

EDUCATING THE DISADVANTAGED—TWO MODELS

AMY L. WAX*

INTRODUCTION

Rising social and economic inequality has become a national pre-occupation. Lower and upper class communities have separated geographically and diverged in family structure, civic participation, work patterns, and criminality.¹ Disparities in educational attainment are both a source and effect of these trends.² Children growing up in poor families and neighbor-

* Robert Mundheim Professor of Law, University of Pennsylvania Law School. I thank Anna Demaree for excellent research assistance.

1. On disparities by socioeconomic status (“SES”) across a range of social indicators, see generally CHARLES MURRAY, *COMING APART: THE STATE OF WHITE AMERICA 1960–2010* (2012). On arrest rates by race, see U.S. DEP’T OF JUSTICE, FED. BUREAU OF INVESTIGATION, *CRIME IN THE UNITED STATES, 2015 TABLE 43* (2016), <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-43> [<https://perma.cc/HKT2-EZLS>]. On family structure by SES, see generally Shelly Lundberg et al., *Family Inequality: Diverging Patterns in Marriage, Cohabitation, and Childbearing*, J. ECON. PERSP., Spring 2016, at 79. On residential segregation by income, see generally Kendra Bischoff & Sean F. Reardon, *Residential Segregation by Income, 1970–2009*, in *DIVERSITY AND DISPARITIES: AMERICA ENTERS A NEW CENTURY 208* (John R. Logan ed., 2014).

2. For recent data on achievement gaps by race and ethnicity, see U.S. DEP’T OF EDUC., NAT’L CTR. FOR EDUC. STATISTICS, *SCHOOL COMPOSITION AND THE BLACK-WHITE ACHIEVEMENT GAP*, NCES 2015-018 (2015), https://nces.ed.gov/nationsreportcard/subject/studies/pdf/school_composition_and_the_bw_achievement_gap_2015.pdf [<https://perma.cc/4U5H-2FAQ>] [hereinafter BLACK-WHITE ACHIEVEMENT GAP]; Natalie Gross, *When Does the Racial Achievement Gap First Appear?*, ATLANTIC (Feb. 22, 2017), https://www.theatlantic.com/education/archive/2017/02/the-racial-achievement-gap-is-prevalent-even-in-kindergarten/516831/?utm_source=atlib [<https://perma.cc/FY93-B5CX>]; Richard V. Reeves & Dimitrios Halikias, *Race gaps in SAT scores highlight inequality and hinder upward mobility*, BROOKINGS INST. (Feb. 1, 2017), <https://www.brookings.edu/research/race-gaps-in-sat-scores-highlight-inequality-and-hinder-upward-mobility> [<https://perma.cc/JB32-A2SS>]; Sean F. Reardon et al., *The Geography of Racial/Ethnic Test Score Gaps* (Stanford Ctr. For Educ. Policy Analysis, Working Paper No. 16-10, 2016), <https://cepa.stanford.edu/sites/default/files/wp16-10-v201604.pdf> [<https://perma.cc/Y4Y5-8RAT>]. For a summary of current findings on skills and school achievement by SES, see *Education and Socioeconomic Status*, AM. PSYCHOLOGICAL ASS’N, <http://www.apa.org/pi/ses/resources/publications/education.aspx> [<https://>

hoods, including many blacks and Hispanics, complete less schooling and acquire fewer academic skills than those from more affluent backgrounds.³ Gaps in academic outcomes by socioeconomic status (“SES”) and race remain a stubborn feature of American life.

The origins of existing achievement gradients, and potential strategies for mitigating them, have been the subject of research and study over decades, generating a complex theoretical and empirical literature. Numerous innovations and programs, involving large expenditures of public and private funds, have been devoted to increasing and equalizing achievement.⁴ Despite sustained efforts on multiple fronts, SES gaps in educa-

perma.cc/Y67U-KEP3] (last accessed May 18, 2017); Daniel Willingham, *Why Does Family Wealth Affect Learning?*, AM. EDUCATOR, Spring 2012, at 33. For data on college attendance and completion by SES, see Sarah Turner, *Education Markets: Forward-Looking Policy Options* (Hutchins Ctr. on Fiscal and Monetary Policy at Brookings, Working Paper No. 27, 2017), https://www.brookings.edu/wp-content/uploads/2017/01/wp27_turner_educationmarkets_final.pdf [<https://perma.cc/8APX-AJBY>].

3. See BLACK-WHITE ACHIEVEMENT GAP, *supra* note 2; Martin Carnoy & Emma Garcia, *Five key trends in U.S. student performance*, ECON. POL’Y INST. (Jan. 12, 2017), <http://epi.org/113217> [<https://perma.cc/8ZTG-LP2X>] (providing data on trends in achievement gaps by race and socioeconomic status); Mark Dynarski & Kirsten Kainz, *Why Federal Spending on Disadvantaged Students (Title I) Doesn’t Work*, BROOKINGS INST. (Nov. 20, 2015), <https://www.brookings.edu/research/why-federal-spending-on-disadvantaged-students-title-i-doesnt-work> [<https://perma.cc/6YTD-66X9>] (“Achievement gaps between disadvantaged students and their better-off peers are large and have existed for decades.”); Christopher Jencks & Susan Mayer, *The Social Consequences of Growing Up in a Poor Neighborhood*, in INNER-CITY POVERTY IN THE UNITED STATES 111, 116 (Laurence E. Lynn, Jr. ed., 1990) (“Other things equal, low-SES children do worse in school than high-SES children.”); Reeves & Halikias, *supra* note 2; Willingham, *supra* note 2; Reardon et al., *supra* note 2; Turner, *supra* note 2; *Education and Socioeconomic Status*, *supra* note 2.

4. For a succinct review of efforts to improve educational achievement among the disadvantaged, see Brian A. Jacob & Jens Ludwig, *Improving educational outcomes for poor children*, FOCUS, Fall 2009, at 56. For a 2017 report on the failure of federally funded “school improvement grants” to enhance student learning and outcomes, including, for example, math and reading scores and years of schooling completed, see U.S. DEP’T OF EDUC., NAT’L CTR. FOR EDUC. EVALUATION AND REGIONAL ASSISTANCE, SCHOOL IMPROVEMENT GRANTS: IMPLEMENTATION AND EFFECTIVENESS, NCEE 2017-4013 (2017), <https://ies.ed.gov/ncee/pubs/20174013/pdf/20174013.pdf> [<https://perma.cc/EC65-7JPW>] [hereinafter SCHOOL IMPROVEMENT GRANTS REPORT]. On the recent School Improvement Grants initiative, see *School Improvement Grants*, U.S. DEP’T OF EDUC., <https://www2.ed.gov/programs/sif/index.html> [<https://perma.cc/H3JU-VL63>] (last accessed May 16, 2017).

tional indicators have barely budged overall, resisting repeated waves of school reform and myriad initiatives designed to improve prospects for low income students.⁵

The aim of this Article is to compare and contrast two approaches to addressing inequalities in K–12 education that have recently received wide popular attention and strong professional advocacy. The first seeks to reduce the number of high poverty schools, which tend to be segregated both by class and race, by dispersing students from poor families to educational settings with predominantly middle class or affluent students. So-called economic integration initiatives have gained traction in a number of public school districts nationwide.⁶ The second type of effort is directed at drastically altering the character of the schools disadvantaged students attend. So-called “no excuses” K–12 charter programs create a high-intensity, demanding, all-encompassing atmosphere designed to work a comprehensive improvement in poor students’ academic prospects as well as their outlook, habits, and behavior.⁷

Both initiatives represent a response to the disappointing results achieved by prior efforts to make headway against racial and economic inequalities in learning and achievement. Begin-

5. See, e.g., SCHOOL IMPROVEMENT GRANTS REPORT, *supra* note 4, at ES-2–ES-3; Stephen L. Morgan & Sol Bee Jung, *Still No Effect of Resources, Even in the New Gilded Age?*, RUSSELL SAGE FOUND. J. SOC. SCI., Sept. 2016, at 83 (documenting the continuing dominance of family background, income, and circumstances, and the minimal effects of efforts to narrow and eliminate SES gaps in educational attainment).

6. See THE FUTURE OF SCHOOL INTEGRATION: SOCIOECONOMIC DIVERSITY AS AN EDUCATION REFORM STRATEGY (Richard D. Kahlenberg ed., 2012); RICHARD D. KAHLENBERG, ALL TOGETHER NOW: CREATING MIDDLE CLASS SCHOOLS THROUGH PUBLIC SCHOOL CHOICE (2001); JAMES E. RYAN, FIVE MILES AWAY, A WORLD APART (2010); see also Amy L. Wax, *Income Integration at School*, Pol’y Rev., Oct. & Nov. 2011 (reviewing RYAN, *supra*), <http://www.hoover.org/research/income-integration-school> [<https://perma.cc/5AUF-DH8K>].

7. For a comprehensive review of so-called “no excuses” charter schools, which are sometimes designated as “high expectations” schools, see DAVID WHITMAN, SWEATING THE SMALL STUFF: INNER-CITY SCHOOLS AND THE NEW PATERNALISM (2008); *History: KIPP Public Charter Schools*, KIPP, <http://www.kipp.org/about/history> [<https://perma.cc/SA3-X8J3>] (last accessed May 16, 2017). For a broader study of “oversubscribed” charters, defined as school which have more applicants than places, and thus hold a lottery to determine admission, see U.S. DEP’T OF EDUC., NAT’L CTR. FOR EDUC. EVALUATION & REGIONAL ASSISTANCE, THE EVALUATION OF CHARTER SCHOOL IMPACTS: FINAL REPORT, NCEE 2010-4029 (2010), <https://ies.ed.gov/ncee/pubs/20104029> [<https://perma.cc/D87Z-U6ZU>].

ning with *Brown v. Board of Education*⁸ in 1954, nationwide efforts to dismantle segregation and integrate schools through anti-discrimination lawsuits, although occasionally achieving modest success, have ultimately foundered, producing neither dramatic racial integration nor significant improvements in academic outcomes for black students.⁹ A long and growing list of factors have undermined formal and informal efforts to achieve significant racial integration of public schools nationwide: rapidly changing demographics, white flight to the suburbs, increasing residential segregation by class and race, parents' strong preference for neighborhood schools, a tenacious tradition of local control of public education, the shortcomings and limitations inherent in judicial oversight of complex institutions,¹⁰ and the growing recognition that past school segregation is not the main cause of, nor integration the likely cure for, black students' present academic problems.¹¹ In the wake of these demographic and political realities and litigations' limited success, lawsuits extending over decades have almost all been abandoned or phased out by the courts.¹²

Legal efforts to correct the effects of past official discrimination were followed by sporadic attempts, initiated by local governments and school districts, to reduce school segregation through the adoption of race-conscious school assignment plans.¹³ In *Parents Involved in Community Schools v. Seattle School District No. 1*,¹⁴ the United States Supreme Court turned back

8. 347 U.S. 483 (1954).

9. For a concise history of the rise and fall of school desegregation lawsuits, see James E. Ryan, *The Supreme Court and Voluntary Integration*, 121 HARV. L. REV. 131, 139–43 (2007).

10. See *id.* at 140 (stating that during the heyday of the Supreme Court's integration jurisprudence, "many urban school districts in and outside of the South had become predominantly black, which obviously made integration harder if not impossible to achieve;" that "busing within cities gave those with economic means a reason to flee to the suburbs;" and that residential segregation—generated in part by private preferences—was the unaddressed primary cause of school segregation).

11. BLACK-WHITE ACHIEVEMENT GAP, *supra* note 2, at 2 (noting that "the portion of the Black-White achievement gap attributed to within-school differences in achievement was larger than the portion attributed to between-school differences").

12. See Ryan, *supra* note 9.

13. See KAHLBERG, *supra* note 6, at 92–93.

14. 551 U.S. 701 (2007).

these local initiatives. There the Court invalidated race-conscious plans in Seattle, Washington and Louisville, Kentucky, finding that using race to achieve racial balance in K–12 schools was impermissible under the Equal Protection Clause.¹⁵

In the wake of these failures, attention turned to “in place” enrichment programs designed to upgrade and improve public schools that serve low income children in general, which tend to be concentrated in heavily minority areas. A longstanding national initiative is Title I of the Elementary and Secondary Education Act of 1965,¹⁶ which funnels money and resources to high poverty schools in an attempt to produce greater equality across districts and to supplement educational offerings for disadvantaged children.¹⁷ A more recent legislative effort, the 2001 No Child Left Behind Act,¹⁸ relied chiefly on block grants to states and localities backed up by a detailed set of mandates and goals for teacher quality, curriculum, and student performance.¹⁹ In addition, the Obama administration devoted over \$7 billion dollars to a School Improvement Grant (“SIG”) Program designed to supplement the funding and resources for distressed students and the schools they attend.²⁰ Although working modest improvements in some cases, these initiatives have not measurably enhanced low-income students’ learning overall.²¹ Nor have they significantly narrowed race and class achievement gaps, which remain substantial.²²

15. *Id.* at 710–11; see also Ryan, *supra* note 9, at 131–32.

16. 20 U.S.C. §§ 6301–6578 (2012).

