

# POLICY NOTES

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## Bringing Students Together: *The Obstacles & Opportunities of School District Consolidation*



### *In this Issue*

Consolidating New Jersey's more than 590 school districts, while challenging, may increase equity and educational outcomes and potentially yield economic benefits to the state. On June 15, 2016, ETS and the Education Law Center hosted a conference on the ETS campus in Princeton, New Jersey, that examined these benefits, considered the challenges, and

*(continued on page 11)*

## School District Organization

Debates on the question of how to organize public education have happened in New Jersey and across the nation for decades. In most of the United States, there has been a precipitous decline in the number of school districts over the past three-quarters of a century, but in New Jersey, there has been a substantial increase. In 1939, there were more than 119,000 school districts in the United States, but by 2013, the number had declined to about 13,500, a decrease of almost 90 percent. By contrast, the number of districts in New Jersey increased by at least 20 percent over that same period. Multiple presenters at the conference pointed out that this reality is at odds with the fact that current New Jersey law and policy favor consolidating districts into K-12 systems.

**Figure 1: District Configuration in New Jersey**

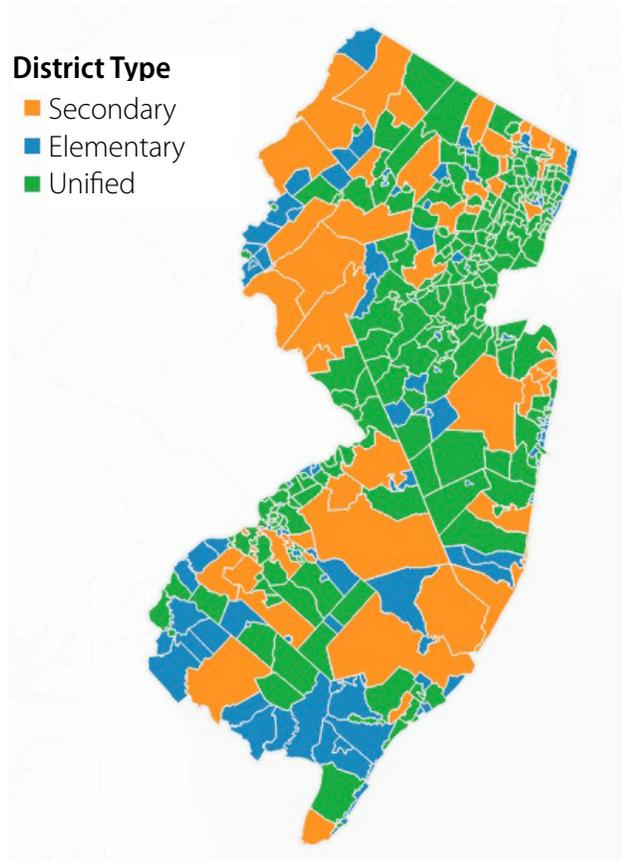
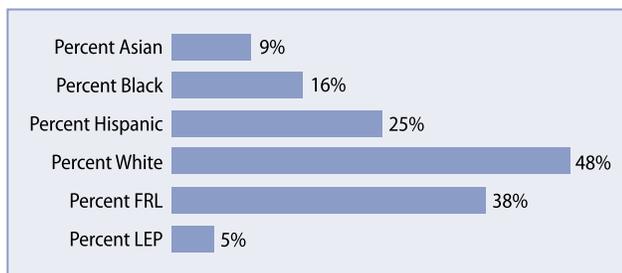


Figure courtesy of Danielle Farrie, Research Director, Education Law Center

District Type	Districts	% of Districts	Enrollment	% of Enrollment
Unified	221	34%	989,184	72%
Elementary	275	42%	215,446	16%
Secondary	46	7%	91,770	7%
Vocational	21	3%	29,011	2%
Charter	82	13%	36,467	3%
Special Svcs.	8	1%	3,540	0%



In New Jersey, many of the school districts are elementary (grades K–8) only or secondary (grades 9–12) only (see Figure 1). The school district landscape described by the Education Law Center’s **Paul Tractenberg** was a “crazy quilt,” with about two-thirds of all districts not serving students through their entire elementary to high school experience (K–12).

