiative, Ward Connerly, a California businessman and former University of California Regent, went on to promote the passage of similar propositions in Washington State (I-200, passed in 1998), Michigan (Proposal 2, passed in 2006) and Nebraska (Initiative 424 in 2008).

23. See *Crawford v. Huntington Beach Union High School District,* 2002; *Scott v Pasadena Unified School District* (1999) was filed in federal court but also claimed violation of Article 1, Section 31 of the California Constitution Section 31, the legal code pertaining to Proposition 209.

24. See *Avila v. Berkeley Unified School District,* 2004. For a discussion of desegregation legal issues in California (and the case *Crawford v. Board of Education of the City of Los Angeles* (1982) that invokes California's Equal Protection Clause with districts' duty to avoid racial segregation) see Blanco, 2009.

25. Our source for this information comes from the document "Special Meeting of the Board of Education: Study Session: Student Assignment," December 17, 2002, made available to this project by Bruce Wicinas.

26. These members were Francisco Martinez, then-manager of the BUSD Admissions Office; Bernadette Cormier, current Transportation manager at BUSD; and Bruce Wicinas. Cathy James, a former BUSD administrator, also played a crucial role in formulating the current student assignment plan.

1994 plan in one fundamental way: rather than considering the race-ethnicity of individual students, the new policy took account of the racial-ethnic, economic and educational diversity of each student's neighborhood so that schools reflected zone-wide diversity on these factors. The new plan did not receive universal support from the community; in fact, protestors stood outside the board meeting objecting to the dilution of race in student assignment.[27] However, the school board approved the policy change and the new plan was put in place in the 2004–2005 academic year. At the same time, the board also restated the district's 40-year commitment to racial-ethnic desegregation and described the need to consider parental education and household income in student assignment to reduce racial and socio-economic isolation in schools (see boxed text).[28] The resolution also articulated two additional goals: (1) school-site equity with a commitment to establish a base program across all schools and (2) staff diversity that reflects student diversity.

A New Measure of Diversity. As described above, the prior integration plan's primary innovation was geographical zones that were drawn on the basis of 445 "planning areas" that identified student residential patterns by race-ethnicity. The new plan assigns each planning area a "composite diversity category (or "codes")" of one, two or three (see Figure 3). The composite diversity categories (or "codes") are based on household incomes, education attainment of adults 25 and older (both derived from the 2000 Census), and percentage of students of color enrolled in K-5 at BUSD (derived from a multi-year pool of enrollment data) in each planning area.[29] Each of these diversity components (race, income, and education) is weighted evenly to formulate the final diversity composite. In general, planning areas designated as category three have low percentages of non-white elementary school students and higher than average household incomes and levels of education among the adults. Planning areas categorized one are typically the opposite, and planning areas categorized as two are, in general, in between.[30] All students living in a particular planning area are assigned that area's diversity category for assignment purposes, regardless of the race-ethnicity, income, and levels of adult education in their individual households.

Families are allowed to choose up to three schools and three Spanish dual-immersion and/or bilingual education programs for assignment. (The language programs are described in more

Berkeley Unified School District's Integration Goals

Adopted 2004
"We believe that assigning students using a multi-factor approach enriches the educational experiences of all students, advances educational aspirations, enhances critical thinking skills, facilitates the equitable distribution of resources and encourages positive relationships across racial lines."

Parental Education
"By including parent educational level in the student assignment process, Berkeley Unified School District seeks to distribute educational "capital" amongst the elementary schools and maximize the educational opportunities for all students."

Household Income
"When individual schools have greater access than others to fundraising activities, supportive programs and instructional materials that draw from the financial resources of its parents or neighborhoods this can create conditions of inequity."

Race-Ethnicity
"Our goal is to teach students how to thrive in a multi-cultural and multi-racial society, our ability to impart these skills in a diverse environment becomes of paramount importance."

Promotion of School Site Equity
"One of the measures of success of the student assignment program will be the extent to which schools offer a comparable education to the students enrolled at each site. ...each [school] will share the equal responsibility of meeting the educational goals for achievement that apply to the District as a whole. In such a learning environment choosing or attending one school rather than another will confer neither significant advantage nor disadvantage to pupils enrolled at any individual site."

Source: Berkeley Unified School District

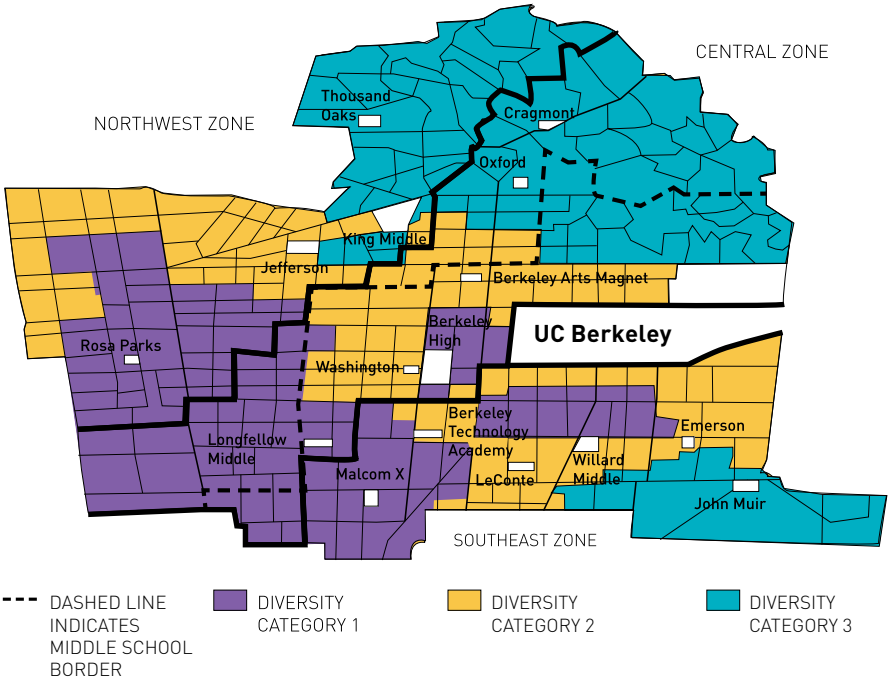
27. See Hernandez, 2004.

28. See Berkeley Unified School District, 2004. Board Resolution 7008 available at http://www.berkeley.net/index.php?page=student-assignment-plan.

29. Berkeley uses seven categories to differentiate average household income (taken from the 2000 Census) to compute its three-factor diversity code. This is considerably more complex than traditional binary measures of income such as eligibility for free/reduced lunch; sociologists often note here are very important distinctions among families both above and below the poverty or free lunch lines.

30. For example, the 2000 average household income of all planning areas coded as one was approximately $32,000 compared with $44,000 for planning areas coded as two and $97,000 coded as three. Source: Bruce Wicinas by email communication July 24, 2009. See computation of the composite diversity categories at http://www.berkeley.net/index.php?page=student-assignment-plan. The website also describes the demographics of three planning areas, each categorized as a one, two or three, for illustration purposes.

FIGURE 3 | Berkeley Unified School District Composite Diversity Map



detail in Part IV). The district assigns students to schools and programs using a software program called "Assignware," which was specifically designed for BUSD by Bruce Wicinas.[31] Assignware first assigns all enrolled elementary students to the school they currently attend. Applicants who are Berkeley residents are assigned to schools using the following priorities:

1. Berkeley residents who are siblings of any current student attending the school and who will continue in attendance for the upcoming year
2. Berkeley residents living within the attendance zone
3. Berkeley residents living outside the attendance zone

These priorities apply to all applicants regardless of whether they are new to the district or are currently enrolled students requesting an intra-transfer.[32] First, the software program assigns students to dual immersion and bilingual programs; next, students are assigned to general programs. As it seeks to build grade-level enrollments that reflect the zone-wide diversity, the software considers the diversity categories of students, which are based on the planning area they live in, as it assigns students by each priority category.[33]

The goal of the student assignment plan is for all grade levels at each elementary school to approximately reflect (within 5-10 percentage points) the zone-wide distribution of diversity codes one, two, and three. Each zone has different distributions of these three diversity codes as can be seen in Table 1 (see next page); as such, the diversity category distribution at each school will vary depending on the zone it is located in. In fall 2007, a total of 198 kindergartners enrolled in Northwest zone schools. Of these, 53% lived in planning areas with composite diversity code one while 26 and 22% lived in planning areas that were coded two and three, respectively. Each of the kindergarten classes at the three schools located in the Northwest zone reflected this distribution within 5-10 percentage points. The same was true for the schools located in Central and Southeast zones: the diversity of their kindergarten enrollment was, in most cases, very similar to their zone-wide diversity. Prior to assigning students, the Manager of the Admissions Office determines grade-level capacities at each school and estimates each attendance zone's diversity category distribution based on multi-year averages of applicant pools and enrollment. With this information the estimated proportion of students from each diversity code to be enrolled at each grade-level at each school is identified. For example, if a zone's kindergarten diversity distribution of ones, twos and threes is estimated to be 50%, 25% and 25% respectively, the estimated proportion of available kindergarten seats for families from diversity categories one, two and three at each school within the zone would be 50%, 25% and 25%, respectively.

31. Information on the software can be found at http://assignware.com/. The district purchased a license for this software and has retained Mr. Wicinas' services as a consultant who modifies the assignment system's computer code as needed.

32. In contrast, requests for inter-district transfers are typically fulfilled in August just prior to the start of school. In 2007-08 there were 677 requests to transfer or remain a transfer student in the district. Of these, 479 students were allowed to continue enrolling in BUSD schools; 27 new students were allowed to enroll (19 were children of BUSD employees who are allowed to attend via collective bargaining agreements); and 171 students (new or continuing) were denied. These students account for 5.5% of all students in the BUSD schools. BUSD School Board meeting minutes from 12/12/07. Accessed on February 18, 2009 at http://www.berkeley.net/december-12th-2007/.

33. Approximately 25% of families that applied for 2008-2009 kindergarten placement had a sibling priority.

The 2004 plan primarily applies to the elementary schools, although the same principles apply for assignment to Berkeley High School's (BHS) four small schools and two programs. Potential BHS students must choose at least one program to enroll in while they have the option of choosing one of the small schools. The goal guiding assignments in these six smaller units at BHS is for all units to reflect BHS school-wide diversity as measured by the diversity code distribution (currently at 48% from category one, 25% from category two and 27% from category three). There are two middle school attendance boundaries with one school in each, and most students are assigned to the school in their middle school zone unless they request the middle school outside their attendance boundary and space is available. A third middle school, Longfellow Magnet, has no attendance boundary and can be chosen by all students; no students are assigned to this school unless they request it.