17. For a report on Title I funding history and efforts, see Dynarski & Kainz, *supra* note 3.

18. Pub. L. No. 107-110, 115 Stat. 1425 (2001).

19. For description of No Child Left Behind, as currently operating, see *No Child Left Behind: Elementary and Secondary Education Act (ESEA)*, U.S. DEP’T OF EDUC., <https://www2.ed.gov/nclb/landing.html> [<https://perma.cc/83YJ-Q6NW>] (last accessed May 18, 2017). For a review of other programs designed to direct resources to disadvantaged students and their schools, and their effectiveness (or, rather, lack thereof), see SCHOOL IMPROVEMENT GRANTS REPORT, *supra* note 4.

20. See *Funding*, U.S. DEP’T OF EDUC., <https://www2.ed.gov/print/programs/sif/funding.html> [<https://perma.cc/AT88-NMJM>] (last accessed May 18, 2017) (reporting on the “SIG” program).

21. See SCHOOL IMPROVEMENT GRANTS REPORT, *supra* note 4, at ES-2–ES-3.

22. For up-to-date data on the persistence of racial achievement gaps, see U.S. DEP’T OF EDUC., NAT’L CTR. FOR EDUC. STATISTICS, STATUS AND TRENDS IN THE EDUCATION OF RACIAL AND ETHNIC GROUPS 2016, NCES 2016-007 (2016), <https://nces.ed.gov/pubs2016/2016007.pdf> [<https://perma.cc/5ZFK-GX93>] [herein-

Given these disappointing results, policymakers have continued to search for ways to improve academic outcomes and life chances for minority and low income students. Two important approaches have emerged. In the wake of the Supreme Court's hostility to race-conscious integration and in recognition of the disproportionate number of minority, and especially black, children, from poor families, localities have adopted plans to integrate schools by social class instead of race. Alternatively, "no excuses" charter schools have sprung up in a number of urban, heavily minority districts around the country, targeting their efforts at the populations of disadvantaged students in those locations.

Economic integration plans and "no excuses" schools share important common threads. First, both rest on the well-documented fact that children from deprived backgrounds (including a disproportionate number of minority students, and especially blacks) have, on average, fewer academic skills than affluent students, and have more trouble meeting academic demands.²³ Second, both are grounded in a growing appreciation, validated by some research in education and social science, that non-academic, characterological traits, such as persistence, initiative, ambition, self-discipline, self-control, attentiveness, organizational skill, and the ability to delay gratification, are important to academic and life success.²⁴ Finally,

after STATUS AND TRENDS REPORT]. On gaps by class, income, and SES, see Sean Reardon, *The Widening Academic Achievement Gap between the Rich and the Poor*, Community Investments, Summer 2012, at 19; Sean Reardon, *The Widening Academic Achievement Gap Between the Rich and the Poor: New Evidence and Possible Explanations*, in *WHITHER OPPORTUNITY? RISING INEQUALITY, SCHOOLS, AND CHILDREN'S LIFE CHANCES* 91 (Greg J. Duncan & Richard J. Murnane eds., 2011); Morgan & Jung, *supra* note 5 (reviewing the research on various programs designed to improve education for disadvantaged students).

23. See STATUS AND TRENDS REPORT, *supra* note 22; Reardon, *supra* note 22; Sean Reardon, *The Widening Academic Achievement Gap Between the Rich and the Poor: New Evidence and Possible Explanations*, in *WHITHER OPPORTUNITY?*, *supra* note 22, at 91; Morgan & Jung, *supra* note 5.

24. See Robert J. Sampson, *The Characterological Imperative: On Heckman, Humphries, and Kautz's The Myth of Achievement Tests: The GED and the Role of Character in American Life*, 54 *J. ECON. LITERATURE* 493, 493 (2016); RICHARD REEVES & DIMITRIOS HALIKIAS, *CTR. ON CHILDREN AND FAMILIES AT BROOKINGS, THE LIBERAL CASE FOR CHARACTER IN A POPULIST AGE* (2017), https://www.brookings.edu/wp-content/uploads/2017/04/ccf_20170421_liberal_case_for_character_reeves.pdf [<https://perma.cc/Z7K3-TGWG>]; Richard V. Reeves, *The New Politics of Character*, 20 *NAT'L AFF.* 111, 112 (2014); Pedro Carneiro &

both models assume, whether tacitly or overtly, that, as compared to middle class counterparts, the average low income student is lacking in these so-called “non-cognitive” attributes, and that these deficits can express themselves in attitudes and behaviors that interfere with learning.²⁵

In light of these insights, both “no excuses” schools and income integration initiatives operate on the understanding that learning cannot be separated from proper socialization and good habits. It follows that raising the academic profile of disadvantaged students and enhancing their gloomy life prospects requires improving not just their level of academic skill, but also their outlook, attitudes, and behavior. Although both models target academic and personal deficits, they differ crucially in their methods. As elaborated more fully below, “no excuses” schools are committed to a detailed program of behavior modification and active acculturation. In contrast, economic integration seeks to improve students through a passive process of immersion, osmosis, and contagion. That model assumes that removing poor students from high poverty schools and placing them in a more middle class environment will automatically lead them to adopt the higher expectations and more functional habits of their better off classmates.

I. “NO EXCUSES” SCHOOLS

The “no excuses” model sets up charter schools designed to actively address the attributes thought to hold back low income students through a hands-on, paternalistic model of behavioral modification and direction.²⁶ As funded and designed mainly by private entrepreneurs, these schools have proliferated nationwide in the past two decades.²⁷ Although differing in precise methods and location, they draw their students chiefly from low income communities, and the great majority are heavily or exclusively

James Heckman, *Human Capital Policy* 5 (Nat'l Bureau of Econ. Research, Working Paper No. 9,495, 2003), <http://www.nber.org/papers/w9495> [<https://perma.cc/3CYR-7WT3>].

25. See WHITMAN, *supra* note 7, at 35 (“The paternalistic presumption, implicit in the [‘no-excuses’] schools portrayed here, is that the poor lack the family and community support, cultural capital, and personal follow-through to live according to the middle-class values that they, too, espouse.”).

26. See *id.* at 3–4.

27. See *id.* at 61, 280.

populated by disadvantaged minorities.²⁸ Most are modeled on the KIPP, or Knowledge is Power Program, academies, a nationwide chain of about 150 schools operating mostly at the elementary and middle school level.²⁹ Schools that represent variations on this theme include the New York Success Academies, the Harlem Children's Zone school, the Amistad Academy in Boston, the Christo Ray Jesuit School in Chicago, and the SEED Academy boarding school in Washington, D.C.³⁰

The hallmark of "no excuses" schools is a frankly paternalistic and unapologetic commitment to acculturating low income students to the achievement-oriented habits and norms typical of their middle class and affluent counterparts.³¹ That project is motivated by the belief that low-income children will benefit from a stable, highly structured environment in which conventional, bourgeois behaviors are actively endorsed, expected, and demanded.³² The list of these schools' common features is long and detailed. On the academic side, they prescribe a uniform, rigorous pre-college curriculum, with little student discretion in course of study.³³ Most extend academic instruction through a longer school day, week, and year, with activities and assignments scheduled throughout the summer months.³⁴ Basic skill acquisition receives heavy emphasis, with performance levels and progress continually monitored and measured through frequent testing.³⁵

In support of the academic mission, the schools work unceasingly to inculcate decorum and refinement, according to the unspoken rules of behavior that characterize middle and upper class families, schools, and communities. A key part of the

28. *See, e.g., id.* at 111 (noting that 98 percent of students at Amistad Academy, a "no-excuses" school, are Black or Hispanic).

29. CHRISTINA CLARK TUTTLE ET AL., MATHEMATICA POL'Y RESEARCH, UNDERSTANDING THE EFFECT OF KIPP AS IT SCALES 1 (2015), <https://www.mathematica-mpr.com/our-publications-and-findings/publications/understanding-the-effect-of-kipp-as-it-scales-volume-i-impacts-on-achievement-and-other-outcomes> [<https://perma.cc/JW89-Z55C>].

30. *See* WHITMAN, *supra* note 7, at 3.

31. *See id.* at 3–4.

32. *See id.*

33. *See, e.g., id.* at 195 (noting that the SEED Academy prescribes a "rigorous college-prep curriculum").

34. *See id.* at 268–69.

35. *See id.* at 264–65.

KIPP code, adopted by many other schools, is to “be nice.”³⁶ Courtesy is expected and street language and profanity strictly forbidden.³⁷ Verboten also are fighting, loud talk, boisterous behavior, harsh teasing, and ridicule of other students.³⁸ There is also an active attempt to inculcate “learned optimism.”³⁹ Children are expected to adopt positive attitudes toward academic work and an ambitious, hopeful outlook on the future.⁴⁰ Without exception, these schools strive to build a collective culture of learning and achievement, with repeated emphasis on college attendance and college completion.⁴¹

In pursuit of reshaping student outlook and behavior, these schools impose precise, prescriptive, and conventional codes of conduct, both in and out of the classroom. Students are expected to obey teachers and administrators, be punctual, work steadily, and study hard. They are taught how to sit and comport themselves in class, to refrain from interrupting, and to maintain attention and eye contact.⁴² They must follow instructor’s movements, engage in active listening, participate in classroom discussions and school activities, and complete all homework carefully and on time.⁴³ Dress codes are ubiquitous, and disrespectful words or conduct towards teachers, as well as boisterousness, vandalism or destruction of property, are not tolerated.⁴⁴ Trustworthiness, punctuality, and reliability are emphasized. Violations of the elaborate code are swiftly punished, and a “zero tolerance” atmosphere prevails.⁴⁵ To enforce rules great and small, these schools do not shrink from imposing conventional penalties, including in-school and out of

36. *Id.* at 101–102 (stating that a commonplace KIPP school motto is “Work Hard, Be Nice”).

37. *See id.* at 16.

38. *See id.* at 262 (“[‘No-excuses’ schools] drill into students the importance of traditional virtues like hard work, politeness, diligence, respect for their elders, and good citizenship.”).

39. *See id.* at 23.

40. *See id.* at 103 (noting Amistad Academy expects students to “Bring an A+ Attitude” and be “excited to climb the mountain to college”).

41. *See id.* at 266–67.

42. *See id.* at 261–62.

43. *See id.* at 101–02.

44. *See id.* at 260.

45. *See id.* at 102–03.

school suspensions, community service, corrective exercises, and occasional expulsion.⁴⁶

Principals and teachers are given a high degree of autonomy, but also must put in long days teaching, advising, grading, and monitoring students.⁴⁷ They are also expected to be “on board” with the school mission, which can involve enforcing a detailed laundry list of rules and requirements.⁴⁸ In all but rare cases, the teachers at “no excuses” schools, which are almost all private charters, are not unionized.⁴⁹ This creates flexibility for assignments, hours, and allocation of responsibility. Most teachers arrive through unconventional channels, with significant numbers coming from stints with Teach for America, which draws many elite college graduates.⁵⁰

“No excuses” schools do not expect deep or active involvement from parents. But all necessarily rely on parents’ getting their children to school on time and checking homework, and most ask parents to sign a contract pledging to meet these requirements.⁵¹ Finally, in contrast to many public and private schools, most “no excuses” charter schools are bare bones operations without fancy facilities or technologies.⁵² In general, teaching methods are old fashioned, with an emphasis on

46. The highly regimented and “zero tolerance” aspects of KIPP have been targeted by a regular drumbeat of online critiques, often directed more broadly at strict school disciplinary practices. See, e.g., Sarah Carr, *How Strict Is Too Strict? The backlash against no-excuses discipline in high school*, ATLANTIC (Dec. 2014), <http://www.theatlantic.com/magazine/archive/2014/12/how-strict-is-too-strict/382228> [<https://perma.cc/XX4Y-8U9M>]; see also *infra* notes 112–22 and accompanying text (discussing criticisms of the “no excuses” methods and assumptions); Monica Disare, *‘No excuses’ no more? Charter schools rethink discipline after focus on tough consequences*, CHALKBEAT (Mar. 7, 2016), <http://www.chalkbeat.org/posts/ny/2016/03/07/no-excuses-no-more-charter-schools-rethink-discipline-after-focus-on-tough-consequences> [<https://perma.cc/QY8Z-LUAU>]; P.L. Thomas, *Criticizing KIPP Critics*, RADICAL EYES FOR EQUITY (Feb. 3, 2014), <https://radicalsolarship.wordpress.com/2014/02/03/criticizing-kipp-critics> [<https://perma.cc/9G6N-7NST>].

47. See WHITMAN, *supra* note 7, at 38, 271.

48. *Id.* at 275.

