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MANDATING EQUITY:

A CASE STUDY OF COURT-ORDERED DETRACKING IN THE SAN JOSE SCHOOLS

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Educational research conducted over the past two decades has repeatedly shown the negative impact of strict tracking or grouping by alleged abilities on students' equal opportunities to learn. This evidence--in particular, the evidence that tracking practices are more often disadvantageous to low-income, Latino, and African-American students than they are to other groups--has prompted many educators and policy makers in California and throughout the nation to rethink their grouping systems.

In California, concern over tracking practices is particularly salient. In this bellwether state, policy makers have become increasingly aware that providing less access to a high-quality education to our ever-increasing population of Latino and African-American students places California's future at great risk. School practices that create uneven opportunities to learn jeopardize the tenets of equality that ground the state's civic life and governance. Moreover, the potential loss of human capital, in the form of well-educated workers needed to fill the state's high-tech occupations, has prompted state policy makers to pressure educators to raise educational expectations and school outcomes. Detracking, or the flattening of track structures within schools to provide more students with access to challenging curriculum and instruction and preparation for college, has been advanced as a reform designed to help California schools ensure fairness and democracy as well as become more competitive nationally and internationally.

To implement this reform, however, educators in California public schools need more information about the day-to-day realities of detracking, and policy makers need guidance to craft legislation that supports educators' efforts. Policy makers also need more information concerning the possibility of motivating schools that have not yet begun detracking.

Because detracking is a politically contentious reform, involving the redistribution of educational

resources--time, teachers, information--within schools, educators engaged in detracking often find that they need strong outside allies to assist them in advancing the reform.

While it has become common wisdom that top-down mandates rarely achieve their full set of desired goals, outside pressure from a mandate can provide important leverage that gives those goals a greater chance of success. Thus policy makers, through well-crafted top-down mandates, may be able to provide much-needed assistance to schools that would otherwise be unable to move forward with equity-minded reforms. The study reported here was undertaken to inform policy makers about the circumstances in which top-down decrees might be important to help advance such reforms as detracking, as well as to inform policy makers how they might design mandates to produce desired equitable outcomes.

STUDY APPROACH

During the 1995-1996 school year, we examined what happens when a school district receives a top-down mandate--in this case a court order--to detrack. In 1994, San Jose Unified School District (SJUSD), a 30,000 student, urban/suburban district, which had been operating under a 1985 court order to desegregate its schools, agreed to a consent decree calling for the detracking of its grades K-9 and for a significant limiting of tracking in grades 10-12.

We documented, through historical and contemporary case study analysis, how the SJUSD proceeded with this top-down detracking reform, tracing the reform's circuitous route in search of answers to the following questions: How did the school district's various actors respond to this mandate? How did the mandated character of the reform relate to various forms of resistance to it? How did the mandate affect those who already supported the reform? Did the educators invest in the reform? When and why did they internalize the underlying goals of the reform? When and why did they become committed to working for or against the reform?

We considered these questions in their political context, looking both inside and outside the school district and considering how a wide array of forces framed the debate concerning detracking. For example, we found that the political context of detracking in San Jose was shaped by, among other things, the availability of resources, the local media, and the various activist community groups, as well as by the desegregation order.

By understanding mandates as just one of many possible forces that can shape an issue's political context, policy makers can begin looking to them not as panaceas but simply as one of many policy actions that can help improve schools.

FINDINGS

Our study of the San Jose Unified School District supports the educational reform maxim that policy makers cannot mandate what matters. The district's progress over the year that we studied reaffirms the tenet that implementation of a top-down mandate is often less clear-cut than ideally expected. The combination of many forces--some historical, some contemporary, but all powerful--helped to shape the reform. Under the influence of a number of internal and external forces, the political context for SJUSD's desegregation, and later detracking, evolved through several stages: moving from initial intolerance to reluctant acquiescence, and from seemingly genuine enthusiasm to cautious backpedaling.

Although the benefits of top-down mandates must be weighed cautiously, the district's experience shows that mandates still hold much promise as a useful, albeit limited, policy tool. Despite its drawbacks, the initial desegregation order did succeed in compelling the district and the community to accept and address the need for desegregation between schools. Similarly, the consent decree led the district to address, at least superficially, the need for detracking.

For instance, since the time of the initial court-order in 1985, schools and classrooms have become more integrated, and remedial classes have been eliminated. The district has participated in a variety of innovative reforms, including Henry Levin's Accelerated Schools-- designed to provide a challenging, "accelerated" education to all students in the school--and the College Board's Equity 2000 program-- designed to raise math standards, again by providing a challenging curriculum for *all* the school's students. Empowered, equity-minded community groups have formed and evolved in response to the lawsuit and the court order. Many members of the community have had their consciousness raised concerning issues of equity and racial justice in the schools.

Despite these positive results, however, a court order could have accomplished far more than it appears to have done in San Jose. For example, we found little evidence of serious staff development aimed at changing teachers' classroom expectations or increasing teachers' knowledge and acceptance of

multicultural curricula--efforts that could have led to deeper and more substantial reform.