In a later section of this report, we will describe the practices BUSD uses to implement this policy to ensure that such extensive use of choice does not disadvantage certain members of the community.

Legal Challenge to Berkeley's Current Plan. In 2006, BUSD was sued over its voluntary desegregation plan by the Pacific Legal Foundation alleging that the use of race-ethnicity as one of three factors in calculating the composite diversity code of each residential planning area violated Proposition 209. In an April 2007 decision, the trial court ruled in favor of the district, noting that the race-ethnicity of individual students is not considered in the district's school assignments but rather is just one of three factors used to determine diversity categories.[34] Referring to the district's integration goals, the judge also noted that the United States Supreme Court upheld student diversity as a compelling state interest in *Grutter v. Bollinger,* a 2003 case about admission policy at the University of Michigan's law school.

The plaintiffs appealed the ruling, and the California Court of Appeals upheld the Berkeley student assignment plan in a unanimous decision. The California Appellate Court ruled that the assignment policy did not violate Proposition 209 because "every student within a given neighborhood receives the same treatment, regardless of his or her individual race" and "regardless of whether his or her own personal attributes (household income and education levels, and race) match the general attributes of the planning area in which the student lives."[35] The court also noted that Proposition 209 "does not prohibit the collection and consideration of community-wide demographic factors" nor does it prohibit all consideration of race.[36] The California Supreme Court denied the petitioners' appeal on June 10, 2009.

TABLE 1 | Composite Diversity Among Berkeley Unified School District's Elementary Schools: Kindergarten Enrollment – Fall 2007

	DIVERSITY CATEGORY 1		DIVERSITY CATEGORY 2		DIVERSITY CATEGORY 3		
	%	Variance from Zone-Wide Diversity	%	Variance from Zone-Wide Diversity	%	Variance from Zone-Wide Diversity	Number of Students
Northwest Zone	**52.5**		**25.8**		**21.7**		**198**
Jefferson	42.9	-9.6	35.7	9.9	21.4	-0.3	42
Rosa Parks	51.4	-1.1	23.0	-2.8	25.7	4.0	74
Thousand Oaks	58.5	6.0	23.2	-2.6	18.3	-3.4	82
Central Zone	**45.0**		**32.6**		**22.3**		**242**
Cragmont	47.5	2.5	27.9	-4.7	24.6	2.3	61
Oxford	54.1	9.1	24.6	-8.0	21.3	-1.0	61
Washington	37.3	-7.7	40.7	8.1	22.0	-0.3	59
Berkeley Arts Magnet	41.0	-4.0	37.7	5.1	21.3	-1.0	61
Southeast Zone	**58.3**		**28.2**		**13.6**		**206**
Emerson	61.9	3.6	26.2	-2.0	11.9	-1.7	42
John Muir	63.4	5.1	19.5	-8.7	17.1	3.5	41
LeConte	54.1	-4.2	31.2	3.0	14.8	1.2	61
Malcolm X	56.5	-1.8	32.3	4.1	11.3	-2.3	62

Source: Adapted from BUSD document titled "Berkeley Unified School District Composite Diversity Outcome"

34. The district was represented pro-bono by Jon Streeter, a San Francisco Bay Area attorney. See *American Civil Rights Foundation v. Berkeley Unified School District,* 2007.

35. See page 29 in *American Civil Rights Foundation v. Berkeley Unified School District,* 2009.

36. Id., page 10.

II. CHARACTERISTICS OF THE BERKELEY UNIFIED SCHOOL DISTRICT

BUSD adopted its first desegregation plan in response to residential segregation and has pursued alternative plans in order to mitigate the racially isolated schools that would result from a school assignment system based on neighborhood schools. In this section we describe the city's composition along each of the characteristics considered in BUSD's current plan: educational attainment, household income, and racial composition of residents.

The Berkeley Unified School District is coterminous with the city boundaries of Berkeley, California, situated on the eastern side of the San Francisco Bay and connected to the city of San Francisco and other parts of the Bay Area by public transportation. One of 18 school districts in Alameda County, the district currently serves approximately 9,000 students in eleven elementary schools, three middle schools, one comprehensive high school and one small continuation high school; there are no charter schools. Many other districts across the nation are comparable in size to BUSD—more than 1,000 districts report between five and ten thousand students in the U.S. including 122 in California.[37] The district enjoys extensive financial support from the citizens of Berkeley.[38]

In 1968, the year the district implemented its first major integration plan, district-wide enrollment was 16,000 students with nearly equal proportions of white and black students. Enrollment declined over the next 10 years, mirroring broader demographic change across all districts in Alameda County that, together, decreased by 23%. Since then, enrollment has remained relatively stable between 8,000 and 10,000. The district has considerable economic, linguistic and academic diversity; nearly 41% of students receive free and reduced lunch and one-eighth are classified as Limited English Proficient.[39] The district has long-standing racial-ethnic gaps in achievement (as measured by test scores and four-year college coursework completion) and dropout rates with whites outperforming African-Americans and Latinos on most measures. For example, an estimated 18% of African-Americans and 22% of Latinos drop out of BUSD compared with 9% of whites.[40] An analysis of the academic and non-academic outcomes of students in BUSD is beyond the scope of this report, but a brief description of achievement outcomes for second- and third-graders is in the Appendix.

BERKELEY, CALIFORNIA

Berkeley is a mid-sized city with just over 100,000 residents; it is just the fourth largest city in Alameda County and dwarfed in size by some of California's largest cities. The city is relatively compact, only 10.5 square miles, which allows for easy transport of students from anywhere within the district for desegregation purposes, and is home to the University of California's Berkeley campus, one of the leading public universities in the country. The University enrolls nearly 35,000 undergraduate and graduate students and has a major influence on the city of Berkeley—nearly three-quarters of its students live in Berkeley, and it is the largest employer in the city. The San Francisco Bay area is one of the nation's most expensive housing markets, and housing prices in Berkeley reflect this, but like many university cities, more than half of all available housing units in Berkeley are renter occupied.[41] In an attempt to maintain quality, affordable housing for Berkeley residents, the city established a rent stabilization ordinance, which limits the annual rent increases on nearly 80% of the rental units in Berkeley.[42]

City Demographics. Berkeley has grown increasingly diverse since its first desegregation efforts in the late 1960s. In particular, there has been an increase in the percentage of Asian, Hispanic, and multiracial residents. A majority of Berkeley residents remain non-Hispanic white, and the percentage of white residents has slightly increased since 2000 (see Table 2). Asians comprise the second-largest group at nearly 18%, likely due to the large Asian population at UC Berkeley.[43] Latinos comprise another 10% of the population. The Asian and Latino

37. See Table 4 in U.S. Department of Education, 2008.

38. Berkeley residents consistently vote for school funding measures by large majorities that generate millions of dollars annually to enhance school resources such as libraries, arts programs, and professional development. The Berkeley Schools Excellence Program is the best known local parcel tax that raised $20 million alone in 2007-2008.

39. This is based on 2007-2008 data retrieved from Ed-Data http://www.ed-data.k12.ca.us/.

40. The racial-ethnic and socioeconomic achievement gap at Berkeley High, the district's one comprehensive high school, has been studied by many researchers over the years. See Noguera and Wing (eds), 2006; and Sacks, 2007. 2007-008 dropout rate data was retrieved July 5, 2009 from the online data report "Dropouts by Ethnic Designation by Grade" at the California Department of Education's website.

41. See City of Berkeley Planning and Development Department (2008).

42. Under city-wide rent control, the average rental housing prices for one- and two-bedroom units has declined since 2000. The median monthly mortgage payment was $2600, while the median rent was $1000 See American Community Survey, 2007 accessed at www.census.gov.

43. In the fall of 2008, according to the University's website, 42% of undergraduates were Asian-American representing more than 10,000 students. In 2007, 34% of Asian residents of Berkeley were age 18-24 compared with 21% of whites and Latinos and 11% of African-Americans. Based on authors' calculations of the 2007 American Community Survey, U.S. Census Bureau.

TABLE 2 | Racial/Ethnic Composition of Berkeley, California, 1970 to 2007

Race/Ethnicity (%)	1970	1980	1990	2000	2007	Change 1970-2007
White, non-Hispanic	67.7	66.9	58.3	55.2	57.4	-10.3
Black, non-Hispanic	23.5	20	18.2	13.3	10.4	-13.1
Hispanic	3.5	5.0	8.4	9.7	9.9	6.4
Asian	7.4	10	14.4	16.3	17.5	10.1
Other	1.5	3.1	0.8	1.0	3.9	2.4
Multiracial	N/A	N/A	N/A	4.5	4.7	N/A
Total Population	116,716	103,328	102,724	102,743	111,680	

Sources: Bay Area Census, 1970 & 1980; U.S. Census, 1990 & 2000; American Community Survey 2007
Note: may not add up to 100% due to rounding

TABLE 3 | Measures of Educational Attainment, Poverty Status and Income by Race-Ethnicity in Berkeley, California, 2000

	HIGHEST LEVEL OF EDUCATION ATTAINED BY ADULTS AGE 25 AND OLDER					FAMILY INCOME	
	% 12th Grade or Less	% HS Grad	% Some College	% BA Degree	% Post BA Degree	% Families with Children Below Poverty Line	% Families w/ Income $100,000 +
Total Population	7.8	8.6	19.4	29.9	34.3	11.6	34.3
Race-Ethnicity							
White, non-Hispanic	2.1	4.1	15.4	34.8	43.5	4.2	47.6
Black, non-Hispanic	20.2	24.0	35.8	12.1	8.0	26.7	8.1
Hispanic	27.7	13.7	18.8	21.0	18.8	19.6	15.4
Asian	8.7	9.9	17.2	32.8	31.5	14.2	15.6
Other	32.6	12.9	21.7	17.6	15.2	15.4	16.8
Multiracial	8.6	11.1	28.3	27.2	24.8	22.8	18.4

Source: Census 2000 Summary File 3 (SF 3)
Note: may not add to 100% due to rounding

populations have steadily grown in size and proportion since 1970 while the number of non-Hispanic blacks has fallen precipitously since 1990 due to affluent blacks moving out to diverse suburbs and working class blacks getting squeezed out by increasing housing costs.[44] African-Americans were nearly one-quarter of all residents in 1970 but comprised just over 10% of the population in 2007.