49. See *id.* at 272.

50. See *id.* at 272–73.

51. See, e.g., *id.* at 115, 259.

52. See, e.g., *id.* at 169.

memorization, structured learning, and “drill and kill” exercises directed at the mastery of basic skills.⁵³

In sum, “no excuses” schools are totalizing, prescriptive, and heavily traditional in their approach. They attempt to control and regulate low-income children’s in-school experience by setting high and clear standards through an elaborate and explicit code of conduct. The hope is that students will learn new behaviors that are more in keeping with middle and upper class expectations and that will foster and enhance their academic progress and success.⁵⁴

II. ECONOMIC INTEGRATION

In contrast with “no excuses” schools, which operate on the principle of express socialization and prescriptive micromanagement, the economic integration model depends on the benefits of demographic manipulation alone.⁵⁵ Nonetheless, income mixing initiatives, like “no excuses” charters, rely on the effectiveness of behavioral and academic uplift.⁵⁶ They seek to improve low-income students’ academic performance as well as the conduct and attitudes that impede performance.⁵⁷ The assumption is that attending school with mostly poor classmates depresses achievement, and that being surrounded by more affluent students enhances it.⁵⁸ The enhancement can be accomplished simply by immersing poor students in a predominantly “middle class” environment.⁵⁹

53. See *id.* at 4.

54. For a comprehensive description of these features and a profile of schools that adhere to them, see *id.*

55. See KAHLBERG, *supra* note 6, at 23–25; RYAN, *supra* note 6, at 164–70.

56. See RYAN, *supra* note 6, at 168–69.

57. See *id.*

58. See, e.g., Richard D. Kahlenberg, *Introduction: Socioeconomic School Integration*, in *THE FUTURE OF SCHOOL INTEGRATION*, *supra* note 6, at 1, 32–33 (describing the expected immersive benefits accruing to poor children living or attending schools in more affluent neighborhoods as including “increas[ed] academic expectations and performance through increased access to positive role models and high-performing peers” and exposure to “pro-social attitudes and behaviors”); *id.* at 3–5 (noting that most middle class and wealthier students are “more academically engaged and less likely to act out,” and that the schools they attend have more resources and enrichment programs, stronger teachers, more vigilant and involved parents, and higher academic and behavioral expectations).

59. See RYAN, *supra* note 6, at 164–70.

How does this model actually work? Two leading proponents, Richard Kahlenberg of the Century Foundation, and James Ryan, Dean of the Harvard Graduate School of Education, cite an amalgam of institutional and interpersonal forces. On the institutional side, they note that schools dominated by affluent students have more elaborate and well-kept facilities, better educated and effective teachers, less teacher turnover, more capable principals, and a richer variety of academically demanding courses and extra-curricular offerings.⁶⁰ Parents of the children who attend these schools tend to be involved in the day to day management of the school, vocal and politically savvy in looking out for their children's interests, and effective in procuring desirable resources and services.⁶¹ Income mixing gives lower income students access to the material and institutional advantages of these schools, including the benefits of more vigilant parental oversight.⁶²

Although the goal of enhancing low income students' academic achievement is paramount, improvements in the behaviors and attitudes that support learning are key to the model's success. On the interpersonal side, income mixing proponents rely heavily on assumed peer effects and cultural contagion.⁶³ At the typical well-off suburban school, the atmosphere is more often one of order, cooperation, compliance with rules, and respect for authority.⁶⁴ Most students hold high expectations for academic achievement, rigor, diligence, effort, and future pro-

60. See KAHLENBERG, *supra* note 6, at 67–76.

61. See RYAN, *supra* note 6, at 169–70.

62. See *id.*; see also Richard D. Kahlenberg, *Introduction: Socioeconomic School Integration*, in THE FUTURE OF SCHOOL INTEGRATION, *supra* note 6, at 3–5; Amy L. Wax, *Income Integration at School*, 169 POL'Y REV. 49, 51 (2011); HALLEY POTTER & KIMBERLY QUICK, CENTURY FOUND., A NEW WAVE OF SCHOOL INTEGRATION: DISTRICTS AND CHARTERS PURSUING SOCIOECONOMIC DIVERSITY (Feb. 9, 2016), <https://tcf.org/content/report/a-new-wave-of-school-integration> [<https://perma.cc/4WHS-87XQ>] (examining 91 school districts and charters pursuing income mixing initiatives); Michael J. Petrilli, *All Together Now? Educating high and low achievers in the same classroom*, EDUC. NEXT, Winter 2011, at 48, 50–51.

63. See, e.g., Marco Basile, *The Cost-Effectiveness of Socioeconomic School Integration*, in THE FUTURE OF SCHOOL INTEGRATION, *supra* note 6, at 127, 143–44 (stressing peer effects); Richard D. Kahlenberg, *Introduction: Socioeconomic School Integration*, in THE FUTURE OF SCHOOL INTEGRATION, *supra* note 6, at 1, 32–34; Petrilli, *supra* note 62, at 50–51.

64. See KAHLENBERG, *supra* note 6, at 48–58.

spects.⁶⁵ Because individuals tend to conform to the dominant culture, it is assumed that low income students placed in such schools will come to hold those high expectations as well, and change their behavior accordingly.⁶⁶

III. DO THESE SCHOOLS IMPROVE OUTCOMES?

Do these initiatives work? Do low-income students placed in “no excuses” schools or attending institutions with more affluent classmates improve their school performance, future prospects and occupational success? How do these approaches stack up against each other in achieving this goal?

For economic integration, the questions of whether, how much, and under what circumstances going to school with more advantaged students benefits low-income or minority students are the subject of controversy, with much ink spilled over conflicting assertions.⁶⁷ Advocates point to successes, such as the program in Montgomery County, Maryland, which claims measurable, albeit modest, academic improvements in reading and math for low income elementary school students placed in predominantly middle class or affluent schools through a program of dispersed low income housing.⁶⁸ The quality and quantity of data available from Montgomery County is unusual. In general, the evidence on schools integrated by class and income, whether deliberately engineered or arising spontaneously through “natural experiments,” is strikingly spotty, sparse, and equivocal. In a comprehensive 1990 literature review on the effects of demographic variation in schools, for instance, Christopher Jencks and Susan Mayer found some support for a boost in the high school graduation rates for poor and minority students attending higher quality schools, but inconsistent and variable effects on college attendance and completion, academic achievement, cognitive skills, socialization, and

65. See RYAN, *supra* note 6, at 165.

66. See *id.* at 169.

67. See, e.g., Heather Schwartz, *Housing Policy is School Policy: Economically Integrative Housing Promotes Academic Success in Montgomery County, Maryland*, in *THE FUTURE OF SCHOOL INTEGRATION*, *supra* note 6, at 27, 33 (acknowledging that “it has proved quite difficult to quantify the degree to which economic integration benefits children”).

68. See *id.*; Heather Schwartz, *Housing Policy Is School Policy: Economically Integrative Housing Promotes Academic Success in Montgomery County, Maryland*, 76 *EDUC. DIGEST*, no. 6, 2011, at 42.

behavior.⁶⁹ Specifically, the authors noted that “studies of how a school’s mean SES affects students’ academic achievement yield mixed results” that depend on a complex set of situational and demographic factors.⁷⁰ A more recent, but limited, review of the literature, which focused on the academic effects of the demographic composition of high schools, also reported equivocal results.⁷¹ Finally, a 2016 summary report by a prominent researcher, Roslyn Arlin Mickelson, for the National Coalition on School Diversity, an advocacy group, claims mainly positive results from economically integrated schools.⁷² Although providing citations to a plethora of studies conducted over decades, the report is mainly conclusory, and lacks any detailed critical analysis of the actual research upon which it relies.

The vagaries of the findings can in part be ascribed to the diversity of situations in which economic integration initiatives have been tried or class mixing in schools has spontaneously occurred. Income integration programs have been adopted by school districts in such far-flung locales as Wake County, North Carolina; Champaign, Illinois; La Crosse, Wisconsin; and Louisville, Kentucky.⁷³ Variations can be found in the range of mechanisms for achieving integration (such as student assignment plans versus magnet school programs), how the demographic composition of schools is characterized (with the most common, albeit not uniform, marker of “low income” being eligibility for free or reduced price meals) and the profile of the schools into which students are shifted (which range widely in size, funding, and economic and racial composition).

Moreover, because almost all plans require students to travel to out-of-neighborhood schools, the programs are restricted in

69. Christopher Jencks & Susan Mayer, *The Social Consequences of Growing Up in a Poor Neighborhood*, in *INNER-CITY POVERTY IN THE UNITED STATES*, *supra* note 3, at 111.

70. *Id.* at 174.

71. See Russell W. Rumberger & Gregory J. Palardy, *Does Segregation Still Matter? The Impact of Student Composition on Academic Achievement in High School*, 107 *TEACHERS C. REC.* 1999, 2005 (2005).

72. ROSLYN ARLEN MICKELSON, NAT’L COALITION ON SCH. DIVERSITY, *SCHOOL INTEGRATION AND K–12 OUTCOMES* (2016), <http://school-diversity.org/pdf/DiversityResearchBriefNo5Oct2016Big.pdf> [https://perma.cc/LSA8-K92N].

73. See *e.g.*, RYAN, *supra* note 6; Richard D. Kahlenberg, *Introduction: Socioeconomic School Integration*, in *THE FUTURE OF SCHOOL INTEGRATION*, *supra* note 6, at 1 (describing various programs).

their ability to shift poor students to more affluent settings, with most achieving only a modest degree of economic or racial mixing.⁷⁴ Most initiatives have also been of variable duration, with some either scaled back or phased out after a few years due to logistical obstacles or political opposition. The story of Wake County, North Carolina, which received widespread publicity for its initial successes, is emblematic of the obstacles encountered by such programs.⁷⁵ Initial school assignments designed to create socioeconomic balance within school were soon disrupted by demographic changes (including a large influx of Hispanic students and fluctuations in the number of more affluent white families) that required continual reassignment of students, and sometimes disparate assignment of siblings, to achieve targets of economic diversity in most schools. Parental discontent soon set in, resulting in turmoil and divisions between those who “valued home-to-school proximity, parental choice, less frequent reassignment, or more ‘stability,’” and “those who advocated for . . . the role of socioeconomically diverse classrooms in improving student performance, and . . . the value of diversity irrespective of its impact on achievement.”⁷⁶ The ensuing political struggles yielded an eventual phasing out of the program in 2010, with reversion to a more traditional neighborhood school assignment plan.

In sum, resolving empirical questions surrounding the effectiveness of educational integration by income is hampered by most examples being small-scale, recent, short-lived, and too eclectic to permit systematic comparison. The task is made even

74. The author of one study, for example, concluded that transfers of poor students between districts, which would be necessary to achieve optimal income mixing in many cases, are “unlikely to increase most students’ educational opportunities significantly” due mainly to “prohibitive increases in travel time” combined with “the capacity limitation of eligible receiving schools.” Meredith P. Richards et al., *Can NCLB Choice Work? Modeling the Effects of Interdistrict Choice on Student Access to Higher-Performing Schools*, in *THE FUTURE OF SCHOOL INTEGRATION*, *supra* note 6, at 223, 228 (discussing a study by Erin Dillon).

75. For a concise account of the Wake County effort, see Sheneka M. Williams, *The Politics of Maintaining Balanced Schools: An Examination of Three Districts*, in *THE FUTURE OF INCOME INTEGRATION*, *supra* note 6, at 257, 262–268.

76. Jenni Owen & Megan Kauffmann, *The End of a Diversity Policy? Wake County Public Schools and Student Assignment Case 12 (2015)*, [https://www.maxwell.syr.edu/uploadedFiles/parcc/eparcc/cases/End%20of%20Diversity%20-%20Case%202015\(1\).pdf](https://www.maxwell.syr.edu/uploadedFiles/parcc/eparcc/cases/End%20of%20Diversity%20-%20Case%202015(1).pdf) [<https://perma.cc/APG9-8UD6>]. This report contains a detailed history of the Wake County School integration effort. *See id.* at 24–25.

more difficult by uncertainty about the precise features that are supposed to be responsible for the model's benefits. The focus of the work claiming positive benefits from income integration has been on establishing measurable improvements rather than on disentangling causal mechanisms.⁷⁷ Accordingly, as Christopher Jencks and Susan Mayer note in their 1990 review, while the "epidemic model" of schools and neighborhoods is widely embraced, "few examine the implications of this idea in detail."⁷⁸ This lack of a well-developed causal model, combined with mixed and unpredictable effects, means that income integration, whether geographical or educational, remains something of an empirical "black box," with the precise factors supposedly responsible for its benefits as yet poorly understood.

The research on the question is both sparse and inconclusive. A 2005 review of demographic effects in high schools found evidence that the factors that seem to predict improvements for low income students in integrated settings included high teacher expectations, more hours of homework completed, college prep courses, and a lower percentage of students reporting feeling unsafe.⁷⁹ But the authors found no measurably positive effects from superior peer examples, more school resources, and a range of other institutional factors.⁸⁰ In the same vein, William Dobbie and Roland Fryer, in examining 39 demographically varied New York City charter schools, reported that many traditional "resource based" inputs, such as class size, per pupil expenditure, and teacher credentials, had no measurable effects on student achievement or persistence.⁸¹ Rather, what Dobbie and Fryer characterized as "best practices" from successful charter schools—such as frequent teacher feedback, data-guided instruction, intensive tutoring, increased instructional time, and high expectations for academic performance and deportment—explained about half the variation in

77. See, e.g., MICKELSON, *supra* note 72.

78. Christopher Jencks & Susan Mayer, *The Social Consequences of Growing Up in a Poor Neighborhood*, in *INNER-CITY POVERTY IN THE UNITED STATES*, *supra* note 3, at 111, 113–14.

79. See Rumberger & Palardy, *supra* note 71, at 2016.

80. *Id.* at 2032–35.