According to Tractenberg, New Jersey public schools are among the most racially, ethnically and socioeconomically segregated in the nation, even though the state has the strongest state constitutional law in the nation requiring racial balance “where feasible” in the public schools. The constitution’s education clause mandates an efficient system of free public schools. It states that “the Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the state between the ages of five and eighteen years.” Tractenberg asserts that while this mandate has been part of the education clause since 1875, there are many inefficiencies in the New Jersey system, in part because of the localized and fragmented school district structure, the state’s problematic funding structure, and the extreme segregation of students based on race, ethnicity and social class.

In 2013, Tractenberg co-authored a report with Gary Orfield and Greg Flaxman titled *New Jersey’s Apartheid and Intensely Segregated Urban Schools: Powerful Evidence of an Inefficient and Unconstitutional State Education System*. This report shows that about 26 percent of New Jersey’s Black students and 13 percent of its Hispanic students are being educated in “apartheid schools,” where less than 1 percent of the student body is White. That percentage exceeds 40 percent when adding in Black and Hispanic students being educated

in “intensely segregated schools” (with fewer than 10 percent White students). New Jersey’s intensely segregated urban schools are described as — and likely are — unconstitutional.<sup>1</sup>

Even when districts do not meet the criteria for the labels “apartheid” or “intensely segregated school,” the local segregation by race is still apparent. The elementary-only Freehold Borough School District is an example of a district within a district. The student population of Freehold Borough School District is over 80 percent Hispanic or Black, while the Freehold Township School District is 77 percent White (see Figure 2).

The racial disparities between Freehold Borough and Freehold Township are accompanied by economic and language-proficiency differences. Freehold Borough has a free and reduced lunch rate of 73 percent, and 20 percent of students have limited English proficiency compared with 12 percent and 1 percent, respectively, in Freehold Township.

*“New Jersey has extreme racial, ethnic and socioeconomic segregation from district to district, with at-risk students disproportionately isolated in poor urban and poor rural school districts.”*

— Paul Tractenberg, Professor, Rutgers University School of Law (retired)

Racial segregation in New Jersey schools often coincides with concentrated poverty. This “double segregation by race and poverty is systematically linked to unequal education opportunities and outcomes.”<sup>2</sup> Racial isolation and concentrations of poverty are associated with higher dropout rates, fewer students prepared for college success, and exposure to more limited — and often lower

level — curricula. Consequently, many students experience academic and social learning deficits, and there is a systematic failure to prepare students effectively to be citizens and workers in an increasingly globalized and technology-rich society.