As one would expect in a city with a highly selective and prestigious university, Berkeley residents, on the whole, are highly educated (see Table 3). Nearly two-thirds of adults have college degrees or higher and only eight percent lack a high school diploma. For comparison, the percentage of adults holding at least a bachelor's degree in the U.S. and in California is 25% and 27% while the percentage of residents without a high school diploma nationally and statewide is 20% and 23%, respectively.[45] One-third of all Berkeley families have incomes of $100,000 or more, and just 12% of families with children live below the poverty line. These high levels of educational attainment and family incomes mask vast differences among racial-ethnic groups within Berkeley. Whereas more than three-quarters of white and nearly two-thirds of Asian Berkeley residents have a bachelor's degree or more, just 40% and 20% of Latino and African-American residents do. In contrast, 4 in 10 black and Latino residents have a high school diploma or less. More than one in five Latino and African-American families with children lives below the poverty line compared with just 4% of whites. White families in Berkeley are particularly wealthy: nearly half have incomes of $100,000 or higher compared with just 8% and 15% of African-American and Latino families.

Residential Segregation. Residential segregation of Berkeley—and its relationship to racially-isolated schools—is one of the reasons BUSD adopted its school desegregation plan during the 1960s. Although racial-ethnic residential segregation in Berkeley declined between 1980 and 2000, for some groups it still remains high.[46] In general, whites and Asians have become more integrated with one another while blacks and Hispanics are largely separate from these groups.

We see the clear separation between whites and Asians and African-Americans and Latinos in Figure 4. White and Asian youth are concentrated on the east side of Berkeley (north and south of the university

44. Some of this is due perhaps to revised racial-ethnic classification by the Census since 1990 and the fact that those measured as black in 1990 may not have been classified as such in 2000. For a discussion of demographic change in Berkeley see chapter 10 in Wollenberg, 2008.

45. Based on authors' calculations of Census 2000 Summary File 3 (SF 3) - Sample Data.

46. Analysis of Berkeley census data from 1980 to 2000. Accessed on February 27, 2009 at http://www.s4.brown.edu/cen2000/WholePop/CitySegdata/606000City.htm.

FIGURE 4 | 2000 Residential Patterns by Block Group for Students Enrolled in K-12 by Race-Ethnicity in Berkeley, California

Source: Census 2000, SF3 P047 *UC Berkeley

campus) while African-American and Latinos are largely concentrated on the west side of the city. There is remarkably little overlap between block groups that have the highest concentrations of white/Asian and African-American/Latino school-aged residents.[47] Latinos and Asians were not as highly concentrated as blacks and whites. However, in block groups where there are higher percentages of Latinos, they generally overlap with areas of high black concentration while higher concentrations of Asian youth coincide with areas of high white youth. The Northeast section, where there are high concentrations of whites, constitutes the "hills" of Berkeley and is adjacent to Albany, a smaller diverse city. The "flats" are in the southern part of Berkeley, next to Oakland.

In general, neighborhoods with higher concentrations of families with high incomes are in northeast Berkeley and, to a lesser extent, in southeast Berkeley, both areas that have concentrations of white students (see Figure 5). Areas with lower median income include areas immediately adjacent to the university, which may house students who have little to no current income and few children, and the southwestern part of Berkeley bordering Oakland, a larger city with high concentrations of black and Latino families.

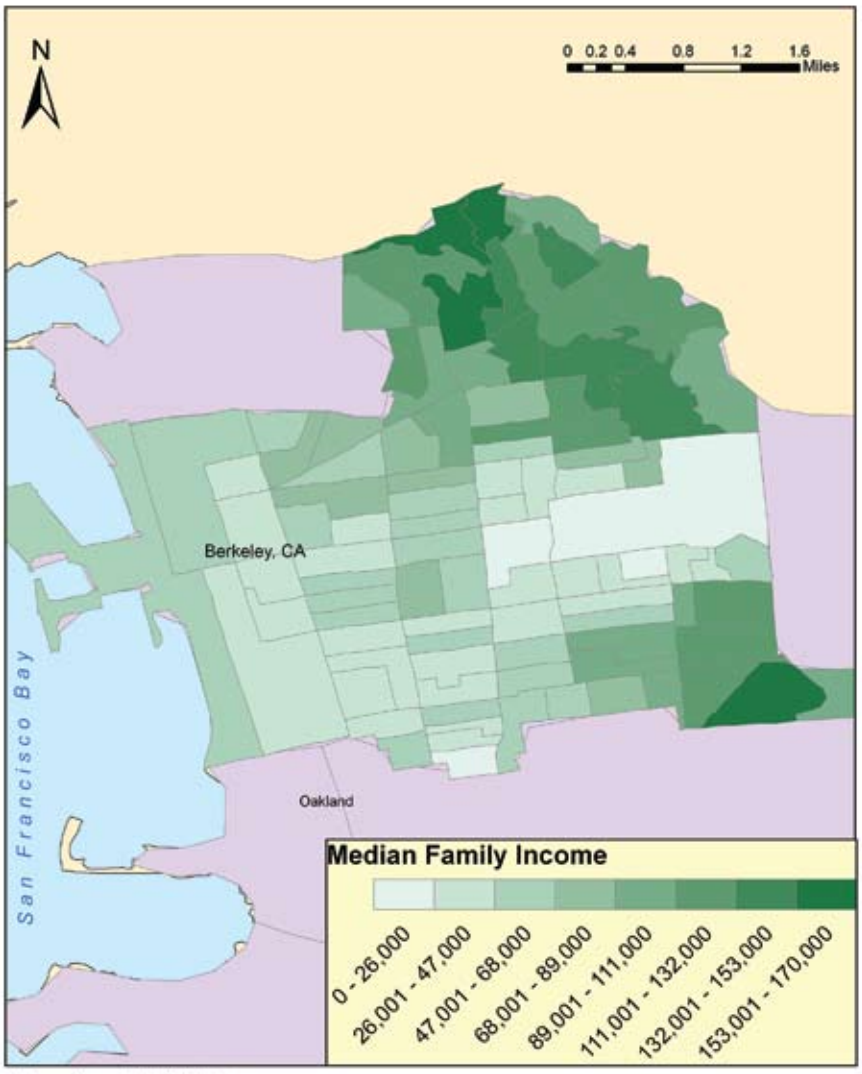
In summary, the Berkeley Unified School District and the city of Berkeley are highly diverse and have maintained unusual stability of diversity for four decades. Alongside this considerable racial-ethnic diversity is persistent and substantial residential segregation and inequality in household income and educational attainment among different racial-ethnic groups that comprise the city.

III. DOES BUSD HAVE RACIALLY AND ECONOMICALLY INTEGRATED SCHOOLS?

In this section we examine how successful BUSD's policy has been at creating racially diverse schools. Achieving racially and economically diverse schools is a two-stage process for districts: they must attract and hold a diverse study body and enrollment must be distributed relatively evenly

47. A census block group has between 600 and 3,000 residents and is smaller than a census tract.

FIGURE 5 | 2000 Residential Patterns by Block Group for Students Enrolled in K-12 by Household Income in Berkeley, California



Source: Census 2000 SF3 P077

across schools. One way to evaluate the success of desegregation policies is the extent to which they are able to attract all potential students.

Berkeley's student assignment plan is what's known as a controlled choice plan. It seeks to provide parental choice while allowing the district to manage the choices in a way that furthers its goal of diversity. Educational choice has proliferated as a way of giving parents more input into where their child attends school and, as a result, generating support for public education.[48] Proponents of controlled choice plans have suggested that an additional benefit of these types of plans is that they will cause schools that are chosen by fewer families to seek to improve their school to make it more attractive to families who are "choosing".[49] A choice plan relies, in part, on producing schools that are attractive to eligible students and their families. To produce racial diversity, these schools should be attractive to families of all backgrounds. As such, in addition to examining the racial-ethnic and economic integration of BUSD schools, we also analyze participation in public schools for Berkeley residents; we then turn to assessing the racial and economic integration of BUSD schools.

There are a number of schooling options in the city of Berkeley and surrounding cities for families to choose from including traditional public schools, charter schools, private schools, and home schooling.[50] According to 2007 estimates, 77% of Berkeley residents who were enrolled in K-12 attend public schools while 23% are enrolled in private schools, rates that have remained fairly consistent since 1990. Private school usage among Berkeley residents is high compared with California's statewide usage (9%) but it is closer to the private school usage in the larger metropolitan area (San Francisco-Oakland-Fremont) of 15%.[51] At the same time, public school usage varies substantially by the race-ethnicity of the students. As of 2000—the last year for which the Census disaggregated the type of school attended by racial-ethnic group—there were striking differences in usage of public schools by race-ethnicity in Berkeley (see Figure 6). In particular, 62% of non-Hispanic white students attended public schools while more than 80% of Latino and more

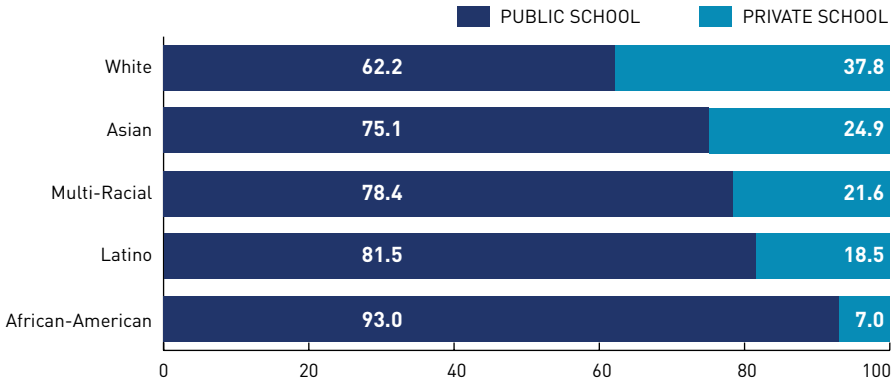
48. See Harris, 2006.

49. See Willie & Alves, 1996.

50. There are twenty independent and religious private schools within the city limits of Berkeley alone that enroll more than 3,400 students (who may or may not be city residents). Likewise, there were 61 charter schools in Alameda, Contra Costa, and San Francisco counties in 2006-07 serving more than 15,000 students that were available to students across district borders. Source: NCES Common Core of Data, 2006-07.

51. Based on authors' calculations of data from the 1990 and 2000 Census, and the 2007 American Community Survey.

FIGURE 6 | Berkeley Residents' K-12 Enrollment in Public and Private Schools in 2000 by Race-Ethnicity



Source: Census 2000 Summary File 3 (SF 3)

than 90% of black students did so. This suggests that BUSD was not attracting white students at the rate of students of color in 2000; unfortunately, we do not have disaggregated data for the years after the current plan was put in place. However, the majority of school-aged residents from every racial-ethnic group in Berkeley report attending public schools.