81. See William Dobbie & Roland G. Fryer, Jr., *Getting Beneath the Veil of Effective Schools: Evidence From New York City 2* (Nat'l Bureau of Econ. Research, Working Paper No. 17,632, 2011), <http://www.nber.org/papers/w17632.pdf> [<http://perma.cc/Y7GH-VYQK>].

school effectiveness. Although the study did not examine economic integration as such, its implication is that many of the features income mixing proponents associate with “better off” schools and claim to be crucial to boosting low income students’ prospects do not appear to make a difference, whereas others (most closely associated with intensive charters) appear to be more important.

Despite the limitations in the data on economically integrated schools and the difficulties of drawing firm conclusions on many questions, a few reasonably reliable results have emerged. The research from Montgomery County, Maryland, and other programs strongly suggests that improvements for low income students dissipate when their numbers start to exceed more than about 20–30% of the school population.⁸² Also, there is little question that the research so far has failed to eliminate selection effects as a factor in positive outcomes. This means that existing evidence cannot definitively establish whether, and to what extent, income integration actually *causes* any observed improvements. For instance, the low-income students in the Montgomery County study were all from public housing families willing to move to a suburban setting. As the report on the program itself notes, these families were likely not representative of urban low income populations generally.⁸³ In the absence of truly random assignment (which is rare), the same point applies to low income families who take the trouble to seek out and transfer to higher income schools.

Finally, although disadvantaged students educated in more affluent schools may sometimes outperform peers in high-poverty settings, they start out far behind their better-off classmates and, as a group, continue to lag throughout their educational career. As a result, low-income students attending low-poverty schools tend to be “tracked” into non-accelerated classes.⁸⁴ They also are

82. See Schwartz, *supra* note 68, at 44 (noting that “academic returns from economic integration diminished as school poverty levels rose,” with low income children in schools that were no more than 20% poor doing best, and those in schools over 35% poor showing no improvement).

83. *Id.* at 47.

84. The classic study of racial differences in academic achievement, and the resulting stratification by race in placement, courses, and grades within the same school, was John Ogbu’s portrait of Shaker Heights High School, located in an affluent Cleveland suburb. JOHN OGBU, *BLACK AMERICAN STUDENTS IN AN AFFLUENT SUBURB: A STUDY OF ACADEMIC DISENGAGEMENT* (2003). For evidence

underrepresented in Advanced Placement and gifted and talented programs.⁸⁵ And they earn worse grades and score lower on standardized tests than more affluent classmates.⁸⁶

These results are not surprising in light of James Coleman's original findings in the 1960s⁸⁷, repeatedly confirmed in the decades since, that a child's economic, social, and family background—and not school composition and quality—are the most important influences on students' academic performance. As stated in the Coleman report, “the school appears unable to exert independent influences to make achievement levels less dependent on the child's background—and this is true within

from the 1970s, see, for example, Barbara Heyns, *Social Selection and Stratification Within Schools*, 79 AM. J. SOC. 1434, 1434–51 (1971) (noting that, although academic merit determines assignments within schools, performance is correlated with student background). For more recent data, see Grace Kao & Jennifer Thompson, *Racial and Ethnic Stratification in Educational Achievement and Attainment*, 29 ANN. REV. SOC. 417 (2003). As this article states:

[N]umerous studies have shown that poor children and racial and ethnic minorities are disproportionately placed in low-ability groups early in their educational careers and in non-college-bound groupings in junior high and high school . . . Likewise, research shows that low-income and minority students participate at higher rates in vocational curricula and at lower rates in academic curricula than do affluent and white students.

Id. at 423. The authors go on to observe that most research attributes these patterns to average racial and SES differences in academic performance and skills. *Id.*

85. See Kao & Thompson, *supra* note 84, at 424–25 (“On the academic side of the curriculum, low-income and non-Asian minority students disproportionately take low-level and remedial courses, whereas whites and Asians tend to dominate enrollments in advanced and honors courses.”); see also Christina Veiga, *The Push to Diversity Gifted-and-Talented Programs*, ATLANTIC (Nov. 26, 2016), <https://www.theatlantic.com/education/archive/2016/11/the-push-to-diversify-gifted-and-talented-programs/508415/> [<https://perma.cc/CQM9-XUG5>] (noting the paucity of non-Asian minority students in New York City gifted programs).

86. For the association between SAT scores and SES, see, for example, KRISTA D. MATTERN ET AL., COLL. BD., EXAMINING THE RELATIONSHIP BETWEEN THE SAT, HIGH SCHOOL MEASURES OF ACADEMIC PERFORMANCE, AND SOCIOECONOMIC STATUS: TURNING OUR ATTENTION TO THE UNIT OF ANALYSIS (2008), <https://research.collegeboard.org/sites/default/files/publications/2012/7/researchnote-2008-36-relationship-sat-high-school-socioeconomic.pdf> [<https://perma.cc/JW7E-DFND>]. For SAT scores by race, see *The Widening Racial Scoring Gap on the SAT College Admissions Test*, J. BLACKS HIGHER EDUC., http://www.jbhe.com/features/49_college_admissions-test.html [<https://perma.cc/HWE3-AGTW>] (last accessed May 18, 2017).

87. JAMES COLEMAN ET AL., NAT'L CTR. FOR EDUC. STATISTICS, EQUALITY OF EDUCATIONAL OPPORTUNITY (1966), <files.eric.ed.gov/fulltext/ED012275.pdf> [<https://perma.cc/C6SV-SG3J>] [hereinafter COLEMAN REPORT].

each ethnic group, just as it is between groups.”⁸⁸ More than 30 years later, Jencks and Mayer reiterate this result in their review of school and neighborhood effects on student achievement, observing that “as a rule the more aspects of family background we control, the smaller school effects look.”⁸⁹ Thus, the evidence accumulated to date indicates that economic mixing can, at best, somewhat narrow achievement gaps. It cannot come close to eliminating them.

What about “no excuses” programs? As with economic integration, vaunting claims and optimism abound, but the hard evidence of enduring success is scant. Many of the schools profiled by David Whitman in *Sweating the Small Stuff* claim dramatic test score gains for their students. For instance, Amistad Academy in New Haven, Connecticut, has reported a significant jump in math and reading proficiency scores on state-wide tests, with some students performing “almost as well” as wealthier students in nearby Greenwich, Connecticut.⁹⁰ While some of these numbers appear impressive, closer examination counsels caution. Claims of academic improvement are based almost exclusively on state-wide elementary school-level tests,

88. *Id.* at 297. As Russell Nieli summarizes, Coleman had found that:

[S]uch things as the quality of a schools’ physical plant, the average number of students in the class, the per-pupil students expenditures and the size of the school’s library, and the salary of the school’s principal didn’t seem to make much of a difference in student performance on standardized tests . . . and [did not] vary nearly as much as previously thought among schools attended by students of differing ethno-racial background.

Russell K. Nieli, *Challenging Conventional Wisdom: Four Moments in the Research Career of James S. Coleman*, 29 ACAD. QUESTIONS 394, 397 (2016). Rather, “the most important factor by far . . . was the quality of the students in the school, their individual family background (socioeconomic, educational, racial) and the background of their classmates’ families.” *Id.* at 398; see also Karl Alexander & Stephen L. Morgan, *The Coleman Report at Fifty: Its Legacy and Implications for Future Research on Equality of Opportunity*, 2 RUSSELL SAGE FOUND. J. SOC. SCI., no. 5, 2016, at 1, 1–16; Stephen L. Morgan & Sol Bee Jung, *Still No Effect of Resources, Even in the New Gilded Age?*, 2 RUSSELL SAGE FOUND. J. SOC. SCI., no. 5, 2016, at 83, 83–116 (discussing the continuing empirical validity of Coleman’s observation that school quality, demography, attributes, and resources, have, at most, a minor effect on children’s academic performance).

89. Christopher Jencks & Susan Mayer, *The Social Consequences of Growing Up in a Poor Neighborhood*, in INNER-CITY POVERTY IN THE UNITED STATES, *supra* note 3, at 111, 176.

90. WHITMAN, *supra* note 7, at 98–99, 113–15.

which assess relatively basic skills, and which many “no excuses” schools target with intensive drilling.⁹¹ Overall, the data is spotty and limited by small samples and short time frames. Score gains are often modest and selective,⁹² and appear subject to fade out with time, as measured by sustained achievement into high school and beyond.

Most notably, on these schools’ long-term goal of getting students into and through college, the jury is out.⁹³ Numerical data on the actual college admissions test scores (SAT and ACT) of students who have attended “no excuses” schools are remarkably hard to come by, with data searches turning up practically nothing. The information reported tends to be geared towards showing that students do comparatively better than expected given their background, without revealing precise numbers, baselines, or percentages.⁹⁴ The one set of college admissions scores reported

91. See, e.g., *Amistad Academy in New Haven, CT*, U.S. NEWS BEST HIGH SCH., <http://www.usnews.com/education/best-high-schools/connecticut/districts/amistad-academy-district/amistad-academy-4406/> [https://perma.cc/33GT-D454] (last accessed May 18, 2017) (listing recent Amistad scores on Connecticut high school exit exams); *School Report Card*, SUCCESS ACADEMY, <http://sca.leeschools.net/school-report-card> [http://perma.cc/WJ8G-AY27] (listing scores for Success Academy students on the Florida state tests). In contrast, some KIPP charters have failed to show positive results even on state tests of basic skills. See, e.g., *School Performance Profile: KIPP Philadelphia Charter School*, PA. SCH. PERFORMANCE REP., <http://paschoolperformance.org/Profile/7184> [https://perma.cc/CXT2-2QDR] (last accessed May 18, 2017).

92. See, e.g., Joshua Angrist, et al., *Who Benefits from KIPP 19* (Inst. for the Study of Labor, Discussion Paper, No. 5,690, 2011), <http://economics.mit.edu/files/6965> [https://perma.cc/M737-CQ92] (finding that, in a KIPP school in Lynn, Massachusetts, “[r]eading gains are realized almost exclusively by special education and limited English proficiency students,” with little improvement for others).

93. See, e.g., Robert Pondiscio, *“No Excuses” Kids Go to College*, EDUC. NEXT, Spring 2013, at 8, 10 (reporting that KIPP seems to enhance college attendance rates for low income students, but that over two-thirds of KIPP students either do not get through college or fail to graduate in 6 years).

94. For example, a report on the Noble network of intensive charters in Chicago states that “Noble students score markedly higher than the [Chicago Public School] average and the charter average on all sections of the ACT,” but does not give actual scores, making it difficult to evaluate whether students attain the levels needed for selective college admissions and success. See Matthew Davis & Blake Heller, *Raising More Than Test Scores*, EDUC. NEXT, Winter 2017, at 64, 67. The report also states that “Noble students were 15 percentage points more likely to attend a four-year school and 14 percentage points more likely to attend a college where the median two-subject SAT score was above 1,000 [out of 1600],” but does not reveal how many Noble students attained that score. *Id.* at 68. And although the data showed that Noble students at one school were more likely to

in David Whitman's book is abysmally low and below the minimum levels for any college, let alone competitive ones.⁹⁵ The admissions scores made available by some KIPP schools are above the average for students from similar social backgrounds, but too low to qualify students for selective four-year colleges.⁹⁶ In general, although many "no excuses" students appear to outperform public school students from comparable backgrounds, their scores fall well short of those achieved by higher SES students. It is telling that, of the more than 400 students that have graduated from Success Academy elementary and middle school programs in New York City, none gained admission in 2014 and 2015 to the three highly competitive, elite New York City "exam" high schools (Stuyvesant, Brooklyn Tech, or Bronx Science), and only six (out of fifty-four who took the admission test for these schools) were admitted in 2016.⁹⁷ Although this 11% success rate is somewhat above the New York City average for black students (4%) and Hispanic students (6%) overall,⁹⁸ the portion of black and Hispanic Success Academy students sitting for the test (25%) is similar to the 22% rate of black and Hispanic 8th-grader test takers citywide.⁹⁹ In sum, significant performance gaps by family income and education remain even for students educated at intensive "no excuses" charters, and future prospects are unknown.

attend and persist through the second year of college than comparable students in the Chicago public school system, there was no information on how many actually graduated and later found employment. *See id.* at 66.

95. *See, e.g.,* WHITMAN, *supra* note 7, at 244–50 (reporting class of 2003 average SAT score for University Park Mission Possible School in Worcester, Massachusetts, as under 800 out of 1600).

96. *See* Pondiscio, *supra* note 93, at 13 ("As of 2011, KIPP students' average SAT score was 1426 [out of 2400]; the average ACT score was 20 [out of 36]. For the colleges KIPP is targeting for its alumni, 'a 20 ACT ain't gonna cut it.'").

97. *See* Diane Ravitch, *Success Academy Students Finally Gain Admission to Elite High Schools*, DIANE RAVITCH'S BLOG (June 17, 2016), <https://dianeravitch.net/2016/06/17/success-academy-students-finally-gain-admission-to-elite-high-schools> [<https://perma.cc/A496-NVDL>]; *see also* Sandra Stotsky, *Testing Limits*, 29 ACAD. QUESTIONS 285, 298 (2016) (observing that, despite high scores on state tests compared to nearby urban schools, "[i]t is too early to evaluate long term results [for Success Academy charters] because less than 400 students have gone on to high school").