Far-reaching economic forces worked to undermine the San Jose court order. These forces were reflected in the school budget, the competition for college admissions, the employment market, the threat of "white flight," and concerns about the impact of desegregation on the real estate market. In addition, external experts in the local media, including writers and editorial staff, played an important role in shaping public perception of the top-down mandate, which in turn shaped the political context for reform. For instance, the local newspaper's content, tone, and timing of particular stories shaped public opinion and sometimes tipped the balance of power within the district. Other influential external experts included the attorneys and expert consultants who were hired in connection with the litigation.

Perhaps even more powerful, however, were the normative forces in the school-community system that served to uphold the status quo and undermine equity-minded reforms. In San Jose, we found that many parents' and educators' beliefs fueled resistance to such equity-minded changes as bilingual and multicultural education, busing, and detracking. The tangible power these individuals wielded stemmed, in part, from their positions in the community as well-educated, sometimes wealthy, and often white people, and the wide acceptance of their beliefs as being grounded in common sense.

Consequently, one of the study's most important conclusions is that a court mandate should not be framed or perceived as a cure-all. If seen as only one of many powerful forces that shape the context of a school district's reform efforts, court mandates can be expected to assist in bringing more equitable policies to the district. Other powerful actors must also lend a hand. Those who frame and implement an equity-minded mandate must therefore heed the context in which it is to be implemented. Top-down mandates can be a powerful force for equity-minded educational reform if policy makers recognize the limitations inherent in this policy tool and craft mandates accordingly.

POLICY RECOMMENDATIONS

Equity-minded mandates should be employed in situations where the political or administrative process has otherwise failed to protect the basic educational interests of a group of students. If the situation would, in all likelihood, remain unjust and inequitable in the absence of the mandate, then a mandate provides a clear and positive policy option. The reality in many school districts is that much-needed

equity-minded reforms will not come about if the decision is left to local policy makers. State- and federal-level policy makers (as well as the courts) have an obligation to step in and protect underserved (generally poor and minority) students.

When designing equity-minded mandates, educational policy makers should anticipate substantial normative and political resistance. If higher-level policy makers have had to step in because local policy makers failed to protect a group of students' educational interests, the school district's policy climate is likely to be relatively inhospitable to the mandated reform. Therefore, the mandate should be designed to limit local officials' ability to undermine the mandate's goals in the implementation process through the inclusion of a relatively high degree of specificity and oversight. The more central policy makers may also consider instructing school officials to communicate the reform agenda clearly to the school community in ways that promote understanding and minimize public discontent.

Recognize that the mandate can be only part of the solution. The first two recommendations are based on the notion that a specific mandate accompanied by extensive oversight is the best alternative available to protect the important educational interests of large numbers of California's children. We must acknowledge, however, that this is nobody's vision of the ideal policy instrument. Such an acknowledgment is crucial because it makes clear that mandates must be accompanied by extensive efforts to change the school district's political and normative context if the reform is to succeed. In reform efforts where race and class issues are salient, addressing prejudice in a straightforward and consistent manner is essential. If such political and normative factors are not adequately addressed, the reform will accomplish relatively little. Moreover, equity mandates should be accompanied by alternative policy instruments that induce change, build capacity, and alter power relations. For example, normative support for the reform should be enhanced through a critical inquiry process among district educators, and political support should be enhanced through mobilization of benefitted segments of the local community. State-level policy makers could provide important political leadership and technical assistance in such efforts.

Balance direction with discretion. The designers of all top-down mandates must remain wary of undue power of the "bottom" over the "top" and frame the mandates carefully to avoid the local implementors' unconstrained subversions of the equity-minded goals. At the same time, however, local implementors must be given considerable discretion to enact the mandate appropriately for the local circumstances. With regard to court mandates, the court monitor should be given strong judicial backing, leaving no doubt that attempts by the district or others to impede the monitor's efforts will not be tolerated. Nonetheless, the appropriate solution is not to constrain local implementors, but rather to help them build the capacity to change. Among other things, this means that the mandate should be designed to create incentives and opportunities for local residents to develop ownership of the reform. The court or other policy maker might mandate the creation of positions within the district, and specify job

descriptions, that would aid reform efforts. Using the example of political mobilization mentioned earlier, the policy maker could mandate placement of an ombudsman, whose duty it would be to work with community members to ensure that the schools heard their concerns related to equity.

The struggle is the immediate goal. Our need, as a society, to prematurely evaluate and assess the worthiness of implemented policies often contributes indirectly to many policies' untimely demise. Although all policies ultimately need to be assessed, the strongest measure of a policy's effectiveness cannot always be quantified immediately. Reforming our schools is a difficult, lengthy, continually evolving process. Thus, perhaps what policy makers accomplish best with a top-down, equity-minded mandate is providing schools with the opportunity and capacity to develop a culture within which the struggle toward equity becomes a part of the school community itself. In San Jose, as in other school systems we have studied, engaging in an equity-minded struggle for school reform can help the community become a better place for the schools and help the schools become a better place for *both* the teachers and the students. The struggle for equity itself is worth policy energy; a guaranteed outcome is not the sole measure of a mandate's worth.

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The research for this report was commissioned by the [California Policy Seminar](#)'s Policy Research Program. The complete report (40 pp.) is available free of charge to California state government offices and for \$10 to others. A check payable to UC Regents should accompany your order; credit cards are not accepted. Please address inquiries to the California Policy Seminar, 1950 Addison Street, Suite 202, Berkeley, CA 94704-1182, or telephone (510) 643-9328. Readers who wish to copy and distribute this summary may do so without requesting permission.