THE RACIAL AND ECONOMIC DIVERSITY OF BERKELEY SCHOOLS

We now turn to an analysis of the racial-ethnic and socioeconomic demographics of BUSD schools (see Table 4). While the goal of Berkeley's plan is to achieve diversity (as measured by the diversity categories) at each elementary school that reflects zone-wide diversity, we assess whether Berkeley's schools under this plan are a) racially-ethnically diverse and b) economically diverse.[52] We use a common measure of compliance with desegregation which is to compare the representation of a group of students with its representation among. For example, if all elementary schools were integrated, we would expect all schools to have similar racial compositions within 5-10 percentage points compared with the racial-ethnic composition of all elementary school students combined. We examine this for low income students (as measured by free/reduced lunch status) and for white, black, Latino and Asian students.[53] We find that despite the neighborhood segregation described above, there is substantial diversity across the district's elementary schools in particular, which the 2004 plan explicitly pertains to.

Elementary Schools. In 2008-09, Berkeley elementary schools enrolled 3,678 students. The current Berkeley integration plan was implemented for the entering kindergarten class in 2004-05, thus these schools have one grade level of students who were admitted as kindergarteners under the previous student assignment plan. Table 5 (on page 15) examines the extent to which the racial-ethnic and economic composition of each elementary school mirrors the racial composition of all BUSD elementary school students within 10 and 5 percentage points. In general, BUSD's elementary schools appear integrated when using the 10 percentage points criteria. There are no schools where Asians and whites deviated from their share of elementary students and just one school where African-Americans did so. There were two schools (both schools with Spanish dual immersion programs) where Latinos varied more than 10 percentage points from their representation among all elementary school students.

The number of schools where groups differed from their representation among all elementary school students increased for all four groups using the stricter criteria of five percentage points. The white and Asian students' population differed by more than five percentage points in one school from the percentage of all elementary students. By contrast, black and Latino student composition deviated from their share of elementary students in four and seven schools, respectively. Variation in Latino school-level percentage is the largest, from one school with less than one-tenth of students who were Latino to another school where Latinos comprised more than one-third of all students. Students from all four racial-ethnic groups were within 5% of the racial composition of BUSD elementary schools in three out of the eleven elementary schools, Jefferson, Emerson, and Cragmont.[54]

There are similar patterns in economic integration. In 2007-2008, 48%

52. Since BUSD's plan is to approximate zone-level diversity, it is possible to achieve this goal but not to have district-wide racial or economic diversity if, for example, the zones had unequal distributions of students by race or poverty.

53. In this section we do not analyze the multiple/no response category. Although it is a large percentage of students, we view this as combining two separate populations, and therefore would be difficult to interpret.

54. Notably, as discussed below, these three schools were the most highly chosen school in each of the three zones for the kindergarten cohort of 2008-09. This suggests that the plan is most successful at integrating students from all racial-ethnic groups where demand is highest.

TABLE 4 | Racial-Ethnic and Economic Composition of Berkeley Unified Schools, 2008-2009

	TOTAL ENROLLMENT	AMERICAN INDIAN %	ASIAN %	LATINO %	AFRICAN AMERICAN %	WHITE %	MULTIPLE/NO RESPONSE %	FREE/ REDUCED LUNCH %
Elementary Schools								
Berkeley Arts Magnet	375	0.0	10.7	9.6	20.3	34.9	24.5	38.2
Cragmont	389	0.3	3.3	21.1	25.7	30.6	19.0	35.7
Emerson	307	0.0	8.1	19.9	24.8	26.7	20.5	50.3
Jefferson	280	0.4	11.4	15.4	20.7	32.5	19.6	41.4
John Muir	228	0.0	7.5	11.8	33.8	23.7	23.2	51.3
LeConte	299	0.7	5.7	24.4	21.4	27.4	20.4	59.6
Malcolm X	381	0.3	8.7	10.8	25.7	30.4	24.1	52.9
Oxford	277	0.4	5.1	10.8	28.9	32.9	22.0	41.4
Rosa Parks	407	0.5	5.4	31.2	13.5	29.7	19.7	54.6
Thousand Oaks	419	0.5	5.2	33.9	12.9	28.2	19.3	52.0
Washington	316	0.3	13.9	16.1	16.5	35.4	17.7	50.7
Total Elementary	3,678	0.3%	7.6%	18.4%	21.5%	30.4%	20.9%	48.0%
Middle Schools								
Longfellow Arts and Technology	429	0.5	7.0	24.2	33.1	16.3	18.9	55.1
Martin Luther King	900	0.1	8.9	16.1	23.2	34.7	17.0	39.5
Willard	467	0.2	11.6	13.7	33.8	22.7	18.0	57.4
Total Middle School	1,796	0.2%	9.1%	17.4%	28.3%	27.2%	17.7%	47.8%
High Schools								
Berkeley High	3,329	0.2	8.2	13.4	27.6	33.3	17.3	28.2
Berkeley Technology Academy School	119	0.8	3.4	18.5	67.2	1.7	8.4	44.1
Total High School	3,448	0.2%	8.0%	13.5%	29.0%	32.2%	17.0%	28.8%
BUSD Total	8,922	0.3%	8.0%	16.7%	25.8%	30.4%	18.8%	40.5%

Source: California Department of Education
Note: Free/reduced lunch data from 2007-2008. More recent data became available after this report went to press.

of elementary students were receiving free/reduced lunch.[55] Whereas the representation of low-income students varied by 10 percentage points and more from all elementary school students in just two schools, that number increases to six when applying the 5 percentage points criteria. One school had nearly 60% of students from low-income families while another only had 36%. Two of the three schools where all racial-ethnic groups were balanced were schools that were out of economic balance due to having lower percentages of low-income students than among all BUSD elementary students. Thus, by this measure of student poverty, BUSD's student assignment plan is not as effective as it is for diversifying most racial groups of students.

Middle and High Schools. While the 2004 plan explicitly applies to elementary school assignment, assignments to middle schools remain based on the mid-1990s controlled choice plan that created two middle school zones that run the length of the city (King/Willard border, recall Figure 2). Parents submit parental preference forms for middle school placement, but most families are assigned to the middle school they are zoned for unless space is available at their preferred school. King and Willard give preference to students residing in their zone and students are placed at Longfellow based on a lottery; none of the three middle schools consider the diversity code of potential students.

Based on the 10 percent criteria, the middle schools are very integrated: in 2008-09, only white representation

55. BUSD uses a measure of socioeconomic status in its diversity code computation that is taken from the Census about household income and divides areas into seven categories. We use free/reduced lunch eligibility as a measure of socioeconomic status since eligibility for free/reduced-lunch is a commonly used measure of students from low-income families and, more importantly, is publicly-available data. For further discussion of the way in which "poverty" is categorized in student assignment plans, see Reardon, Yun, and Kurlaender, 2006.

TABLE 5 | Deviation from System-wide Racial-Ethnic & Economic Composition in BUSD among Elementary & Middle Schools, 2008-2009*

	ASIAN/ PACIFIC ISLANDER	BLACK	LATINO	WHITE	FREE / REDUCED LUNCH
Elementary Schools					
Composition Across All Schools	7.6%	18.4%	21.5%	30.4%	48.0%
# of Schools whose Percentage Deviates 10% or More	0	1	2	0	2
# of Schools whose Percentage Deviates 5% or More	1	4	7	1	6
Middle Schools					
Composition Across All Schools	9.1%	17.4%	28.3%	27.2%	47.8%
# of Schools whose Percentage Deviates 10% or More	0	0	0	1	0
# of Schools whose Percentage Deviates 5% or More	0	2	1	2	3

Source: California Department of Education

Note: There are 11 elementary schools and 3 middle schools in BUSD; Free/reduced lunch data from 2007-2008.

* American Indian/Alaskan Native are 0.3% of the district enrollment & those that either gave multiple racial-ethnic responses or no responses at all account for 20.9% of elementary students.

at one school (Longfellow, the one middle school without a zone) varied 10 percentage points or more than their representation among all middle schools (again see Table 5). Likewise, all three middle schools have low-income populations within 10 percentage points of the district-wide middle school average of 48%. However, percentages of black and white students at two of the three middle schools vary at least five percentage points from the percentage of BUSD middle school students whereas one school varies from the Latino percentage by more than five percentage points. King has more than twice the percentage of white students as does Longfellow. All three middle schools vary more than five percentage points from the percentage of low-income middle school students. Again, King has the lowest percentage at just under 40% while the other schools had more than 55% of students from low-income families.

Berkeley High School is a large school with more than 3,300 students in 2008-09 that is the only district-wide comprehensive high school. The diversity plan pertains to its four small schools and two programs, where the goal is for each to be representative of school-wide diversity. Similar to the elementary school lottery, students are assigned to the smaller units within the high school by taking into account students' preferences, sibling attendance, and the diversity code of students.[56] There is also a small alternative high school, Berkeley Technology Academy. More than 85% of the students in 2008-09 were African-American or Latino, which is considerably higher than Berkeley High School, and there was also a higher percentage of low-income students.

Summary. As seen, there is a rich diversity of students in BUSD's schools. While integration varies by racial group and less integration exists in the middle schools compared with the elementary schools, in general, the integration across the district is fairly high. In elementary schools, there is less variation among white and Asian students while black and Latinos students are disproportionately enrolled in some schools in comparison to their overall percentage of the elementary school enrollment and not as much in others. These patterns of deviation in the racial composition of students from the system-wide averages have remained relatively consistent over the past few years.

There is more disparity between schools when examining student poverty than race-ethnicity: a majority of the elementary schools and all middle schools vary five percentage points or more from the district low-income percentage. This results in schools of substantial differences in terms of the percentage of low-income students in schools, which may affect the way in which schools are perceived by parents. For example, if schools have particularly high numbers of low-income students—or conversely if there are few such students—parents may take such considerations into account in ranking their school choices. In choice-based systems, schools that are somewhat imbalanced may become more so over time.[57] Yet, BUSD's policies and procedures may mitigate the stratifying effect of choice systems. These trends will be important to monitor over time to ensure that schools that differ from the systemwide average for one or more racial-economic group do not diverge further.

56. For more details about assignment to small schools and programs at BHS see, http://bhs.berkeley.net/index.php?page=lottery-selection-process. 2008-2009 enrollment data by race-ethnicity for BHS small schools and programs are not available.