98. Ravitch, *supra* note 97.

99. *City Announces New Initiatives to Increase Diversity at Specialized High Schools*, N.Y.C. DEP'T EDUC. (June 9, 2016), <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2015-2016/City+Announces+New+Initiatives+to+Increase+Diversity+at+Specialized+High+Schools.htm> [<https://perma.cc/M9UW-MT4N>].

Most “no excuses” schools are too new to produce data on the extended effects on graduates’ future employment and earnings, family structure, crime, and other long-term parameters.

As with economic integration, attempts to show the benefits of a “no excuses” education are also confounded by the difficulty of excluding the role of selection bias. A recent government-sponsored comprehensive study on selective charter schools—which looked not just at “no excuses” schools, but all competitive charters with students chosen by lottery—found a decidedly mixed picture on the benefits of selective charters overall. Middle-class children did not improve their academic performance and sometimes did worse than expected. But some low-income children gained, albeit fairly modestly, compared to children who were not admitted and were educated elsewhere.¹⁰⁰ The question is whether this study’s results are valid for the relatively rarefied, and far less numerous, category of “no excuses” charters. Many of these schools use some form of lottery to select their students. They routinely insist that they are committed to taking all comers and do not cherry-pick.¹⁰¹ The superior results they achieve, it is argued, are even more remarkable in light of the typical “no excuses” charter’s openness to all students, regardless of prior achievement levels or background, and a student body that is overwhelmingly poor and drawn from underperforming minority groups.

Nonetheless, there is reason to believe, as critic Richard Rothstein has noted, that the students in these schools are not representative of the low-income population as a whole, or even of children attending the broader category of selective charters ex-

100. See PHILIP GLEASON, ET AL., INST. EDUC. SCI., THE EVALUATION OF CHARTER SCHOOL IMPACTS 43 (2010), <https://ies.ed.gov/ncee/pubs/20104029/pdf/20104029.pdf> [<https://perma.cc/U4V2-TYPY>].

101. See, e.g., Davis & Heller, *supra* note 94, at 68–69 (students chosen by random lottery for Chicago network of Noble schools, with 11,000 students over 17 campuses); Jim Epstein, *Success Academy Posted Its Latest Test Scores. The Results are Astounding*, REASON: HIT & RUN (Aug. 15, 2015, 10:30 AM), <http://reason.com/blog/2015/08/15/success-academy-test-scores-charter> [<https://perma.cc/ZJC5-VNUA>] (noting that New York’s Success Academy network claims to choose students by lottery); *Frequently Asked Questions*, KIPP, <http://www.kipp.org/faq> [<https://perma.cc/6E7Q-2MSD>] (last accessed May 18, 2017) (noting that “[w]hen parent demand exceeds enrollment capacity at the school, students are admitted based upon on a lottery”).

amined in recent government reports.¹⁰² The parents of students who persist and succeed at these schools must pledge to get their children to school every day and on time and to ensure that homework is done.¹⁰³ Unfortunately, many parents from poor, urban communities are either unwilling or unable to meet even these modest requirements, which means their children never end up enrolling in these schools or eventually drop out. In addition, there is evidence that the families of many “no excuses” students are financially better off than average in their communities and are more likely to have two parents at home.¹⁰⁴ A pattern of selective teacher referrals to “no excuses” charters, those schools’ high attrition rates, and an overrepresentation of girls and siblings suggest that the students at “no excuses” schools are more capable and determined than poor students generally.¹⁰⁵ All of these factors tend to enhance students’ academic performance independent of school effects.

IV. APART FROM OUTCOMES, WHICH MODEL IS BETTER?

The data on the benefits for poor children from the two types of initiatives covered here are voluminous, but also incomplete and conflicting. A comprehensive assessment is beyond this Article’s scope. Nonetheless, given the evidence to date, it is fair to say that neither model consistently bests the other at improving academic outcomes for disadvantaged students. Although there are data pointing to positive gains from both, and some especially impressive numbers coming out of “no excuses” charters, most evidence is short-term. The magnitude and duration of the gains from each model, and the long-term effects on poor children’s employment, earnings, and general life success, remain to be seen. But educational efficacy is not the only consideration in deciding which of these strategies to fa-

102. See RICHARD ROTHSTEIN, *CLASS AND SCHOOLS: USING SOCIAL, ECONOMIC, AND EDUCATIONAL REFORM TO CLOSE THE BLACK-WHITE ACHIEVEMENT GAP* 72–74 (2004); WHITMAN, *supra* note 7, at 7–8 (noting researchers claiming selection effects for “no excuses” charters).

103. See WHITMAN, *supra* note 7, at 115, 259.

104. See RAYMOND WOLTERS, *THE LONG CRUSADE: PROFILES IN EDUCATION REFORM—1967–2014*, at 350–525 (2015) (detailing these observations and others made by Richard Rothstein).

105. See *id.*; WHITMAN, *supra* note 7, at 177–78.

vor or how much to invest in each. In assessing these models' feasibility, pragmatic and political considerations loom large.

For "no excuses" schools, one frequently heard objection is that programs of this type are hard to "scale up." KIPP Academies, the most extensive network of high-intensity charter schools, has opened only about 200 schools nationwide in the two decades since its founding, serving 80,000 of the nation's 50 million school-age children.¹⁰⁶ One important obstacle to faster growth is teachers. As David Whitman puts it, "There are serious questions as to whether there is adequate depth in the current teacher and principal pool to expand the new paternalism to scale."¹⁰⁷ There is no question that these institutions are demanding, with the roles assigned to teachers regularly described as a "calling" and a total lifestyle. As the descriptions of these charters confirm, teachers at "no excuses" schools must be willing to put in long hours, take on heavy workloads, engage in regular, personalized review of student assignments, and be available around the clock to support students and handle crises.¹⁰⁸ They must also agree to hold students to high standards, to closely monitor their behavior, and to impose consistent discipline for infractions.¹⁰⁹ The number of teachers who can and will fulfill these intense, and sometimes counter-cultural, demands is necessarily limited. Thus, classroom staffing is a constant challenge, and turnover and burnout are important limitations. Also, knowledgeable, dedicated, well-trained teachers cost money, and the challenge of staffing these schools adds considerably to their price tag.¹¹⁰

Finally, opposition to the "no excuses" approach from within the ranks of professional educators and the public slows efforts to adopt this model on a wide scale. Although drawing support from across the political spectrum, the movement to expand school choice through the spread of private charters,

106. KIPP, <http://www.kipp.org/schools> [<https://perma.cc/V3L5-SD94>] (last accessed May 18, 2017); accord Frederick Hess, *Ten Priorities for Education Policy*, NAT'L REV., Oct. 24, 2016, at 30, 32 (noting that "KIPP has taken more than two decades to open 200 schools that serve 80,000 of our nation's 50 million students").

107. WHITMAN, *supra* note 7, at 296.

108. *See id.* at 38, 276.

109. *See id.* at 275.

110. *See id.* at 297–98.

which include schools run on high-intensity “no excuses” lines, has some powerful detractors, especially on the left. Fears that charters will drain resources from public schools, as reflected, for example, in the recent decision of Massachusetts voters, with the NAACP’s blessing, to cap charter school expansion in their state,¹¹¹ motivate some of the opposition to charters in general and to any sort of public support for “no excuses” schools in particular.

More importantly, schools of this type bring out ideological fault lines. At the heart of the “no excuses” project is the assumption that poor children’s educational deficits are best addressed by actively reshaping the norms, habits, and behaviors formed by their families and communities. This idea is in tension with important strands of progressive thinking, which abhors “blaming the victim,” disdains the notion that the poor are somehow lacking, is suspicious of the paternalistic imposition of bourgeois, mainstream values, and ascribes disadvantaged children’s poverty and academic troubles to oppressive structures and defective institutions rather than to personal or cultural deficits.¹¹² Progressive scholars such as Alfie Kohn,¹¹³ William Crain,¹¹⁴ Joan Goodman,¹¹⁵ Joanne Golann,¹¹⁶ and Jim Horn,¹¹⁷ as well as teachers in-

111. See David Scharfenberg, *Mass. voters reject ballot question on charter schools*, BOS. GLOBE (Nov. 8, 2016), <https://www.bostonglobe.com/metro/2016/11/08/charter/v34OA3vMI8dRABDsFc4JuM/story.html> [<https://perma.cc/SE33-PNXX>].

112. See, e.g., Jeff Bryant, *A New LawsUIT Challenges The Legality Of “No Excuse” Charter Schools*, PROGRESSIVE (Jan. 21, 2016), <http://progressive.org/public-school-shakedown/new-lawsuit-challenges-legality-no-excuse-charter-schools> [<https://perma.cc/3TGS-7KE4>] (opining that, in imposing high expectations on all of their students, these schools ignore the effects of “the complex trauma of poverty”).

113. See WOLTERS, *supra* note 104 (noting Alfie Kohn’s observation that KIPP students are “subjected to a level of control that is downright militaristic,” turning them into “trained seals who have to bark out correct answers on command”); Alfie Kohn, *How Not to Teach Values: A Critical Look at Character Education*, PHI DELTA KAPPAN, Feb. 1997, at 428.

114. See WOLTERS, *supra* note 104 (noting observations of William Crain, a psychologist at the City College of New York, that KIPP and Success Academy type programs push a “limited definition of success” that includes achieving high standardized test scores and memorizing facts and formulae, while slighting important values such as “creativity, empathy, sensitivity to nature, love of learning, and students’ ability to think for themselves”).

115. According to Joan Goodman, “no excuses” schools’ strict behavior and character expectations tend to mold students who are too submissive and “do whatever they’re told.” See Valerie Strauss, *Why “no excuses” charter ‘schools mold*

fluenced by their ideas,¹¹⁸ are also hostile to the old-fashioned pedagogy, conventional codes of conduct, and detailed, prescriptive rules that “no excuses” schools adopt—features that, as David Whitman observes, assume disadvantaged students must be told “exactly what to learn and how to conduct themselves in middle-class society.”¹¹⁹ Some critics disdain the double standard that prescribes regimentation, conformity, discipline, and “drill

“very submissive” students—starting in kindergarten, WASH. POST ANSWER SHEET (Sept. 19, 2014), <https://www.washingtonpost.com/news/answer-sheet/wp/2014/09/19/why-no-excuses-charter-schools-mold-very-submissive-students-starting-in-kindergarten> [<https://perma.cc/P6DD-8LQ5>]. Goodman also bemoans the loss of play and relaxation time in these schools. *Id.* Further, Goodman believes that “no excuses” students do not realize they are being “oppressed” because they unwittingly “identif[y] with the oppressor” when they acculturate to a school’s behavioral and character expectations. *Id.* As a result, she asserts, they come to believe that they will be happier and better off if they adopt the middle-class behavioral and character traits these schools advocate. *Id.* She regards this attitude change as unfortunate and undesirable.

116. See Joanne W. Golann, *The Paradox of Success at a No-Excuses School*, 88 SOC. EDUC. 103, 103 (2015) (complaining that “because of . . . their emphasis on order as a prerequisite to raising test scores,” no-excuses schools “develop worker-learners—children who monitor themselves, hold back their opinions and defer to authority—rather than lifelong learners”).

117. Horn, an education professor, disagrees with the premise that middle-class or mainstream values are more useful to students than low-income minority values. He deplores “the ministrations . . . to save Black and brown urban children today from their defective cultural traits” and sees the “behavioral and character training” at acculturation schools as “a thinly-veiled effort to impose a new variety of cultural eugenics by those who view the transmission of urban cultural traits as a threat to [w]hite middle-class values and economic prosperity.” Jim Horn, *Corporatism, KIPP, and Cultural Eugenics*, in *THE GATES FOUNDATION AND THE FUTURE OF US “PUBLIC” SCHOOLS* 80, 93 (Philip E. Kovacs ed., 2011). Horn worries that behavioral and character education is “an attempt to impose a form of cultural sterilization” that requires “children to transfer their loyalty from community and family to a new loyalty to the [school] family and its group values.” *Id.* at 94. He also expresses the concern that deliberate middle-class acculturation represents a “blame-the-poor” mindset. *Id.*

118. See WHITMAN, *supra* note 7, at 300 (noting that the “no excuses” model “would obligate educators to rethink their knee-jerk antipathy to educational paternalism and rebuff the reigning Romantic philosophy of Jean-Jacques Rousseau and John Dewey”).

119. *Id.* (“The idea that principals and teachers should rigorously supervise the education and acculturation of inner-city teenagers is too alien to the education establishment to be adopted on a comprehensive scale at present. Instigating educational paternalism writ large would require reversing the powerful tides of progressive education . . . and the teacher training regimens of most education schools.”).

and kill” for low-income students, while reserving creative pursuits, self-expression, and a broader, content-rich curriculum for the better off.¹²⁰ Likewise, teachers’ unions, which are hostile to charter schools generally, are wary of the heavy, open-ended teaching duties and discretionary administrative authority that are the hallmarks of “no excuses” institutions. These reservations mean that introducing the “no excuses” model into public schools is a tough sell, and even expanding private schools along these lines will be an uphill battle. For now, “no excuses” charters remain a niche phenomenon that relies heavily on private funds. This necessarily limits how many such schools can be created and how many students these institutions can educate.