**Figure 2: Demographic Differences between Freehold Borough and Freehold Township**

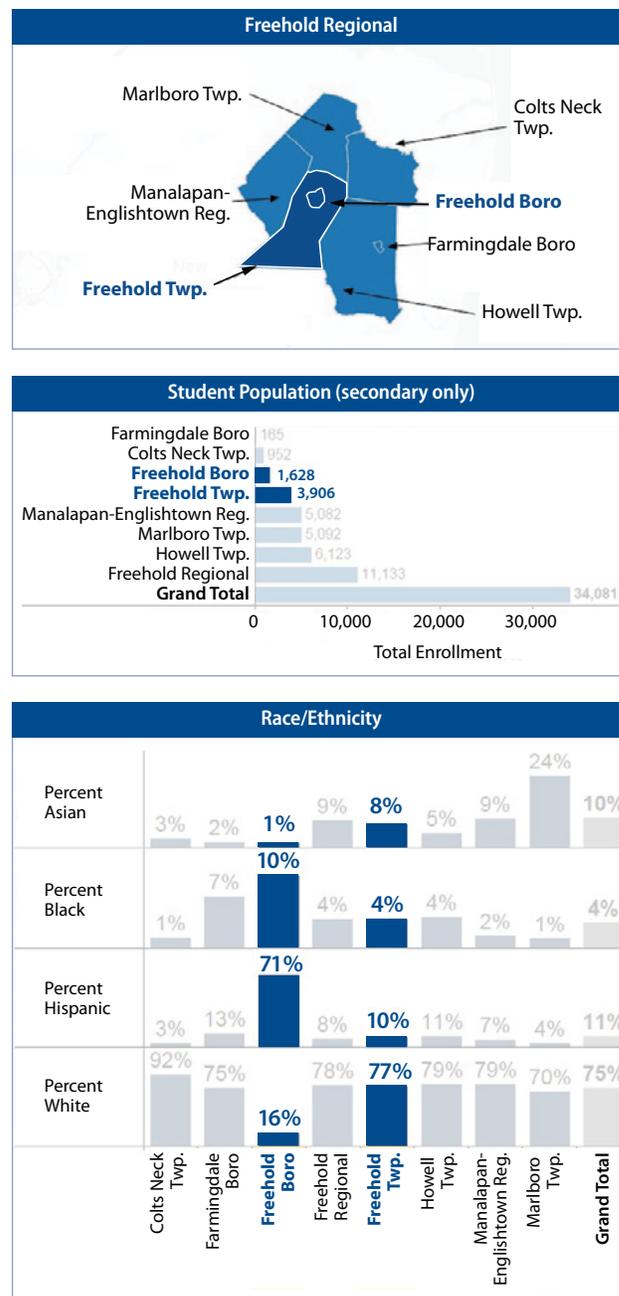


Figure courtesy of Danielle Farrie, Research Director, Education Law Center



Gary Stein, former New Jersey Supreme Court Justice

The overt struggles of the students from these segregated schools likely make it more difficult to advocate successfully for consolidation and greater integration within New Jersey's school districts, as more affluent and less diverse communities may fear the possibility that increased diversity could negatively affect the quality of their local schools. However, as multiple presenters added, these fears have not been supported by evidence.

Former New Jersey Supreme Court Justice **Gary Stein** asserts, "A priceless aspect of public education ... [is] the opportunity to go to school with a diverse student body, with children of different races, different ethnicities, the opportunity to learn, to study, to interact, to play with children from different racial, and ethnic, and cultural backgrounds than their own. Studies have determined that the benefit to students of going to school in a racially and ethnically diverse atmosphere are multiple and lifelong." According

to former New Jersey Supreme Court Chief Justice **Deborah Poritz**, public awareness of these benefits needs to be improved. "We need to think of ways to make sure that people understand that mixed schools — racially mixed, culturally mixed, those kinds of schools — provide better educations for all of the students, including Caucasian students. That is a message that has to be gotten out there."

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*"The court has precedent, powerful precedent about segregation, and why we should not, cannot have segregated schools in this state. They don't deal with the overarching question of how you get those cases to the court; how you more broadly push for and obtain districts that will work, that will desegregate, to the extent possible. What we need to do is operate in the courts, in the legislature, and in the public."*

— Deborah Poritz, former Chief Justice of the New Jersey Supreme Court

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**Stephen José Hanson**, professor of psychology at Rutgers University, analyzed the New Jersey Assessment of Skills and Knowledge (NJ ASK) 2010/2011 dataset, which provided standardized scores for Language Arts and Literature (LAL) and Math for the state's students in grades 3–8. Hanson found diversity had a positive effect on the achievement gap — the statistically significant difference on standardized scores between races or socioeconomic groups. Standard LAL and Math scores increased with increasing school racial diversity, and the achievement gap decreased by more than 60 percent with increased school diversity. A forthcoming report, *Diversity Significantly Reduced the Achievement Gap: Datamining the NJDOE NJ ASK-2010-2011*, is expected to be released later in 2017.

## The New Jersey Constitution and Case Law on School Consolidation, Segregation and Diversity

A highlight of this conference was having two retired New Jersey Supreme Court Justices, **Deborah Poritz** and **Gary Stein**, discuss the case law and legal precedent for school district consolidation, and against segregation. Both former justices asserted that the current levels of racial segregation, which are exacerbated by the school district structure, are likely unconstitutional and are likely, in time, to be met with a legal challenge.