57. For more discussion, see Brief of the American Psychological Association, 2006.

IV. IMPLEMENTING THE BUSD SCHOOL INTEGRATION PLAN

Having seen above that BUSD has substantially integrated schools and how its policy operates seemingly within the confines of the Supreme Court's guidance on voluntary integration plans, we examine in this section policy and practices for implementing the plan as well as what lessons there are from BUSD for other districts with similar goals. Of course, the history of commitment in Berkeley to voluntarily implementing desegregation—in a metropolitan area where they witnessed considerable disagreement about court-ordered desegregation policies — undoubtedly contributes to its current racial integration. We highlight a few key components that we believe help this plan maintain racially diverse schools. First, the three zones that cut across the entire district remained identical to the prior plan, but an added geographic layer of diversity codes distinguished the 2004 plan from its predecessor. Second, the district has in place a series of practices to try to counteract the stratifying effect that educational choice policies often have. These include a streamlined enrollment process, a simplified application, outreach to families, management of wait lists for schools where there are more requests than available seats, and efforts to make all school choices appear equal and attractive to BUSD families.

What is evident from our study of the district is that the entirety of the current plan—not simply the actual criteria by which choices are granted—is important for creating and sustaining Berkeley's racial diversity. As a result, we describe below the holistic policies and practices that contribute to Berkeley's integration efforts. We include analysis of data from the kindergarten applicants for the 2008–2009 school year to explore how elementary schools are "chosen" by incoming families and their assignment outcomes.

THE AFTERMATH OF *PICS*: USING ZONES FOR DIVERSITY

The U.S. Supreme Court decision in June 2007 striking down Louisville and Seattle's voluntary integration plans contained five separate opinions with considerable disagreement among the Justices as to what legal integration options remain for school districts. The Court strongly affirmed the compelling educational and social interest in integrated schools but blocked traditional methods of assigning students solely on the basis of their race in districts which were not under court orders (where such assignment policies are required to undo a history of illegal segregation). A majority of the Court was concerned about the use of *individual* students' race-ethnicity in student assignment.[58] Both student assignment plans were struck down because they took account of the race of individual students.

Justice Kennedy explicitly approved some race-conscious and race-neutral methods that the Court found to be permissible. In particular, Justice Kennedy suggested that race-conscious methods that don't take account of individual student's race but look instead to the racial demographics of neighborhoods would be permissible. Justice Kennedy listed several methods including the use of zones to achieve diversity: "Strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance, and other statistics by race."[59] While acknowledging that these are race-conscious means of pursuing the goals of diversity and reducing racial isolation, Justice Kennedy noted that these are permissible because they "do not lead to different treatment based on a classification that tells each student he or she is to be defined by race."[60] In fact, he goes so far as to suggest that plans that do not use individual racial classification would be subjected to a much lower standard of review.

This part of Justice Kennedy's opinion is noteworthy for several reasons. First, if Justice Kennedy had joined the plurality opinion in its entirety, school districts might have been prohibited from <u>any</u> consideration of race in the pursuit of diversity. Yet, research demonstrates that "race-neutral" student assignment policies are not as effective in maintaining racially diverse schools as race-conscious policies. For examples, studies of districts that have adopted geographic/neighborhood-based plans and/or choice-based policies that eliminated any use of race, have found that there has been

58. Both Louisville & Seattle noted in their briefs to the Court the relatively few students whose choices were affected by their race to emphasize that they used race in a way that was as less burdensome as possible. Louisville also described how they used zones to encourage racial-ethnic diversity.

59. *Parents Involved* at 2792.

60. Id.

a subsequent rise in racial isolation after the adoption of the new plan.[61] Similarly, most evidence suggests that plans using socio-economic status of students are not as effective in creating racially diverse schools as are plans using race.[62]

Second, one of the tools that has been used for decades to assign students to schools—both for diversity purposes or not—has been attendance zones. In desegregation plans, zones are drawn in such a way to create student populations with a mix of students. In 1971, the U.S. Supreme Court suggested that one tool that school districts should use to desegregate was non-contiguous zones, or those which combine two areas of a district that are not geographically proximate to one another.[63] Louisville drew its attendance zones in its court-ordered and voluntary integration plans to promote racial diversity. The Supreme Court did not strike down these efforts in its decision.[64]

Berkeley's plan incorporates geography at two levels. As described above, the plan uses small zones (planning areas) to assign a diversity code to all students within each zone. In addition, Berkeley's current plan—like its two previous desegregation plans—divides the district into zones. After assigning current students and siblings, the plan then considers students living in the zone of a particular elementary school. Among these zone students, it then considers the diversity code of the students. Thus, living within the zone of a school provides an advantage in assignment to that school.

The 2004 plan retained the three zones that were drawn for the previous plan. In determining the zones for the earlier plan, the district sought to draw boundaries that, to the best of its ability, evenly divided existing capacity in the elementary schools, the size of the population, and the racial composition. The district, however, not only had significant racial segregation to complicate this task, but also the challenge of working around the UC-Berkeley campus on the east side of the district. Bruce Wicinas, who designed the current assignment system, was asked by the district to suggest revised configurations to those used under the 1968 plan which tried to match black and white neighborhoods. After trying many variations, at the suggestion of students from an MIT graduate seminar, Wicinas designed three zones that would be roughly equivalent to one another and each with capacity of 1,200 elementary school seats. In addition to the logistical challenges of designing zones, there were also political pressures, which is perhaps why they have not been revised since their implementation in the prior plan—and the lack of such revisions likely made the 2004 plan seem easier to implement to district officials.[65] Yet in its description of the 2004 plan, the district says that it will monitor the boundaries to make sure that population shifts have not created zones with uneven populations and/or school capacity.

It is impossible to ascertain from available data what the current racial-ethnic distribution of the school-aged children is in each zone. According to Wicinas, there was a "population shock" shortly after the implementation of the new zones in the 1990s, with two zones gaining more population than the third.[66] Due to the priority given to students by the zone they live in, more research is needed to understand how the diversity of students, the number of school-aged students, and school capacity are similar or different across zones.

Berkeley is using geographical zoning in an innovative way to promote diversity. Notably, these zones were carried over from the previous desegregation plan, which meant less change for the district and its families. Recall from the description of the plan that all within-zone students, regardless of diversity code category, are considered for zone schools before any students from outside the zone are considered. This gives a significant preference to within-zone students. Thus, for the plan to be successful in creating diverse schools, an important feature of the zones is that the population is relatively evenly distributed across each of the zones—which was no small feat in a district like Berkeley's with residential segregation and the UC-Berkeley campus bisecting the eastern part of the district. Zoning remains an important tool that districts can use in their pursuit of diversity.

MECHANICS OF THE PLAN

There is an abundance of research that has documented the unequal resources, including information, motivation, and resources, faced by families of different racial-ethnic groups and social class as they engage

61. See, e.g. Lee, 2006; Godwin et al., 2006.

62. Reardon et al., supra note 55.

63. *Swann v. Charlotte-Mecklenburg,* 1971.

64. The monitor in San Francisco's desegregation case suggested that the lack of inclusion of geography as a factor in its multi-factor diversity index doomed its success. See Biegel, 2008.

65. Email communication with Bruce Wicinas, April 7, 2009.

66. Id.

in school choice. Whether navigating a system with multiple requirements, deadlines, and options or forming different choice sets, families engage seemingly neutral systems of school choice with different opportunities to learn about schooling options available to them.[67] If school districts that offer school choice are unmindful of these differences they run the risk of producing the same inequities that the integration policy was designed to address.[68] Our research on the BUSD integration plan revealed several ways the district proactively addresses disparities in information and participation that may be found among Berkeley residents. In addition to describing the mechanics of the plan for elementary students, we interweave information on the choices and outcomes among the 659 families who participated in Round 1 of the student assignment process for 2008–2009 kindergarten placements.[69]

The Application Process for Elementary Schools. Enrollment season at the district typically begins in early fall of each year. At that time, the district embarks upon a season of outreach to families to encourage them to participate in the choice system, learn about their options and submit their choices by the Round 1 assignment deadline, typically held in February. All families new to the district and current elementary school students requesting a transfer must submit a "Parental Preference Form." The form, available in both English and Spanish, is two pages long and solicits a variety of demographic information such as preschool experience, home language, highest parental education level, student ethnicity (with the option of choosing two), and the enrollment of any current siblings in a BUSD elementary school. The parental preference form also describes the priorities used by the assignment system (e.g., sibling preference, within-zone schools, out-of-zone schools) and explains that transportation is provided for all elementary school students to schools within their zones that are more than one mile from their homes. In Fall 2009, as part of district budget cuts, transportation will be provided for elementary students who live more than 1.5 miles from their school.[70] These forms are available in the district's Admissions Office, online at the district's website, and at the school fair hosted by the district each fall.

Dual Language Immersion Schools. There are three two-way Spanish dual immersion programs available for choice, one in each zone. These programs are located at Rosa Parks, LeConte, and Cragmont. Each program site assigns 50% of its seats to native Spanish speakers and 50% to native English speakers; the goal is for both groups of students to become bilingual and biliterate in Spanish and English. Most students typically enter a dual immersion program as kindergartners and may continue with the program through middle school if they choose to attend Longfellow, the only middle school without an attendance zone. A Spanish bilingual education program located at Thousand Oaks is also available for families with children whose first language is Spanish and who want their children to be taught subject material in their native language while they learn English. Requests for dual immersion and bilingual education placement require a separate Parental Preference Form that also instructs families to rank their choices.[71] These programs receive a substantial amount of interest (see Table 6). One-third of all families in Round 1 requested Dual Immersion placement.[72] Approximately half of these applicants chose just one dual immersion program while 30% applied to all three available to them for choice (data not shown). Nearly half of families that applied to a dual immersion program were assigned to one, and among those who were assigned to dual immersion, 95% received their first choice among the three programs.

Visiting Schools and Outreach. The Admissions Office at BUSD, in partnership with the elementary schools, encourages families to learn as much as they can about all schools and programs, especially those within their zones, and provides families with many opportunities to do so. Families can determine their zones by visiting the Admissions Office (which opens at 8:00 am every day) or the district's website, which includes extensive information on the integration plan. The Admissions Office organizes an

67. See, for example, Fuller, Elmore and Orfield (Eds.), 1996; Hamilton and Guin, 2005. Bell, 2006.

68. For an in-depth analysis of one school district's school choice system, see André-Bechely, 2005.

69. It is important to note that California does not require kindergarten attendance. It is impossible to know how many Berkeley residents choose not to enroll their children in Kindergarten (whether public or private). The California Teacher's Association (2006) estimates that 80% of first graders statewide attended kindergarten.