Finally, the obsession of “no excuses” schools with getting disadvantaged students into and through college is a potential weakness that might eventually slow these schools’ momentum. Despite heroic efforts and some positive results, too many students emerging from these schools remain ill equipped for higher education.¹²¹ The “Yale or jail” mentality that regards joining the elite knowledge class as the only viable strategy for low-income children may not prove workable for most graduates. But the emphasis on strengthening character, fostering good habits, and building self-discipline might still be useful, especially if repurposed to other paths, including vocational training and a variety of low- or middle-skill jobs. The “no-excuses” approach could also help disadvantaged students build stronger and more stable families and develop a durable work ethic. Both are as important as academic ability to overall life success.¹²²

The economic integration model has its own practical shortcomings. The most important of these is demography. As noted, research confirms that income mixing produces measurable

120. See WOLTERS, *supra* note 104, at 353–57; Golann, *supra* note 116 (asserting that the behaviors taught by high expectations charters are those that “undermine success for middle class children”); see also Strauss, *supra*, note 115 (describing Joan Goodman’s critiques). For more commentary, see, for example, Margaret E. Raymond, *To No Avail: A Critical Look at the Charter School Debate*, PHI DELTA KAPPAN, Feb. 2014, at 8.

121. See *supra* notes 93–97 (discussing college admissions data).

122. See, e.g., Sampson, *supra* note 24, at 494–95; REEVES & HALIKIAS, *supra* note 24; PAUL TOUGH, *HOW CHILDREN SUCCEED: GRIT, CURIOSITY, AND THE HIDDEN POWER OF CHARACTER* 3–4 (2012); Reeves, *supra* note 24, at 125. *But see* Grover J. Whitehurst, *Hard Thinking on Soft Skills*, EVIDENCE SPEAKS REP., Mar. 24, 2016, at 1, 5 (expressing skepticism about schools’ ability to improve students’ character).

improvements only if poor students attend mostly middle-class or affluent schools. But the obstacles to shifting students out of low-income schools to more affluent settings are formidable. Existing neighborhood patterns of segregation by race and class are pronounced, so many students must travel long distances and attend schools far from home. Long travel times are expensive, undermine parental involvement and community support for local schools, and run up against parents' reluctance to have children spend hours in transit.¹²³ In addition, urban districts with students most likely to benefit from class integration serve predominantly poor and minority students, with middle- and upper-class families in short supply or opting for private education. The paucity of middle-class students in the system thus often renders within-district, or even inter-district, income integration infeasible.¹²⁴ As recent *New York Times* articles on the push to racially (and, by extension, economically) integrate New York City public schools reveal, such facts are often overlooked in debates on the subject.¹²⁵

123. See, e.g., Meredith P. Richards et al., *Can NCLB Choice Work?: Modeling the Effects of Interdistrict Choice on Student Access to Higher-Performing Schools*, in THE FUTURE OF SCHOOL INTEGRATION, *supra* note 6, at 223, 237.

124. See, e.g., RYAN, *supra* note 6, at 217 (observing that "there are currently not enough middle-income or white students in most urban districts, in public and private schools combined, to create meaningfully integrated schools throughout the district"); see also *Middle-Class Kids Aren't Magic Pixie Dust*, SPOTTED TOAD (June 10, 2016), <https://spottedtoad.wordpress.com/2016/06/10/middle-class-kids-arent-magic-pixie-dust/> [<https://perma.cc/L4TZ-L7EC>] (noting that white and affluent students are a small minority of New York City public school students).

125. See, e.g., Nikole Hannah-Jones, *Choosing a School for my Daughter in a Segregated City: How one school became a battleground over which children benefit from a separate and unequal system*, N.Y. TIMES MAG. (June 9, 2016), <https://www.nytimes.com/2016/06/12/magazine/choosing-a-school-for-my-daughter-in-a-segregated-city.html> [<https://perma.cc/DW79-URQP>]; Elizabeth A. Harris, *Small Steps, but No Major Push, to Integrate New York's Schools*, N.Y. TIMES (July 5, 2016), <https://www.nytimes.com/2016/07/06/nyregion/new-york-city-schools-segregation-carmen-farina.html> [<https://perma.cc/ACT2-RXTH>]; Kate Taylor, *Family by Family, How School Segregation Still Happens*, N.Y. TIMES (April 28, 2017), https://www.nytimes.com/2017/04/28/nyregion/school-segregation-nyc-district-3.html?emc=eta1&_r=0 [<https://perma.cc/JL2V-YG3L>]; Kate Taylor, *Parent Group Seeks More Integration in New York's Schools*, N.Y. TIMES (Oct. 18, 2016), https://www.nytimes.com/2016/10/19/nyregion/new-york-schools-segregation.html?_r=0 [<https://perma.cc/CH8P-6FVR>].

In commenting on the Hannah-Jones article, one blogger pointed out that the complaints about lack of integration in New York City schools are oblivious to the city's lopsided demography, which includes a relatively small number of white

Efforts to model income mixing using national demographic data confirm these insights. According to Ann Mantil and others at the Harvard Graduate School of Education, redistribution within and across multiple neighboring districts, even if implemented nationwide on a large scale, would decrease the percentage of high poverty schools by no more than about 10–15%. The number of schools with a low-income population below 20%, the only category shown to have measurable benefits for poor students, would barely budge.¹²⁶

In addition, even in the locations where income mixing is most feasible, integration can prove unstable. The plan adopted in Wake County, North Carolina exemplifies this danger. Due to a growing and volatile student population, officials in Wake County were forced constantly to rebalance the composition of the district's schools by reassigning students on a frequent and often yearly basis and placing children from the same families in different locations. These adjustments generated considerable disruption for parents and children. In the face of growing opposition and political turmoil, the Wake County school board eventually curtailed and then phased out the county's centrally coordinated

children who are also disproportionately affluent and tend to be concentrated in a small number of locations. See *Kids Aren't Magic Pixie Dust*, *supra* note 124. Noting that only 15% of the city's public school population is white, the blogger comments:

This is the main logical tension of the whole article. Even if you distributed those 15 percent of [non-minority] students equally across the entire city, you'd have all schools that are 85% non-white. Unless you believe that a small number of white students would act as a magic pixie dust on schools, you have to assume that this would have zero effects on outcomes. Moreover, about a fifth of the white students are in Staten Island and can't be plausibly moved to other more segregated schools. The Bronx only has 4% white students

Id. For data on the demography of New York City schools generally, both public and private, see N.Y.C. INDEP. BUDGET OFFICE, HOW MANY STUDENTS ATTEND NON-PUBLIC K–12 SCHOOLS IN NEW YORK CITY (Apr. 22, 2014), <http://ibo.nyc.ny.us/cgi-park2/2014/04/how-many-students-attend-nonpublic-k-12-schools-in-new-york-city> [<https://perma.cc/G4L9-EHTV>]. From the numbers provided in this report, it can be calculated that about 24% of school-age children in New York City are white. Because many of these children attend private school, the population of the city's public schools is 15% white overall. See *id.* (data on file with Author).

126. See Ann Mantil et al., *The Challenge of High Poverty Schools: How Feasible Is Socioeconomic School Integration?*, in *THE FUTURE OF SCHOOL INTEGRATION*, *supra* note 6, at 155, 188–89, 207.

program, opting for continuity, predictability, convenience, and the benefits of neighborhood schools over diversity.¹²⁷

Yet another problem with income mixing is the paucity of reliable evidence on whether going to school with low-income students can harm more affluent classmates. The income-mixing model is premised on the understanding that norms are contagious and that uplift does not require active inculcation but rather will occur spontaneously. Simply by being exposed to better habits and values, the less fortunate will adopt the ways of the more privileged. But what about the opposite possibility? Perhaps students from tough backgrounds will impart bad habits and attitudes to better-off schoolmates.

Although such “reverse contagion” tends to be soft-pedaled by proponents, its potential to operate in some contexts has not been definitively repudiated. As reviewed in 1990 by Christopher Jencks and Susan Mayer, the evidence on whether affluent students suffer academically from infusions of poor or minority students is both sparse and inconclusive.¹²⁸ Nonetheless, based on more recent data, Russell Rumberger and Gregory Palardy concluded in 2005 that, to the extent that students across the income and ability spectrum can be shown to benefit from attending high-performing schools, aggressive efforts to homogenize schools’ demographic profiles could well hurt better prepared students. Indeed, their calculations predicted that declines for the highest achieving students (who are now concentrated in high SES schools) would likely exceed the expected gains for low-income and minority students.¹²⁹

The migration of school-age children from New Orleans, Louisiana, to Houston, Texas, in the wake of Hurricane Katrina has also provided the occasion to examine potential negative peer effects from an influx of low-income students into better-off districts. The research group that examined the data from this natural experiment found that negative peer effects are real. Those researchers concluded that “the arrival of low-

127. See Sheneka M. Williams, *The Politics of Maintaining Balanced Schools: An Examination of Three Districts*, in *THE FUTURE OF SCHOOL INTEGRATION*, *supra* note 6, at 257, 262–68 (detailing the political struggles in Wake County).

128. Christopher Jencks & Susan Mayer, *The Social Consequences of Growing Up in a Poor Neighborhood*, in *INNER-CITY POVERTY IN THE UNITED STATES*, *supra* note 3, at 111, 164–67.

129. See Rumberger & Palardy, *supra* note 71, at 2019–21.

achieving evacuees dragged down the average performance of the Houston students and had a particularly negative impact on high-achieving Houston kids."¹³⁰

On the behavioral front, data on reverse contagion are even sparser. A series of recent papers suggests that disruptive peers can lower classmates' future earnings,¹³¹ but there are few other rigorous measures of the consequences of schoolmates' delinquency and rule-breaking. As reported by Jencks and Mayer, there is research suggesting that students can be adversely influenced by classmates' sexual and reproductive behavior, with one study showing that attending school with low-SES or minority teens increases the likelihood of childbearing before graduation, and another indicating that students with a significant number of disadvantaged black classmates (who, on average, initiate sex at younger ages) tend to engage in earlier sexual intercourse.¹³²

Finally, there are costs to the beneficiaries themselves. Robert Crosnoe and others have noted that, because students are evaluated relative to their peers in the same school, poor students transferred to more affluent institutions tend to experience a "frog pond effect," losing out to more capable and sophisticated students in the competition for grades and social standing. Low income students surrounded by higher income classmates also report more social isolation, and a decline in self-perception and emotional well-being.¹³³

130. Scott Imberman et al., *Katrina's Children: Evidence on the Structure of Peer Effects from Hurricane Evacuees* (Nat'l Bureau Econ. Research, Working Paper No. 15,291, 2009); see also Petrilli, *supra* note 62, at 51 (discussing the Katrina study results).

131. See Scott E. Carrell et al., *The Long-Run Long-Run Effects of Disruptive Peers* (Nat'l Bureau Econ. Research, Working Paper No. 22,042, 2016); see also Scott E. Carrell et al., *The Long-Run Effects of Disruptive Peers*, VOX (Apr. 25, 2016), <http://voxeu.org/article/long-run-effects-disruptive-peers> [<https://perma.cc/G4QM-PRC4>].

132. Christopher Jencks & Susan Mayer, *The Social Consequences of Growing Up in a Poor Neighborhood*, in *INNER-CITY POVERTY IN THE UNITED STATES*, *supra* note 3, at 111, 167-71 ("The evidence on how schools influence teens' sexual behavior is thin, but it suggests that teenagers' sexual behavior is quite sensitive to their classmates and neighbors' SES and race.").

133. Robert Crosnoe, *Low income Students and the Socioeconomic Composition of High Schools*, 74 AM. SOC. REV. 709 (2009). Although he does not discuss negative contagion at any length, Richard Kahlenberg does acknowledge the potential negative consequences of economic integration for low income students. See Richard D. Kahlenberg, *Introduction: Socioeconomic School Integration*, in *THE FUTURE OF*

V. THE DOWNSIDE OF INCOME INTEGRATION: PROGRESSIVE
PRESSURES ON MIDDLE CLASS SCHOOLS

The discussion so far reveals that the two approaches reviewed here each have strengths and shortcomings. But there is one important reason why a “no excuses” environment represents a more functional and effective model than economic integration for improving poor children’s educational prospects. In schools dominated by teachers, administrators, and, often, parents who embrace progressive ideas—including many public schools situated in affluent neighborhoods—forcing integration by class and race threatens to unleash a dynamic that undermines the very conditions that income mixing depends upon to achieve its hoped-for effects. Because income integration generates pressure to erode the hallmark features that account for the strengths of a “middle class” educational setting, the project contains the seeds of its own destruction.

As noted, both income mixing and “no excuses” schools assume that, to succeed in school and in life, poor children need to be socialized away from their culture of birth to more desirable habits. Because of their commitment to actively crafting and imposing mainstream norms, “no excuses” proponents must embrace this uncomfortable judgment openly and publically. Economic integration, by contrast, relies on passive forces, which means that advocates can more easily get away with couching their support in euphemism and indirection and avoiding overt expressions of the model’s basic assumptions. But once economic integration actually occurs, the cold realities of race and class disparities cannot long be suppressed. Even within high quality schools, stratification soon emerges. Differences in academic skill, socialization, behavior, and discipline stubbornly persist.

