

# Law Trends

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## Public School Admissions and Desegregation: The United States Supreme Court Speaks on Racial Classification

By Amy J. Borman



In June 2007, the U.S. Supreme Court decided in *Parents Involved in Community Schools v. Seattle School District No. 1 et al.* that the racial components of two school districts' student assignment plans violated the Equal Protection guarantee of the Fourteenth Amendment. The Court held that a plan classifying students in one of two racial categories, creating a target range for each racial category in each school, and making tiebreaking decisions between school assignments based on the racial categorization of a student amounts to the "differential treatment of American children on the basis of their color or race."

Each School District created target ranges for racial categories, modeling those ranges on the distribution of such groups in the resident population of the districts. Both districts adopted their plans voluntarily.

Parents Involved in Community Schools ("PICS") is a nonprofit corporation comprised of the parents of children in the Seattle school district who have been or may be assigned to schools based on their race rather than their expressed preferences. In their complaint, PICS provided the example of Jill Kurfirst, who sought to enroll her ninth-grade son, Andy Meeks, in a special career program at a Seattle district high school. Meeks suffered from attention deficit hyperactivity disorder and dyslexia, but was progressing with the help of hands-on instruction. His middle school teachers advocated the career program as holding the most promise for his continued success and improvement. Although Meeks was accepted into the selective career program, he was rejected from the high school itself based on the assignment plan's racial tiebreaker and could not enter the program. The District Court granted the school district summary judgment, a decision originally reversed by the Ninth Circuit Court of Appeals, but then upheld on rehearing in 2005. PICS appealed to the U.S. Supreme Court.

In 2002, Crystal Meredith moved to the Jefferson County School District and sought to enroll her son, Joshua McDonald, in kindergarten for the 2002-2003 school year. The school to which he was automatically assigned based on the area where they lived was only a mile from his home, but was fully enrolled. Jefferson County then assigned McDonald to another elementary school 10 miles from his home. Meredith asked the district to transfer McDonald to another school, also only a mile away from his home, but the transfer request was denied based on McDonald's race. The school district stated that "the transfer would

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have an adverse effect on desegregation compliance.” Meredith filed suit against the School District in the Western District of Kentucky, claiming the assignment violated the Equal Protection Clause of the Fourteenth Amendment. The District Court found that the assignment plan used by Jefferson County to assign McDonald was narrowly tailored to serve the compelling interest of racially diverse schools. The Sixth Circuit Court of Appeals affirmed this ruling, agreeing with the District Court’s reasoning. Accordingly, Meredith appealed to the U.S. Supreme Court.

The Court considered both cases together to answer the following question: When does the use of racial classifications by the government deny an individual the equal protection of laws guaranteed by the Constitution?

The Court decided that the districts’ use of racial classifications was not used in a manner necessary to justify the racial classifications. Students are classified as belonging to one of only two racial categories. Rather than promoting racial diversity, the programs seem to allow student populations that are relatively homogenous (50% White, 50% Asian American), while disallowing student populations that are decidedly more diverse (30% Asian American, 25% African American, 25% Latino, 20% White). Additionally, few students in each district were actually reassigned based on their race, suggesting that other methods would be more effective in achieving racial diversity. Finally, the Court questioned the use of each district’s racial demographics as the model for each school’s diversity requirement ranges, citing lack of evidence that the demographics are representative of the numbers necessary to realize the purported benefits of racial diversity in schools. Overall, the Court found that the use of racial classifications involves high costs that cannot be endured when the classification policies do not effectively promote their underlying goals.

Though a majority of the Court found the assignment plans of both districts unconstitutional, only four of nine justices joined the Court’s opinion.

There has been significant media coverage and analysis of these cases, and the implication of the Justices’ opinions on future use of race in school assignment. Though the Court’s divided outcome and the ensuing public reaction may cast doubt on the decision’s longevity, for now, student assignment plans using racial classifications will be strictly scrutinized. The racial components of the assignment plans for both the Seattle School District and the Jefferson County School District are deemed to have violated the constitutional guarantee of Equal Protection found in the Fourteenth Amendment.

*Ms. Borman is a member of the Firm’s Public Law Practice Group and has significant experience in education law. For more information regarding this decision, please contact her by calling 419-241-6000.*

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