70. See Bhattacharjee, 2009.

71. In 1998 the voters of California passed Proposition 227, mandating that English learners be taught in "sheltered English Immersion" settings. Parents throughout the state who wish for their English learner children to receive bilingual education must request a waiver. As such, the Parental Preference Form serves as the first step in the waiver process for BUSD families.

72. Just 4% requested bilingual program placement.

TABLE 6 | Round 1 Requests for 2008-2009 Kindergarten Assignment Berkeley Unified School District

	Number of Schools Requested				OTHER MEASURES OF CHOICE	
	Three	Two	One	None	Requested Spanish Dual Immersion	1st Choice School Was Out of Zone
Total	78.2	9.7	10.9	1.2	32.5	13.4
Race-Ethnicity						
White	83.3	7.3	9.1	0.4	30.6	10.3
Latino	58.6	17.2	20.2	4.0	43.4	25.5
African-American	84.5	6.9	8.6	0.0	32.8	21.2
Asian/Other	80.4	5.9	13.7	0.0	11.8	12.0
Multi-Racial	83.0	9.2	6.5	1.3	39.2	7.4
Highest Level of Parental Education						
College Graduate +	81.9	7.1	9.9	1.1	32.0	10.8
Some College	79.8	13.9	6.3	0.0	34.2	16.9
HS Graduate or Less	65.4	16.1	14.8	3.7	35.8	28.4

Source: Berkeley Unified School District

annual district-wide Kindergarten Fair in early fall where each elementary school hosts a booth staffed by school administrators and parent volunteers who answer parents' questions, and the district's central office provides information on transportation and district-wide programs. Families may visit elementary schools during the months of December and January when the elementary schools are open Tuesday and Thursday mornings for visitors. In addition, each elementary school hosts a Kindergarten Night in January when families may visit the school, meet teachers and principals, and ask questions. These events are advertised on the district's home page. Families also get information on the student assignment system and individual schools from the Berkeley Parents Network, a local email listserve.

The manager of the Admissions Office conducts outreach to the city's low-income families to notify families of the choice system and school visitation options by visiting district-run preschools and local head-start programs. Our analysis of estimated participation rates in the first round of assignments for the 2008-2009 school year suggests that the district's efforts to encourage all families to participate in the student assignment system could be improved. The deadline for the first round of assignments is typically in early February, and the 659 applications it received for kindergarten placement account for approximately 76% of all kindergartners who enrolled in BUSD for fall 2008.[73] This may reflect matriculation rates, mobility that is typical in a university city, and the district's efforts to reach families. African-Americans and Latinos are less likely to participate in Round 1 compared with whites, although those that do participate are very likely to enroll. Among the 58 self-identified African-American students, whose families participated in Round 1, the majority (52) enrolled in BUSD that fall. However, according to official district enrollment statistics, there were 110 African-American kindergartners enrolled at BUSD in fall 2008, suggesting that just 47% of African-Americans participated in Round 1. Similar figures for Latinos and whites are 69% and 91%, respectively.[74]

Choosing Schools. The Parental Preference form instructs families to choose and rank up to three schools within their attendance zones. The vast majority of families in Round 1 listed three schools on their form while 11% chose just one and the majority chose a school within their zone as their first choice (see Table 6). Although families receive a lower priority in assignment to schools outside of their attendance zones and no transportation to these schools, 39% chose at least one school outside their zone (data not shown) and 13% chose an out-of-zone school as their first choice.[75] There were distinct patterns by race-ethnicity and parental education.[76] First, similar proportions of whites and African-Americans chose three schools on their parental preference forms but

73. The district typically receives between 600 and 700 requests for kindergarten placement.

74. Data on kindergarten enrollment drawn from the online report "2008-09 District Enrollment by Gender, Grade & Ethnic Designation" available at the California Department of Education's webtool "Data Quest". Accessed April 8, 2009.

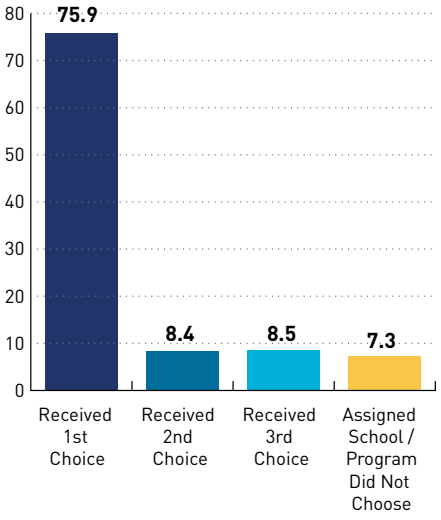
75. According to district staff, many families list the school that is closest to their home as their first choice, regardless of whether it is in their zone or not. Unfortunately, the data we analyzed do not contain information on home addresses.

76. Our analysis of choice and matriculation data is limited to whites, African-Americans and Latinos due to the small cell size of other groups. Although the multi-racial group is the second largest in this dataset, their patterns are similar to whites.

only 59% of Latinos did so. Instead, 20% of Latinos chose just one school. The number of schools chosen was also correlated with parental education: families with high school diplomas or less were less likely to list up to three schools on their Parental Preference Forms and more likely to list a school outside their zone as their first choice compared with families with college degrees or higher. Over one quarter (26%) of Latino families listed a school outside their zone as their first choice as did 28% of parents with high school diplomas or less, even though doing so results in a lower priority assignment. This suggests these families may be misunderstanding the option of listing up to three schools on their parental preference forms and how priorities are considered. Latinos chose dual immersion schools at the highest rate among all racial-ethnic groups. On the other hand, similar proportions of African-Americans and whites chose a dual immersion program, and differences in dual immersion choice among families with different levels of education were small, suggesting that the district is successful in advertising this program to families.

Granting Choices. Families are notified of their assignments by early March via mail. For the 2008-2009 year, 76% received their first choice school or dual-immersion program, 8% received their second choice, 9% received their third choice and 7% were assigned to a school they did not choose (see Figure 7).[77] The district's goal is to assign families whose choices cannot be accommodated to a school within their zones; in the rare case where capacity limitations prevent this, the district assigns families to schools outside their zone where transportation can be provided. The district requires families to register at the schools they were assigned to within one month whether or not they intend to appeal for a specific placement on a hardship basis or request another placement via the waitlist process (they can be waitlisted at an unlimited number of schools). Appeals for hardship are not encouraged but they are considered; medical reasons are typically the basis of the few appeals granted.[78]

FIGURE 7
Outcomes for Round 1 of Kindergarten Assignment for 2008-2009 School Year



Source: Berkeley Unified School District

The district's practice of making phone calls to families that have not yet reserved their seats after Round 1 of assignments is indicative of the district's willingness to reach out to parents who may not have received the initial letter of assignment for various reasons including mobility. Elementary school staff contact families who do not respond to placement offers; these spaces are taken back if families do not secure their seats by the deadline. Families are also asked to officially decline their offers of assignment and indicate they do not plan to enroll. As spaces open up, students are moved off waitlists and into schools. A second lottery round of assignments is held in late May for families that missed Round 1 or are requesting a transfer.[79] Families participating in Round 2 are given the same instructions as those in Round 1 regarding confirming or declining placement offers and joining school waitlists. In mid-August, district staff calls incoming Kindergarten families to confirm their enrollment. After the beginning of the school year, the district staff determines how many spaces are available at each school due to families not enrolling and, at that point, moves families off the waitlists as long as new assignments do not affect the diversity goals in both sending and receiving schools. Among all Round 1 students who matriculated in fall 2008, 8% enrolled at a school different from the one they were initially assigned to.

In addition, there are several small but significant practices that the district has used to ensure that the plan's implementation meets the district's diversity goals. First, the district

77. The percent receiving their first choice varies by those with/without sibling priority status: 99% of families with a sibling received their first choice compared with 68% of families without a sibling.

78. There is no district policy on hardships. The district recently instituted an "Appeal Board" that will include up to three community members. Source: Interview with Francisco Martinez, September 16, 2008.

79. On average, four students per week request enrollment at the Admissions Office throughout the academic year as new residents or inter-district transfers. On average, just 30 requests are made for kindergarten placement during the school year.

makes small adjustments to capacities by setting aside a small fraction of seats (less than 10% total in 2008) in some schools or programs. The manager of the Admissions Office determines if this is necessary before conducting Round 1 assignments by comparing the diversity code distribution of each school's program and grade level specific applicant pool with the historical diversity code distribution of the school's zone. If, for example, a diversity category is significantly underrepresented among the applicant pool of a school/program grade-level in comparison to its representation among the estimated zone-wide diversity target, Round 1 capacities are adjusted accordingly for that school's program. This also assists in balancing the student population.

The management of waitlists is also crucial. Families may request to be waitlisted for an unlimited number of schools and programs other than the one they were assigned to, and the district fulfills these requests to the extent it is possible. The Admissions Office gives families a deadline to request to be waitlisted. As spaces open up, the Admissions Office places families into schools according to the set of priority categories it uses during Round 1 of assignments. Within each priority category, the district considers the diversity goals for each zone and the distribution of both sending and receiving schools that would exist as a result of changing assignments. This is another practice that recognizes potentially unequal opportunities to pursue alternative placements. Rather than managing the waitlists on a "first come first served" basis, for example, a practice that typically favors more advantaged families who, on average, have the employment flexibility and resources needed to comply with requirements that may involve visiting the school district and waiting in long lines to get their needs met, BUSD gives families ample opportunity to request waitlist status and treats all applicants the same by utilizing the priority categories to move students off the waitlists.

PROMOTING SCHOOL-SITE EQUITY

As discussed earlier, one of BUSD's integration goals is to promote school-site equity. In so doing, the district explicitly links school-site equity to a successful choice system by noting "choosing or attending one school rather than another will confer neither significant advantage nor disadvantage to pupils enrolled at any individual site."[80] Moreover, although the student assignment plan is based on choice, the district does not encourage its elementary schools to "compete" with each other to draw families to their schools.[81] The district refers specifically to minimizing differences between schools with the "establishment and identification of a 'base' program."[82] This goal is facilitated by the state of California's requirement to implement public education content standards that outline grade-level knowledge, concepts and skills. The district rounds out this base program with a 4–8th grade music program and a cooking and gardening program at each school. The district's current school-site equity goal appears to be, in addition to ensuring equal opportunity for all students, to convince families to matriculate into the district, even if their first choice cannot be satisfied. Families, however, approach school choice with many factors in mind beyond a general program of study including extra curricular offerings, test scores, building facilities, and school and class size.[83]

School Resources. In addition to the establishment of a base program, there are other indicators of school site equity observable across all elementary schools in BUSD, including libraries staffed with librarians, and fee-based after-school care and enrichment classes.[84] Perhaps particularly important for low-income families, there is a universal breakfast program for all students (regardless of household income). There is also little variation in the average class size across all schools (see Table 7).