This should not be surprising. As already discussed, schools alone cannot abolish inequalities by race and class. In keeping with James Coleman’s observations decades ago,¹³⁴ and as described by John Ogbu in his report on Shaker Heights High School,¹³⁵ students from different socioeconomic and ethnic back-

SCHOOL INTEGRATION, *supra* note 6, at 1, 33 (“It is quite possible that economic integration of children from low-income families could isolate or otherwise alienate children, detracting from their performance.”).

134. COLEMAN REPORT, *supra* note 87.

135. OGBU, *supra* note 84.

grounds, even within the same school, tend to gravitate to different levels in the academic pecking order. Unfortunately, these inconvenient realities rankle. For those wedded to a stringent version of egalitarian principles, the goals of uplift and amelioration quickly transmogrify into the demand for equal results.

This danger is laid bare in *Despite the Best of Intentions*, a recent ethnographic study of Riverview, a “highly resourced” but racially mixed public high school in a comfortable suburb of a large Midwestern city.¹³⁶ Although containing few truly poverty-stricken students, the school population runs the gamut of racial and ethnic groups across the economic spectrum.¹³⁷ Describing the school from a self-consciously progressive point of view, the study’s authors toggle erratically between accusations that the school’s disparities by race and class are delusory figments of distorted thinking, or that, although objectively real, they are the products of structural racism, class privilege, parental selfishness, and discrimination both deliberate and “structural.”¹³⁸ Wielding a panoply of social justice rhetoric, and repeatedly invoking the baleful influence of stereotype threat and lower teacher expectations,¹³⁹ the authors’ message is clear: group differences in school outcomes represent illegitimate and ill-gotten gains that schools must equalize by ridding themselves of “white privilege,”¹⁴⁰ “racialized . . . hierarchies,”¹⁴¹ and “opportunity hoarding.”¹⁴²

136. AMANDA LEWIS & JOHN DIAMOND, *DESPITE THE BEST OF INTENTIONS* (2015). Along the same lines, see, for example, Susan Berfield, *Black Students Don't Even Get an Equal Education in Diverse Schools*, BLOOMBERG BUSINESSWEEK (Sept. 15, 2016), <https://www.bloomberg.com/features/2016-america-divided/education> [<https://perma.cc/EWF4-TJQR>] (documenting complaints about racial disparities in achievement, ascribed to white parents’ “opportunity hoarding,” in affluent Evanston, Illinois, public schools); Peter Berkowitz, *It's Racial Indoctrination Day at an Upscale Chicagoland School*, WALL ST. J. (Feb. 17, 2017), <https://www.wsj.com/articles/its-racial-indoctrination-day-at-an-upscale-chicagoland-school-1487375679> [<https://perma.cc/87VH-8NS3>] (describing seminars at an affluent high school near Chicago designed to sensitize students to racial discrimination, and the objections of some non-minority parents to such “indoctrination”).

137. LEWIS & DIAMOND, *supra* note 136, at xiv–xv.

138. *Id.* at 8.

139. *See id.* at 11.

140. *Id.* at 54.

141. *Id.* at 16.

142. *Id.* at 119.

To that end, the authors endorse the radical reforms proposed by the school's most progressive elements. On the academic side, demands issue to eliminate tracking, dismantle honors classes, dumb down and "diversify" the curriculum, revise or water down the grading system, and lower the bar for enrolling in AP classes. Standardized tests are a target of attack, with a number of black parents complaining that advanced and honors classes are "white dominated spaces," that black and Latino students are overrepresented in basic and remedial classes, and that their children's low test scores are being used unfairly to impede their admission to honors and AP classes.¹⁴³

Likewise, disparities in patterns of school discipline loom large. Middle class standards of behavior and decorum are recast as a form of cultural hegemony imposed by well-off, mainly white parents intent on remaining in control.¹⁴⁴ The imperative of equal outcomes gives rise to accusations of racial bias and double standards, and exerts pressure to relax rules, reject zero tolerance, excuse defiance and disobedience as the expression of an alternative "cultural style," and abandon conventional sanctions like suspensions in favor of cumbersome and unproven options like therapeutic counseling, mediation, and "restorative justice."¹⁴⁵ Those who resist these efforts, or attribute the differential academic and disciplinary results to parenting practices, cultural differences, and social class rather than "institutional practices of the school or their own everyday practices as white parents," are accused of "cultural racism," insensitivity, "victim-blaming" and indulging in "racialized discourse."¹⁴⁶

Although the book's portrait of Riverview High is focused primarily on race, the exposition makes clear that race and class differences at Riverview largely overlap, with white parents disproportionately among the most affluent.¹⁴⁷ The ac-

143. See *e.g.*, *id.* at 97, 106, 129–32, 135–36 (describing pressure to diversify AP and higher level classes by, *inter alia*, relaxing selection and admission criteria); see also *id.* at 104–06 (noting black parents objecting to their child's failure to be placed in the honors track because the child "did this and that on the test," or "doesn't do well on tests," or "on her standardized tests . . . she did not do very well").

144. *Id.* at 15–16, 46–50, 80–81.

145. *Id.* at 68–71, 81, 178.

146. *Id.* at 144–45.

147. See *id.* at 9.

count is emblematic of how programmatic efforts to integrate schools demographically can go awry in the wake of expectations and demands that all inequalities be rectified. These demands highlight the cultural contradictions inherent in all uplift models. Proponents of income integration must deal with the cognitive dissonance created by the clash between the model's foundational premise, which is that disadvantaged students' habits and attitudes are deficient and will be improved by immersion in a superior environment, and discomfort with the idea of class-based cultural differences. This dissonance, and its attendant uneasiness, yield strenuous efforts to deny or abate existing disparities by any means necessary. If poor children cannot be brought up to privileged standards, then those standards must be revised, or even lowered, to put everyone on the same level.

The problem is that those efforts weaken the very qualities of middle class schools that are essential to the model's effectiveness. On the academic side, rigor, ranking, testing, conventional measures of achievement, and strong academic standards foster the analytic skills and mindset essential to disadvantaged students' performance and learning. Acceptance and accommodation of poor students' "cultural style" can interfere with the goal of bringing students' deportment up to the level of their more affluent classmates, and "defining deviancy down" through the relaxation of standards and sanctions threatens to disrupt the decorous, orderly, and respectful classroom environment that, recent research suggests, is essential to all students' academic progress.

Above all, weakening the disciplinary expectations that prevail in middle-class schools threatens to compromise school quality through its negative effects on teachers. Although confounded by recent accusations of discrimination in school discipline,¹⁴⁸ considerable evidence supports the observation that children from poor families are more likely to engage in a range of misbehaviors that are disruptive both to their own and others' learning.¹⁴⁹ For this reason alone, an influx of disadvan-

148. See *infra* note 156.

149. The current literature on school discipline, which is focused on allegations of racial bias, tends to underplay the role of social class and family structure in contributing to the risk and incidence of misbehavior. However, it is generally conceded that low SES does tend to be associated with a higher risk of delinquen-

tagged students can itself increase the risk of classroom disorder. Restrictions on sanctions for poor behavior just threaten to compound this effect. The problem for the economic integration model is that unruly classrooms tend to drive away the best teachers, who are known to avoid unsafe, disorderly environments, and to resent the incursions on their authority that come from disrespectful and disruptive students.¹⁵⁰ This helps

cy and disruptive conduct in children and adolescents. See, e.g., ERIC JENSEN, *TEACHING WITH POVERTY IN MIND* ch. 2 (2009), <http://www.ascd.org/publications/books/109074/chapters/How-Poverty-Affects-Behavior-and-Academic-Performance.aspx> [<https://perma.cc/9EVN-7BJH>]; Russell W. Rumberger, *Poverty and High School Dropouts*, AM. PSYCHOL. ASS'N (May 2013), <http://www.apa.org/pi/ses/resources/indicator/2013/05/poverty-dropouts.aspx> [<https://perma.cc/NW2S-N3X2>]; see also AMIE BETTENCOURT ET AL., BALTIMORE EDUC. RES. CONSORTIUM, *THE COSTLY CONSEQUENCES OF NOT BEING SOCIALLY AND BEHAVIORALLY READY BY KINDERGARTEN* (Mar. 2016) (exploring the linkage in Baltimore public school students between poverty, lack of readiness for kindergarten, later behavioral problems, and disciplinary infractions); Nicole Lyn Letourneau et. al., *Socioeconomic status and child development: A Meta-Analysis*, 21 J. EMOTIONAL & BEHAV. DISORDERS 211 (2013).

In addition, municipal data on the demography of school violence and disruption, which school districts have recently been compiling, confirm that minority and low-income schools are more likely to be persistently dangerous and unsafe, with schools in more affluent districts virtually never appearing on those lists. See, e.g., *Persistently Dangerous Schools*, PENN. DEP'T EDUC., <http://www.education.pa.gov/Teachers%20-%20Administrators/No%20Child%20Left%20Behind/Pages/Unsafe%20Schools/Persistently-Dangerous-Schools.aspx#tab-1> [<https://perma.cc/XR8X-ZNRN>]. Finally, there is some recent research suggesting the existence of racial differences in juvenile violence and bullying, with black students more likely to get into fights and white students in diverse schools more likely to be the targets of bullying. See Sycarah Fisher et al., *Not Just Black and White: Peer Victimization and the Intersectionality of School Diversity and Race*, 44 J. YOUTH ADOLESCENCE 1241 (2015); Christopher P. Salas-Wright, et al., *Trends in Fighting and Violence Among Adolescents in the United States: Evidence From the National Survey on Drug Use and Health, 2002–2014*, 107 AM. J. PUB. HEALTH 977 (2017), <http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2017.303743> [<https://perma.cc/2ZNT-9PNE>].

150. See AM. FED'N OF TEACHERS, *MEETING THE CHALLENGE: RECRUITING AND RETAINING TEACHERS IN HARD-TO-STAFF SCHOOLS* 3–4 (2007), http://www.aft.org/sites/default/files/hardtostaff_2007.pdf [<https://perma.cc/48V2-64UY>] (“A key component of working conditions [for teachers] is workplace safety. Despite a public perception that schools have become increasingly unsafe over time, data show otherwise . . . The reality, though, is that some schools are safer than others, and this takes a toll on the ability of the less safe schools to attract and retain teachers.”); ERIC HIRSCH ET AL., *CTR. FOR TEACHING QUALITY, TEACHING AND LEARNING CONDITIONS ARE CRITICAL TO THE SUCCESS OF STUDENTS AND THE RETENTION OF TEACHERS* 8–17 (2006), <http://files.eric.ed.gov/fulltext/ED499286.pdf> [<https://perma.cc/XW9E-KTJQ>]; Eileen Lai Horng, *Teacher Tradeoffs: Disentangling*

explain why high-poverty schools have more trouble attracting and keeping the most qualified teachers, who are important to maintaining academic excellence. Indeed, many K–12 experts claim that the presence of outstanding teachers contributes significantly to the superiority of middle-class schools.

These concerns are not merely theoretical. School districts all over the country have taken steps to reform and relax conventional sanctions for misbehavior.¹⁵¹ This has not always worked out well. The Highline school district in Washington State precipitated a full-scale teacher rebellion by proposing to replace suspensions with in-school “restorative practices.”¹⁵² A similar initiative in St. Paul, Minnesota, resulted in an increase in violence within its schools, producing vociferous teacher opposition.¹⁵³ According

Teachers’ Preferences for Working Conditions and Student Demographics, 46 AM. EDUC. RES. J. 690, 707 (2009) (“[For teachers,] the difference between facilities that are clean and safe versus facilities that are not clean and safe is, on average, 30% more important to the respondents than the difference between \$0 additional salary per year versus an \$8,000 increase in annual pay. Another way to interpret this finding is that if the teachers sampled had to choose between working at a school that was clean and safe or to receive an \$8,000 annual salary increase, on average, they would choose the former over the latter.”); see also Theresa Watanabe & Howard Blume, *Why Some LAUSD Teachers are Balking at a New Approach to Discipline Problems*, L.A. TIMES (Nov. 7, 2015), <http://www.latimes.com/local/education/la-me-school-discipline-20151108-story.html> [<https://perma.cc/A9ED-WGEF>] (documenting teachers’ objections to the relaxation of school disciplinary standards and sanctions).

151. See MAX EDEN, MANHATTAN INST., *SCHOOL DISCIPLINE REFORM AND DISORDER* 5 (2017), <https://www.manhattan-institute.org/sites/default/files/R-ME-0217v2.pdf> [<https://perma.cc/T72E-AQ8B>] (“Twenty-seven states have revised their laws to reduce the use of exclusionary discipline, and more than 50 of America’s largest school districts, serving more than 6.35 million students, have implemented discipline reforms. From 2011–12 to 2013–14, the number of suspensions nationwide fell by nearly 20%.”).

152. See Claudia Rowe, *Highline District Struggles with Fallout After Limiting Student Suspensions*, SEATTLE TIMES (Sept. 16, 2016), <http://www.seattletimes.com/education-lab/highline-struggles-with-fallout-of-limiting-student-suspensions> [<https://perma.cc/YC7G-ZEA8>].