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*“The legal issue is complicated. In New Jersey, we have an edge, because we have not only the ‘thorough and efficient’ clause in our constitution, but we have two very powerful Supreme Court opinions ... that would fairly seem to say that our notion of a thorough and efficient education contemplates diverse school districts ... We have never squarely challenged the notion that a 95 percent, 98 percent African-American school district violates our ‘thorough and efficient’ clause. In my judgment, we should.”*

— Gary Stein, former New Jersey Supreme Court Justice

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Furthermore, former Justice Stein attested, the school district consolidation law is a good starting point for the discussion of the very difficult, challenging and complex subject of segregation. District consolidation, which has been part of the state education discussion for a long time, holds other possible benefits beyond improving school district diversity.



Deborah Poritz, former Chief Justice of the New Jersey Supreme Court

## New Jersey’s Experience with District Consolidation: The 2007 CORE Act

The most recent legislative effort on school district consolidation occurred under former Governor Jon Corzine. In 2006, motivated by the desire for property tax savings, the administration organized a joint commission and the legislature passed the corresponding legislation the following year. The Uniform Shared Services and Consolidation Act included the CORE reform package proposed by then Speaker of the Assembly John Roberts. The acronym CORE outlines the bills’ strategies for achieving property tax relief: “Clearing State hurdles that stand in the way of sharing services,” “Overriding administrative waste in our schools,” “Reining in pension abuse” and “Empowering our citizens.”<sup>3</sup>

Under the CORE plan, Executive County Superintendent positions were established. Their responsibilities included examining and recommending administrative and operational efficiencies, cost savings and shared services for schools in their counties; developing a plan to eliminate nonoperating school districts (districts that do not have schools and transport all of their students to other districts); and creating regional school district consolidation plans by March 15, 2010. The intent was to find ways to reduce the number of nonoperating districts and elementary- and high school-only districts.

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*“Over the last 20 to 30 years, there have been dozens of task forces and commissions looking at school district consolidation in New Jersey.”*

— Theresa Luhm, Managing Director,  
Education Law Center

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**Theresa Luhm**, Managing Director, Education Law Center, described the 2010 county consolidation plans submitted as sparse; however, they provided shared-services descriptions and identified districts for possible consolidation, and recommended that dozens of feasibility studies be conducted when funds became available. Counties completed and released these plans under a new state administration, and the CORE Act agenda became less of a priority. To date, the state has not conducted any feasibility studies. However, 13 of the 26 nonoperating districts were eliminated and detailed conversations about consolidation were started at the county level.

## Benefits and Obstacles to School District Consolidation

There are a number of arguments for and against school district consolidation (see below). According to Luhm, the number-one reason pro-consolidation people give is cost savings. If you have many smaller districts, they run inefficiently and have administrative duplication. If you consolidate districts, you can achieve economies of scale and cut down on administrative costs. There have been studies out of Syracuse University<sup>4</sup> and the Center for American Progress<sup>5</sup> that attempted to calculate the cost savings district consolidation would bring. While these studies used different models as to how much money could be saved, they all showed large savings for New Jersey in the hundreds of millions of dollars. Another reason people may be pro-consolidation is the possibility of enhanced program offerings for students. Luhm and Tractenberg both argue that small districts cannot offer the same variety of courses and educational services as larger districts. Additionally, consolidated districts provide simplified oversight for the state. It is easier to monitor and keep track of a smaller number of districts and cuts down on the amount of state-level paperwork to be completed.

## Key Arguments For and Against School District Consolidation

For Consolidation	Against Consolidation
<ul style="list-style-type: none"> <li>• Cost savings</li> <li>• Enhanced program offerings for students</li> <li>• Simplified oversight</li> <li>• Diversified educational experience</li> </ul>	<ul style="list-style-type: none"> <li>• Cost savings may be minimal</li> <li>• Loss of local control and accountability</li> <li>• Difficulty of the consolidation process</li> </ul>

The pro-consolidation point most heavily discussed during the conference is that students from consolidated districts often have a more diversified educational experience. While Luhm suggested that “most folks agree that it’s better for everyone if kids from different backgrounds learn together,” the difficulty of getting more affluent districts to agree to practices that would make school diversity a reality was discussed as a primary obstacle to school district consolidation.