One of the most important resources a school has is its teaching force. Whereas most research concludes that teachers tend to leave schools with higher percentages of students of color, and that segregated minority schools have more novice teachers, our analysis of BUSD teacher distribution does not reflect such patterns (see Table 7).[85] Other research has shown that teachers tend to remain in stably integrated schools, such as those fostered by the Berkeley plan.[86] The elementary school with the lowest percentage of white students (John

80. See "BUSD Student Assignment Plan/Policy" at http://www.berkeley.net/index.php?page=student-assignment-plan.

81. Interview with former BUSD Superindendent, Michele Lawrence. May 4, 2009.

82. See "BUSD Student Assignment Plan/Policy" at http://www.berkeley.net/

83. For a summary see Hamilton and Guin, 2005.

84. We come to this conclusion after extensive examination of materials available at the district's main office and our attendance at the Fall 2008 Kindergarten Fair where information about each school was made available.

85. Freeman, Scafidi, and Sjoquist, 2005; Lankford, Loeb, and Wyckoff, 2002; Clotfelter, Ladd, and Vigdor, 2006.

86. See Frankenberg, 2008.

TABLE 7 | Elementary School Characteristics: Berkeley Unified School District

	SELECT SCHOOL CHARACTERISTICS			SELECT STUDENT DEMOGRAPHICS		SELECT TEACHER CHARACTERISTICS								
	Total Enrolled	Academic Performance Index	Average Class Size	% White	% Free / Reduced Lunch	Average Years of Education Service	Average Years Teaching in BUSD	# Full-Time Equivalent Teachers	% New Teachers	% Asian	% White	% Latino	% Black	% Other
Berkeley Arts Magnet	353	803	20.7	34.3	38.2	10.6	7.5	23	13.0	0.0	73.3	0.0	13.3	13.3
Cragmont	392	842	20.5	31.1	35.7	13.8	10.6	21	4.8	9.6	66.7	9.5	14.3	0.0
Emerson	288	818	19.8	25.7	50.3	14.3	9.6	19	10.5	5.3	78.9	0.0	0.0	15.8
Jefferson	268	853	20.3	32.1	41.4	16.4	11.4	16	0.0	25.0	68.8	0.0	6.2	0.0
John Muir	236	835	18.9	23.7	51.3	18.5	13.1	15	0.0	0.0	73.3	0.0	13.3	13.3
LeConte	312	757	19.0	27.6	59.6	15.8	12.1	19	10.5	21.1	47.4	21.1	10.5	0.0
Malcolm X	359	854	20.7	27.6	52.9	13.8	11.0	24	4.2	16.7	58.3	8.3	4.2	12.5
Oxford	278	839	19.7	32.7	41.4	12.2	9.8	19	15.8	15.8	68.4	0.0	10.5	5.3
Rosa Parks	381	758	18.5	28.3	54.6	11.1	6.2	28	14.3	3.6	57.1	28.6	7.1	3.6
Thousand Oaks	425	796	19.2	26.1	52.0	15.8	11.8	26	7.7	0.0	65.4	19.2	3.8	11.5
Washington	302	783	20.1	33.8	50.7	11.5	8.2	20	5.0	5.0	75.0	0.0	5.0	15.0

Source: California Department of Education

Note: Enrollment & Student Demographics from 2008-2009; Academic Performance Index data is from 2008; Free/reduced lunch, class size and teacher statistics from 2007-2008.

Muir) had teachers with the highest average years of teaching experience and was the one of two schools not to have any novice teachers. By contrast, some of the elementary schools with the highest percentages of white students had higher percentages of novice teachers. It is also remarkable to see the extent of teacher stability given the expensive San Francisco Bay Area housing market. Racial diversity of teachers is another important part of the district's plan and has long been part of desegregation efforts in districts across the country.[87] Our analysis of faculty diversity suggests that, while there is considerable variation in faculty diversity across schools (elementary schools range from 47% to nearly 80% of teachers who are white), there does not seem to be a particularly strong relationship between the percentage of white students and the percentage of white teachers as is often the case.[88] For example, four elementary schools have faculties where at least 70% of teachers are white. Two of these schools are the elementary schools with the lowest percentages of white students while the other two have the highest percentages. On these important measures, at least, there is evidence of BUSD's goal of equity across school sites.

While an extensive analysis of school site equity was beyond the scope of this project, our research also suggests differences across school sites that could influence choice and the decision to matriculate among BUSD families. First, there is variation in building facilities, with some elementary schools having undergone remodeling in conjunction with seismic retrofitting. The district's goal is to establish a "base" housing model to ensure equity among schools.[89] Second, some schools are larger than others, primarily due to site capacities established when schools were first built with little room for expansion given the city density. Finally, test scores on California's school accountability measure, the Academic Performance Index (API), vary across schools. Four out of 11 schools have yet to reach a score of 800, the goal for all public schools under California's School Accountability Program (see Table 7).

Are Berkeley Families Convinced

87. *Green v. New Kent County*, 1968.

88. See Frankenberg, 2009.

89. See Berkeley Unified School District's "Executive Summary of Facilities Construction Plan." Available at http://www.berkeley.net/index.php?page=executive-summary.

that All Schools are Equal? For any controlled choice plan to succeed, all schools must be regarded as good options so that families will matriculate into the school district, even if they do not receive their first choice. There are two ways we measure whether BUSD has successfully convinced families that all schools are good options. First, we examine choice and matriculation patterns by school. Next, we examine matriculation rates by choice received. If all schools are regarded as good, we expect to find few if any schools that are over or under chosen by families within their zones, similar matriculation rates across schools, and similar matriculation rates among families of different racial-ethnic and parental backgrounds regardless of choice received, particularly among whites and families with higher levels of education as these are Berkeley families with typically more options to opt out of the public school system.[90]

Among the general programs within each zone there is at least one school that is under chosen as measured by the first choice requests it received from families within its zone. These schools also typically have lower matriculation rates among students who were assigned to it (see Table 8).[91] Of the three Northwest Zone schools, one (Rosa Parks) is undersubscribed: it received just 19% of the first choice requests from zone families, and it was also under chosen by families in two out of three diversity codes; its matriculation rate was also lower than the other two schools in the zone. The Central Zone has four schools, and two of the schools combined (Berkeley Arts Magnet and Washington) received just 22% of first choice requests from Central Zone families; these two schools also had lower matriculation rates compared with the other two Central Zone schools

TABLE 8 | Berkeley Elementary Schools Seats, First Choice Requests and Matriculation Rates for Round 1 2008-2009 Kindergarten Assignment

	# K SEATS	# FIRST CHOICE REQUESTS FROM ZONE	RATIO OF FIRST CHOICE REQUESTS FROM ZONE TO SEATS	% SHARE OF FIRST CHOICE REQUESTS FROM ZONE[1]	OVER OR UNDER CHOSEN STATUS FROM ZONE[2]	MATRICULATION RATE OF ASSIGNED
Dual Immersion						
Cragmont	20	67	3.4	n/a	n/a	94.7
Rosa Parks	40	58	1.5	n/a	n/a	94.3
LeConte	40	36	0.9	n/a	n/a	80.0
General Programs						
Northwest Zone						
Jefferson	40	73	1.8	33.8	Over Chosen	86.0
Rosa Parks	40	40	1.0	18.5	Under Chosen	66.0
Thousand Oaks	60	78	1.3	36.1	Over Chosen	88.7
Central Zone						
Cragmont	60	92	1.5	37.2	Over Chosen	81.0
Oxford	60	55	0.9	22.3	Over Chosen	87.9
Berkeley Arts Magnet	60	22	0.4	8.9	Under Chosen	65.1
Washington	60	32	0.5	13.0	Under Chosen	62.7
Southeast Zone						
Malcolm X	60	62	1.0	33.5	Under Chosen	97.0
John Muir	40	24	0.6	13.0	Under Chosen	75.9
Emerson	40	60	1.5	32.4	Over Chosen	78.4
LeConte	20	23	1.2	12.4	Under Chosen	64.0

[1] This is calculated by dividing the total number of zone residents who participated in Round 1 by the number of first choice requests by zone residents received by each school.

[2] See footnote 90 for definition.

Source: Berkeley Unified School District

Note: We do not conduct analyses related to zones for the dual immersion programs because students are allowed to choose and rank up to three such programs and each zone has a dual immersion program.

90. We define schools that are "over chosen" as those that received a numerical number of requests from at least two diversity code categories of applicants that were overrepresented in comparison to their zone diversity distribution targets. The diversity distributions of fall 2007 kindergarten enrollment (see Table 1) were used for this analysis. For example, if 52% of a zone's 2007 kindergarten enrollment lived in diversity code one planning areas and a school in this zone had 40 seats available for fall 2008 then approximately 21 seats were available for students from diversity code one planning areas. If this school received 31 applications from diversity code one planning areas, this school is considered to be "over chosen" by families from diversity code one planning areas. We label the school as "over chosen" if it is over chosen by families from two out of all three diversity code groupings.

91. It should be noted that general programs that receive fewer first choice requests from the zone than there are seats available do not automatically get filled with all first choice requesters given the diversity goals.

(Cragmont and Oxford). Likewise, the Southeast Zone has four schools, and two schools combined (John Muir and LeConte) received just 25% of first choice requests from families in the Southeast Zone, but only LeConte had particularly low matriculation rates compared with the other schools. In contrast, while both Emerson and Malcolm X account for 66% of all first choice requests, Malcolm X was under chosen by families from two of three diversity codes.