153. See Dave Huber, *What Happens When You Impose a Radical (and Racial) Agenda in Schools: The Public Revolts*, COLL. FIX (July 30, 2016), <https://www.thecollegefix.com/post/28314/> [<https://perma.cc/D53S-UKL4>]; Katherine Kersten, *Federal Racial Discipline Quotas Create Chaos in St. Paul Schools*, FEDERALIST (Jul. 29, 2016), <http://thefederalist.com/2016/07/29/federal-racial-discipline-quotas-create-chaos-in-st-paul-schools/> [<https://perma.cc/K45X-TVZU>]; Katherine Kersten, *Mayhem in the Classroom*, WEEKLY STANDARD (Apr. 18, 2016), <http://www.weeklystandard.com/mayhem-in-the-classroom/article/2001892> [<https://perma.cc/4L7D-U5LB>].

to a recent report, Mayor Bill de Blasio's restrictions on principals' discretion to suspend students in New York City public schools have had detrimental effects on school atmosphere and order, especially in schools that serve less advantaged populations.¹⁵⁴ The Obama administration's enhanced scrutiny of public school disciplinary practices, based on racially disparate effects of standard penalties (such as suspensions) and hard-to-assess accusations that minority students are singled out for harsher treatment, has put additional pressure on schools to equalize rates of discipline by race and class, and to reduce the use of conventional penalties like school suspensions.¹⁵⁵

154. See EDEN, *supra* note 151, at 48. The report found that, although Mayor Michael Bloomberg's policy of eliminating suspensions for minor infractions like dress code violations had little measurable detrimental effect, school discipline reforms implemented under Mayor de Blasio, which require principals to obtain permission from administrators to suspend students, resulted in measurably greater reported disorder in the New York City public schools. As Eden notes in his summary of the report:

Specifically, teachers report less order and discipline, and students report less mutual respect among their peers, as well as more violence, drug and alcohol use, and gang activity. There was also a significant differential racial impact: non-elementary schools where more than 90% of students were minorities experienced the worst shift in school climate under the de Blasio reform.

Id.

155. Claims surrounding racial bias in school discipline may involve allegations of unjustified disparate impact as well as discriminatory disparate treatment, whether intentional or inadvertent. See Catherine E. Lhamon & Jocelyn Samuels, U.S. Dep't of Justice & U.S. Dep't of Educ., Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline 7 (2014), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf> [<https://perma.cc/CY23-KPRG>] ("The administration of student discipline can result in unlawful discrimination based on race in two ways: first, if a student is subjected to *different treatment* based on the student's race, and second, if a policy is neutral on its face—meaning that the policy itself does not mention race—and is administered in an evenhanded manner but has a *disparate impact*, that is, a disproportionate and unjustified *effect* on students of a particular race."). On disparate impact, see *id.* at 11 (warning of disparate impact when a neutral, evenhanded "discipline policy resulted in an adverse impact on students of a particular race as compared with students of other races"); Richard A. Epstein, *Civil Rights Enforcement Gone Haywire*, EDUC. NEXT, Fall 2014, at 29, 31–32, http://educationnext.org/files/ednext_XIV_4_epstein.pdf [<https://perma.cc/X7GT-TLW8>] (discussing the 2014 "Dear Colleague" letter's disparate impact test). On disparate treatment, see U.S. DEP'T OF EDUC., 2013–2014 CIVIL RIGHTS DATA COLLECTION 3–5 (2016), <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf> [<https://perma.cc/2AZ6-G623>] (giving examples).

Given the behavioral and demographic realities, schools can either equalize disciplinary sanctions by race and class, or achieve safety and order, but not both. This means that, whether justified by fairness concerns or not (and that question is hotly disputed),¹⁵⁶ recent disciplinary reforms often translate, at least initially, into more disruptive, disrespectful, and violent students remaining in classrooms with a socioeconomically mixed student population.¹⁵⁷ Not only do these situations threaten to upset and alienate teachers,¹⁵⁸ but they also pose the danger that well-off parents, who are keenly interested in and sensitive to school safety, order, and decorum, will abandon or avoid schools where disciplinary standards are relaxed. The

156. The literature on the controversy surrounding racial bias is complex and growing. Although the facts do reveal that blacks and lower income students are disciplined more often, scholars disagree on whether those disparities evince racial bias or can be accounted for by neutral factors such as actual differences in disruptive behavior or other pertinent variables. Whether conventional sanctions such as suspension are necessary to maintaining order in schools, and whether alternative approaches can be effectively substituted, are also in dispute.

For overviews of evidence on racial bias and the effectiveness of alternative sanctions, see, for example, Rachel L. Cohen, *Rethinking School Discipline*, AM. PROSPECT (Nov. 2, 2016), <http://prospect.org/article/rethinking-school-discipline> [<https://perma.cc/4TE4-QVY4>] (discussing alternatives to conventional penalties such as suspension); Josh Kinsler, *Understanding the Black-White School Discipline*, 30 ECON. EDUC. REV. 1370, 1382 (2011) (asserting that racial disparities in school discipline are “largely generated by cross-school variation in punishment”); Russell R. Skiba et al., *Reforming School Discipline and Reducing Disproportionality in Suspension and Expulsion*, in HANDBOOK OF SCHOOL VIOLENCE AND SCHOOL SAFETY 515, 523–25 (Shane R. Jimerson et al. eds., 2d ed. 2011); Matthew P. Steinberg & Johanna Lacoë, *What Do We Know about School Discipline Reform*, EDUC. NEXT, Winter 2017, at 46, http://educationnext.org/files/ednext_xvii_1_steinberg.pdf [<https://perma.cc/5UAX-8SE8>] (“While disparities in school discipline by race and disability status have been well documented, the evidence is inconclusive as to whether or not these disparate practices involve racial bias and discrimination.”); John P. Wright, et al., *Prior Problem Behavior Accounts for the Racial Gap in School Suspensions*, 42 J. CRIM. JUST. 257, 263–64 (2014) (finding that students’ behavioral history, not bias, accounts for racial disparities in discipline); Shi-Chang Wu et al., *Student Suspension: A Critical Reappraisal*, 14 URBAN REV. 245, 245 (1982) (noting that the incidence of suspensions is “the result of a complex of factors grounded in the ways schools operate”).

157. See EDEN, *supra* note 151, at 20–23.

158. See Katherine Kersten, *No Thug Left Behind*, CITY J. (Feb. 6, 2017), <https://www.city-journal.org/html/no-thug-left-behind-14951.html> [<https://perma.cc/QE7S-SBBZ>] (reporting on teacher complaints about relaxed disciplinary standards); Steinberg & Lacoë, *supra* note 156, at 47 (“More than one third of teachers in 2012 reported that student behavior problems and tardiness interfered with their teaching.”); *supra* notes 152–53 and accompanying text.

departure of such parents from the public school system would make it harder to maintain the middle class demography essential to income mixing's success.

Finally, the alternatives proposed for dealing with student infractions also threaten to undermine school quality by siphoning away time, attention, and resources that could be devoted to academic pursuits and extracurricular activities. In an effort to address disparities in rates of school discipline, St. Paul, Minnesota, has spent millions of dollars and countless personnel hours on "cultural competency" initiatives, "white privilege" training, and "restorative justice" programs.¹⁵⁹ These strategies have upset and alienated good teachers and white parents, who are critical to maintaining schools' middle class character.¹⁶⁰ A recent *New York Times Magazine* article on school discipline alternatives such as mediation, counseling, and restorative justice programs describes them as time-consuming and "exhausting," and makes clear that many teachers are ill-equipped to deal with their demands.¹⁶¹ Specifically, teachers are uneasy with the therapeutic and social work roles into which they are cast and resentful of the burdens these programs impose, which distract from the preferred, core missions of teaching and learning.¹⁶² Moreover, there is currently no reliable evidence that introducing these disciplinary innovations reduces the incidence of school misbehavior or alleviates any claimed short or long term harms from stricter or more conventional sanctions.¹⁶³ Indeed, despite the paucity of reliable data

159. Huber, *supra* note 153.

160. *See id.*

161. *See* Susan Dominus, *An Effective but Exhausting Alternative to High School Suspension*, N.Y. TIMES MAG. (Sept. 7, 2016), https://www.nytimes.com/2016/09/11/magazine/an-effective-ut-exhausting-alternative-to-high-school-suspensions.html?smid=pl-share&_r=0 [<https://perma.cc/52Y3-Q884>].

162. For a teacher's reaction, see Barry Rehfeld, Letter to the Editor, *Re: The Education Issue*, N.Y. TIMES MAG. (Sept. 23, 2016), <https://www.nytimes.com/2016/09/25/magazine/the-9-11-16-issue.html?smid=pl-share> [<https://perma.cc/QQJ6-RTPZ>] ("As a former high-school teacher, count me among those who think 'restorative justice' is another burden piled on overworked teachers . . . Teachers [of unruly students] are likely to first have to speak to students during and after class, meet with the student and an administrator, have the student serve after-school detention, keep a paper and electronic trail and meet with the student and parent.").

163. *See* Max Eden, *In Defense of Suspensions*, MANHATTAN INST. (Aug. 4, 2016), <http://www.manhattan-institute.org/html/defense-suspensions-9129.html> [<https://perma.cc/9XCX-D8KF>] ("We simply don't have enough data to evaluate the ef-

on the consequences of these reforms—which have only recently been implemented by school districts on a wide scale—there is some evidence of negative effects.¹⁶⁴ Certainly, there is no basis for thinking that these changes support the objectives of income integration or comport with the understandings behind that model. And there are good reasons to believe that experimenting with untried methods for maintaining order in schools will undermine the models' goals.

These observations illustrate a critical shortcoming of the income mixing approach. Shifting more low income students to higher status schools forces students, parents, and teachers to daily face the unpleasant reality that, when students across lines of race and class attend the same school, stratification inevitably follows. Average racial differences in academic capabilities and outcomes within and across schools are a stubborn fact, and not much progress has been made in disrupting these patterns over many decades.¹⁶⁵ The same holds for class, with achievement differences by family income now matching or exceeding those by race.¹⁶⁶ Widening gulfs by socioeconomic status in family structure and other sources of social capital suggest these patterns will continue for the foreseeable future.¹⁶⁷ Shifting poor students to better schools can, at best, al-

fects of discipline changes in most American school districts. That means that the policy-makers are quite literally ignorant of the consequences . . . for poor and minority students who are just trying to behave, learn, and have a fair opportunity at life.”); Steinberg & Lacoé, *supra* note 156, at 50 (reviewing innovative alternatives to conventional disciplinary practices, and stating, based on the lack of rigorous evaluations, that “reform efforts” have “outpace[d] research evidence”).

164. See EDEN, *supra* note 151, at 5–6.

165. See *supra* note 2.

166. See *supra* notes 2–3.

167. See *supra* notes 2–3; see also Robert I. Lerman & W. Bradford Wilcox, *For Richer, for Poorer: How Family Structures Economic Success in America*, AM. ENTERPRISE INST. (Oct. 28, 2014), <https://www.aei.org/publication/for-richer-for-poorer-how-family-structures-economic-success-in-america> [<https://perma.cc/3TW8-RQLN>] (“The retreat from marriage—a retreat that has been concentrated among lower-income Americans—plays a key role in the changing economic fortunes of American family life . . . Growing up with both parents (in an intact family) is strongly associated with more education, work, and income among today’s young men and women . . . These two trends reinforce each other. Growing up with both parents increases your odds of becoming highly educated, which in turn leads to higher odds of being married as an adult. Both the added education and marriage result in higher income levels . . . The advantages of growing up in an

leviate observed gaps in academic achievement. There is no evidence the strategy can close them.

That fact does not prevent participants from feeling frustrated and disappointed, which in turn generates pressure to change the ways schools operate. Because this pressure threatens to alter the very character of the schools themselves, income integration is necessarily an unstable project. The enormous social-engineering effort required to create and maintain diverse schools where they would not otherwise exist through private choice, and the turmoil, tension, and conflict these initiatives can generate, argue against a large-scale push to manipulate public school demography. Although income mixing will occasionally occur spontaneously, attempting to impose that condition on a wide scale is not worth the effort and is likely to backfire.

The “no excuses” alternative, in contrast, is better equipped to negotiate the tensions between uplift models and progressive commitments, and to deal constructively with persistent race and class differences. These schools currently educate mainly low income students, which renders socioeconomic disparities less salient. Tracking and special honors classes are absent or, when introduced, include students from similar racial and economic backgrounds who tend to start out at comparable educational level.¹⁶⁸ The important comparisons are not to better-off students, but to low-income children educated in ordinary public schools or in other less demanding settings. The goal is maximum feasible improvement rather than impossible equalization. Because students and teachers need not constantly confront inequalities that are the product of larger social forces, the embrace of active acculturation can proceed without apology to beneficiaries or benefactors. In sum, in the current ideologically charged climate, separate and unequal is superior to, and more effective than, diverse and unequal. While “no excuses” schools and income integration have their respective strengths and weaknesses, the former emerges as a better approach to educating the disadvantaged.

intact family and being married extend across the population. They apply about as much to blacks and Hispanics as they do to whites.”).

168. See WHITMAN, *supra* note 7, at 111 (“Since 98 percent of the students are black or Hispanic, skill groupings at the school do not have the same political freight that tracking minority students might have in a predominantly white school.”).