Arguments against consolidation include the fact that the cost savings can be minimal, mostly because other costs such as transportation can go up and offset savings. Additionally, administrative cost savings are not immediate and may take years to realize because there are costs associated with the restructuring process. Luhm also described New Jersey as having a passion for local control, which is often part of arguments against district consolidation. Proponents of local control argue that in a small school district, community members feel like they have more ownership of and are more likely to participate in governance. Finally, consolidating multiple school districts is an enormous task to undertake. Administrators have to deal with examining and integrating curriculum, debt service, contracts, facilities and transportation.

The politics around school district consolidation also are difficult. **Gordon MacInnes**, President of the nonprofit, nonpartisan New Jersey Policy Perspective organization, shared a story of district desegregation and consolidation being a third rail, going back to 1967. As a young man, MacInnes worked for the special assistant to the Commissioner of Education, who during a speech in Atlantic City stated a simple fact: “If you look at a map and if you add up the numbers,



Attorney Kerri Wright, Superintendent Louis Muenker and school board president Dan Seiter discuss their experiences with the South Hunterdon Regional School District consolidation.

there are districts where it’s mathematically impossible to achieve integration within the boundaries of the district.” That speech, given in the fall of 1967, was deemed responsible for the complete turnover of the legislature that year.

“The memory of it lived on for a long time,” said MacInnes. “If you want to talk to the legislature about introducing legislation that would facilitate, incentivize, improve the chances of cross-district integration or consolidation for at least a partial purpose of achieving greater integration among economic class or race or ethnicity, there will be people with a long enough memory to say, ‘Forget about it.’”

The financial details of district consolidation can leave some districts and communities as fiscal losers, and thus more likely to veto the consolidation process. Luhm believes this may be why there have been so few district consolidations in New Jersey. **Kerri Wright**, attorney



Joyce Trotman-Jordan, Not In Our Town Princeton

with Porzio, Bromberg & Newman, P.C., shared an experience from her firm and asserted it has happened elsewhere throughout the state.

“Currently existing school districts ... several of them have tremendous problems with their currently existing tax allocation formula. I think, quite frankly, until the legislature addresses that, you’re not going to convince communities, particularly communities that might not be very closely aligned socioeconomically, to consolidate because there’s always going to be winners and losers on the finance side. I’ll give you an example. Five communities hired us to do a feasibility study and to look at whether they could consolidate. They were all interested in consolidation. No matter how we tried to configure the tax allocation method based on what the statutes allow, we could not create a scenario where there would be five winners. Even though overall there would be, at the time, more than a million dollars in savings collectively, we couldn’t figure out a tax

allocation method that wouldn’t have one loser. Therefore, those communities didn’t do anything with the study and didn’t move forward.”

## Creating the South Hunterdon Regional School District: Lessons Learned and Future Plans

Since the 1980s, there have been only five locally initiated regionalization proposals that have passed. The South Hunterdon consolidation was the first in nearly 20 years and, according to the panel, with an estimated cost of just over one million dollars to get through the process.

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*“We’ve had a lot of cooperation from the Department of Education, but even the Department — they were kind of new to this ... it’s been 20 years. There is no cookbook. There is no ‘do this piece first, do this second, do this third.’ There’s no script for anyone to follow, and I think that includes the Department of Education.”*

*— Louis Muenker, Superintendent,  
South Hunterdon Regional School District*

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**Dan Seiter**, President, South Hunterdon Regional School District Board of Education; **Louis Muenker**, Superintendent, South Hunterdon Regional School District; and attorney **Kerri Wright** shared their experiences with the consolidation process, which started in 2008 with resolutions from each of the three consolidating districts. The initial feasibility study costs were voted on in a special referendum across the districts, which meant that the public was engaged early on in the consolidation process. The first class from the regional school district graduated in June 2015.

Seiter noted that it was important to ensure the community did not see the consolidation as the regional high school taking over the elementary school districts. The consolidation team made a point to dissolve the high school district first before they formed the new district.

Muenker described the tremendous burden on the new district business administrator during consolidation: “You can imagine the finances associated with four different school districts now having to be collapsed into one. Took every bit probably of a year and a half for her to get caught up, looking at the books, going back, getting audits done properly, meeting all the requirements, the statutes, and things of that nature. I give her a lot of credit and the due diligence that she had to put in and the time spent with all that paperwork.”