The analysis of dual immersion programs is separate from the general education program analysis at each school because matriculation rates are relatively high in these high demand programs, the lowest being 80%. Despite this, there was still variation in demand across the programs; the dual immersion program at Cragmont received three times as many first choice requests for placement from Central Zone families as there were seats available while the dual immersion program at LeConte received fewer requests for placement from families in its zone than were seats available.[92]

The majority of families who participated in Round 1 received their first choice school or dual-immersion program while 7% were assigned to a school they did not choose (recall Figure 7). There was slight variation in choice outcomes by race-ethnicity and parental education, with the percentage of whites and families headed by parents with college degrees or higher receiving their first choice more similar to the overall total (74 and 75%, respectively, data not shown). In contrast, Latinos, African-Americans and families with high school diplomas or less were more likely to receive their first choice.[93] Choice received is related to matriculation into the district but this varies by race-ethnicity. The vast majority of families (80%) matriculate into the district with 84% of the families that receive their first choice matriculating compared with 67% of those who did not (see Table 9). Latinos and African-Americans were more likely to matriculate than whites regardless of choice received. Considering the vast socioeconomic differences between whites and Latinos and African-Americans in the city of Berkeley, these results are not surprising. The generally higher incomes of whites afford these families alternatives to public schools. However, the majority of whites and families headed by college-educated adults eventually did matriculate despite not getting their first choice.

In brief, there is mixed evidence that BUSD has convinced its resident families that all elementary schools in the district are equal. Some schools are clearly over chosen by families while some are under chosen. These same schools typically have corresponding matriculation rates among those who were assigned to them. Likewise, families who do not receive their first choice are less likely to matriculate into the district than those who received their first choice, yet the fact that the majority of whites and families with higher levels of socioeconomic status matriculate despite not receiving their first choice is encouraging.

CONCLUSION: IS THE BERKELEY PLAN A PROMISING

TABLE 9 | Kindergarten Fall 2008 Matriculation Rates by Choice Received for Select Subgroups, Berkeley Unified School District

	TOTAL	RECEIVED 1ST CHOICE	
		Yes	No
Total	80.0	84.0	67.3
White	74.6	79.8	59.7
Latino	89.9	90.7	84.6
African American	89.7	89.4	90.9
College Graduate +	77.0	81.7	63.5
Not a College Graduate	90.0	90.6	87.5

Source: Berkeley Unified School District

92. This does not imply that all 36 families requesting placement at LeConte would be automatically placed there. The dual immersion programs calls for 50% of seats to be filled with native Spanish speakers and 50% non-native Spanish speakers. We do not know the native language status of the 36 families from the Southeast Zone that requested placement for the dual immersion program at LeConte.

93. The racial-ethnic analysis is limited to whites, Latinos and African-Americans as they represented the three largest groups (with the exception of the multi-racial group, who typically had choices and outcomes similar to whites). Within each zone, whites are overrepresented in diversity code three planning areas in comparison to their representation among all students in the zone. For example, among all Round 1 participants from the Central Zone, whites comprised 47% but comprised 66% of participants who resided in diversity code three planning areas. In fall 2007 diversity code three constituted just 22% of the entire Central zone. As such, any group that would be overrepresented in a diversity category would be less likely to receive a first choice given the district's diversity goal of forming enrollments at schools that reflect zone-wide diversity, especially if their first choice was an over chosen school.

POST-*PICS* MODEL?

School districts that voluntarily pursue integration face demographic, legal (federal and state), and, these days, new economic challenges in trying to achieve their goals. This report documents the efforts of a medium-sized school district struggling with an issue it has been working on for 40 years. The integration in Berkeley's schools suggests that they have figured out a holistic set of policies to create diverse schools despite real challenges of racial-economic polarization in their community. Berkeley's demographics have been *more* stable than the country's during the last decade, including those of many districts with neighborhood schools. The recent experience of Berkeley at least runs counter to people's expectation of "white flight" when an integration plan is implemented. The integration plan may have even helped stabilize the district's demographics despite a highly expensive housing market.

An important aspect of BUSD's success has been understanding that, in order to create integrated schools using a choice-based assignment policy, you need to create improved and equal educational options, which is also sound education policy. BUSD has not simply devised and implemented an assignment formula, but has recognized that their commitment to a system of successful, integrated schools requires making all schools attractive through equity in order to make all schools viable choices. In policy discussions, "better schools" and "integration" are often framed as tradeoffs, but the experience of Berkeley suggests that they are not mutually exclusive choices.

The plan is not a panacea. Plans such as Berkeley's address within-district segregation, but do not directly address the extremely high levels of between-district segregation. At the same time, if plans such as these can stem residential transition and create stably diverse communities, perhaps over time the racial-ethnic differences across school district boundary lines can lessen. Additionally, the residential mobility of a university city like Berkeley poses challenges for a plan like this that is closely linked to residential demographics. Will the district adjust its plan after the 2010 Census data is available? In particular, analyzing how the three zones compare in terms of school-aged population and capacity will be important since these zones have remained the same for 15 years. Changing zone boundaries is often politically contentious, and can be particularly challenging in districts experiencing significant growth or decline as they also try to maintain diversity.

The March 2009 state appellate court decision upholding Berkeley's integration plan may provide some insight as to how a post-*PICS* court might consider a plan like Berkeley's if a lawsuit were filed in federal court. The court noted that the policy considered students' characteristics in a way that did not use racial classifications: "We conclude that the particular policy challenged here — which aims to achieve social diversity by using neighborhood demographics when assigning students to schools — is not discriminatory. The challenged policy does not use racial classifications; in fact, it does not consider an individual student's race at all when assigning the student to a school."[94]

The 2007 U.S. Supreme Court decision was portrayed as one dramatically limiting or ending voluntary integration. The Court acknowledged that there are compelling reasons to voluntarily pursue integration: to prevent racial isolation and to create diverse schools. Berkeley is an important example of how school districts can pursue this goal without relying on individual racial classifications. BUSD demonstrates that what may appear to be insurmountable legal barriers to integration—Proposition 209 and *Parents Involved*—can be overcome. The facts reviewed here would suggest that BUSD's policies and procedures fall squarely within the parameters set by the courts. Smart, committed educators in Berkeley with an understanding of the legal parameters have adopted an integration plan that combines an assignment strategy of using zones at two levels with educational reform in improving and equalizing all schools to be attractive, and with outreach as a way to promote successful integration.

The city's schools remain integrated through a voluntary choice system that recognizes the value of diversity, helps stabilize the community, and gives the great majority of residents good choices. Other communities fearful that no option to prevent re-segregation remains should seriously consider this model.

94. *American Civil Rights Foundation v. Berkeley Unified School District,* 2009 at 1.

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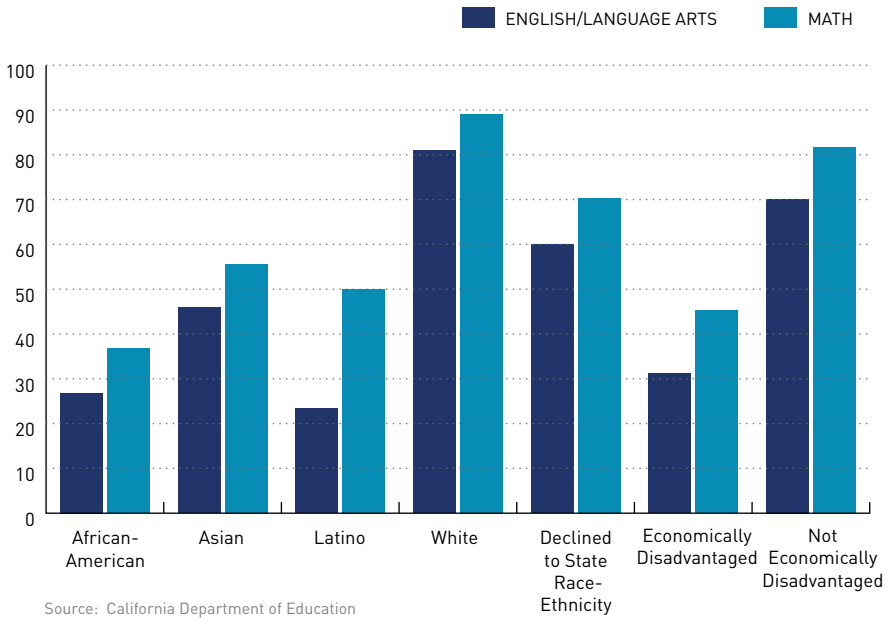
Appendix: Academic Achievement

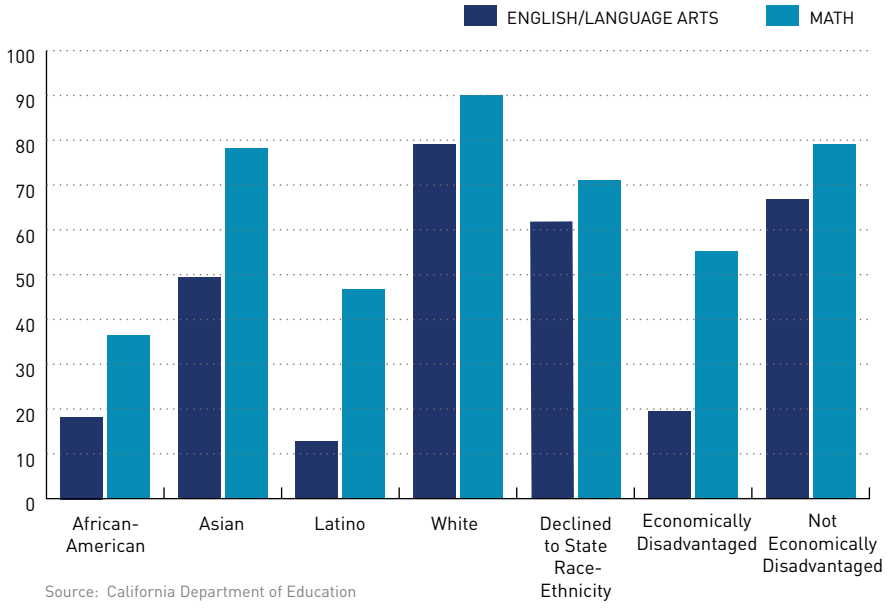
These figures show achievement of students who have been in BUSD only during the new assignment plan, which was implemented in 2004 (all others for whom there is test score data were in BUSD prior to the new assignment plan's implementation). For example, third graders in 2007-08 were the first students in BUSD to be admitted under the newly adopted plan. We focus on academic achievement here due to the publicly available nature of these data and the educational policy focus as reflected in NCLB on achievement for subgroups of students. It is important to note that academic achievement scores are not a specified goal of the plan and academic test scores are only one of many different student outcomes that have been examined in racially diverse schools.

FIGURE A-1
BUSD Second Grade Proficiency Rates on the California Standards Test for Select Subgroups, 2007-08



Source: California Department of Education

FIGURE A-2
BUSD Third Grade Proficiency Rates on the California Standards Test for Select Subgroups, 2007-08



Source: California Department of Education

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INTEGRATION DEFENDED:
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Lisa Chavez

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Foreword by Gary Orfield