According to Wright, the salary guides between the four districts took a tremendous amount of time and negotiation, yet the consolidation of four teacher contracts was completed in a year and a half, a not-uncommon amount of time to get a single teacher contract renewal. Wright expressed gratitude for the help and cooperation of the NJEA representative who worked with her on the contract.

However, curriculum alignment has taken time, and two years after consolidation is not quite complete.

“In a K–12 district, you have all that aligned,” said Muenker. “If you have four elementary schools, you know that all four elementary schools are teaching the same social studies curriculum in grade three. They’re using the same textbooks, the same expectations. Not so much in what we had at South Hunterdon. We have spent the last two years, and I don’t think we’re quite



Elise Boddie, professor at Rutgers School of Law

there yet, to have the level of confidence to say to my board president that we’re all good.”

Overall, the consolidation transition for South Hunterdon Regional School District has gone well, though it has taken tremendous work and creative, independent problem solving, as the state provided minimal technical support and assistance for this effort.

## Moving the Agenda Forward: Legislative Obstacles and Opportunities

One issue with moving the school consolidation forward is political will and demand for the change. According to former Chief Justice Poritz, the problem is that there is no real demand for consolidation, as evidenced by the legislation, which gets going but then stops. “There’s no demand to even implement something that’s on the books like the CORE Act, and take it

forward,” she said. “There are opportunities with the courts. There are obviously opportunities with the legislature, but right now there isn’t very much demand or pressure, as you put it, being put on our institutions, both elected and the judicial branch, to move this issue forward.”

There was a conversational debate about the role of evidence in building public support for school consolidation. Tractenberg argued that nothing short of a cultural transformation is needed. The problem with research is that while most people attending this conference might agree that reform ought to be based on the best available evidence, that view may not be shared even with those who might be sympathetic to that point of view. Tractenberg went on to cite journalist Walter Lippmann’s 1922 book, *The Phantom Public*, in which he denounced the idea that there was a public out there thirsting for information. Lippmann’s explanation is that, for many, “The facts exceed their curiosity.” What was left unanswered is the question: If facts are not inspiring action, what will?

On the political side, New Jersey Sen. **Bob Smith** supports a county-based delivery system for education, which is how 16 other states are organized. He acknowledged that it is a controversial position, but insists that New Jersey needs real structural change. Senator Smith said that he supported CORE in 2007 because, as he stated, “I had proposed a much more radical approach to school consolidation and I couldn’t get it passed.” Senator Smith said he is committed to using his role in the state legislature to address the racial, ethnic and socioeconomic segregation of New Jersey schools.

Moderator **Sharon Krengel**, Policy & Outreach Director, Education Law Center, asked Senator Smith if he had taken the temperature of the rest of the other legislators to see where they are around school consolidation, to which Senator Smith replied, “I have many legislators who say, ‘Well, it’s not a bad idea, but we really don’t want our fingerprints on it.’ The single guiding principle for politics is fear. The way in which — think about this structure, the way in which we get politicians out of harm’s way, let the people decide. We’ll put it on the ballot, there’ll be a public question, and you’ll decide if this is a better way for your county, and then on that basis, I think I can sell it.”

At the close of the conference, **David Sciarra**, Executive Director, Education Law Center, mentioned that next steps for the Education Law Center could include working with Senator Smith and other legislators “to bring people together to talk more about the countywide idea and start to build some of the momentum towards that 18 months from now when there will be an opportunity for him to reintroduce his bill and build the kind of community support, statewide support that’s going to be needed, A, to get something like that passed at the legislature, and, B, if it ever goes to ballot initiatives in the county, to build public support for those.”

#### Suggestions for next steps:

- Cultivate awareness of the benefits of school diversity
- Build community support for consolidation and de facto school diversification
- Make racial, ethnic and socioeconomic diversity a primary goal of K–12 consolidation
- Be prepared for legal challenges to the current New Jersey school district structure
- Learn from districts that have successfully consolidated

## In this Issue

(continued from page 1)

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strategized ways to reengage approximately 130 stakeholders and the public in the discussion.

The conference, “Bringing Students Together: The Obstacles and Opportunities of School District Consolidation,” included discussions on New Jersey’s current school district structure, the significant differences in district demographics and the anticipated benefits of policies aimed at increasing school diversity. Participants outlined the challenges in moving a school consolidation and desegregation agenda into the New Jersey judicial, legislative and public arenas, and administrators responsible for the most recent New Jersey school district consolidation shared their experiences.

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*“Over the past 15 years, ETS has invested in examining achievement gaps by race and other demographic characteristics such as socioeconomic status and identifying possible ways to close these gaps. While some proposed solutions are incremental, such as working to improve the way schools are operating and functioning, others could lead to quantum gains, such as the school consolidation efforts discussed at this conference.”*

— Michael Nettles, Senior Vice President,  
Policy Evaluation & Research Center, ETS

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The ETS mission is to advance quality and equity in education for all learners, regardless of their background or circumstances. Therefore, according to ETS President and CEO **Walt MacDonald**, “If consolidation would produce more quality and equity in education, then we would like to learn about that ... [and learn] more about school district consolidation in New Jersey, and whether it is



Michael Nettles, ETS

the best way to achieve what we all want for our students: a world-class education that prepares each student for college, a career and life.”

**Michael Nettles**, Senior Vice President, Policy Evaluation & Research Center at ETS, said that over the past 15 years ETS has invested in examining achievement gaps by race and other demographic characteristics, such as socioeconomic status, and identifying possible ways to close these gaps. While some proposed solutions are incremental, such as working to improve the ways schools are operating and functioning, others could lead to quantum gains — such as the school consolidation efforts discussed at this conference.

According to **David Sciarra**, his organization started to think about hosting this conference with ETS out of the recognition that there needs to be an open conversation about racial and socioeconomic segregation in New Jersey school districts, the impact that isolation has on the most at-risk students and the processes by which this might be changed.

## Bringing Students Together: The Obstacles and Opportunities of School District Consolidation in New Jersey

New Jersey has a unique and heavily localized structure to its school districts, with roughly half of the operating school districts serving a minority of the state's public school students (21 percent) in elementary-only or secondary-only districts. Other states have long since changed their public education structures in favor of district consolidation. Furthermore, New Jersey's district structure likely contributes to its public schools being among the most racially, ethnically and economically segregated in the country.

School district consolidation has been part of the political and legal conversations in the state for some time; however, consolidation is difficult to achieve administratively, even when there is political will. The consolidation experiences of South Hunterdon Regional School District are an example of this. Two political obstacles to consolidation are: 1) District consolidation may be an example of a political third rail in New Jersey, and 2) the fiscal details of funding consolidated districts are likely to have winners and losers, and fiscal losers in consolidation efforts can veto the process. Advocacy efforts to build public support for school diversity and consolidation should be prioritized.



### Endnotes

- <sup>1</sup> Tractenberg, P., Orfield, G., & Flaxman, G. (2013). *New Jersey's Apartheid and Intensely Segregated Urban Schools: Powerful Evidence of an Inefficient and Unconstitutional State Education System*. Newark, NJ: Institute on Education Law and Policy (Rutgers University) and the Civil Rights Project (UCLA).
- <sup>2</sup> Tractenberg, P., Orfield, G., & Flaxman, G. (2013). *New Jersey's Apartheid and Intensely Segregated Urban Schools: Powerful Evidence of an Inefficient and Unconstitutional State Education System*. Newark, NJ: Institute on Education Law and Policy (Rutgers University) and the Civil Rights Project (UCLA), 14.
- <sup>3</sup> For more information on the CORE reform package, see [http://www.njleg.state.nj.us/Property-TaxSession/OPI/jcgo\\_final\\_report.pdf](http://www.njleg.state.nj.us/Property-TaxSession/OPI/jcgo_final_report.pdf)
- <sup>4</sup> For more information on the Syracuse University report on school district consolidation, see [http://cpr.maxwell.syr.edu/efap/Publications/Does\\_School\\_Consolidation\\_Nov\\_05.pdf](http://cpr.maxwell.syr.edu/efap/Publications/Does_School_Consolidation_Nov_05.pdf)
- <sup>5</sup> For more information on the Center for American Progress report on school district consolidation, see <https://www.americanprogress.org/wp-content/uploads/2013/08/SchoolDistrictSize.pdf>

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