CHAPTER 5

Limited Choices

> Parents in Richmond don't ask for vouchers per se, but a lot of them do ask for their money back.
>
> —Richmond School Board member, 2008

> The subject of vouchers and charter schools just doesn't come up in Henrico County. People like the schools their kids are in.
>
> —President, Parent-Teacher-Student Association, Freeman High School, 2008

To an outsider, the proposal to open the Patrick Henry Charter School in Richmond would hardly seem like a source of controversy. Conceived in 2008 by a group of Richmond parents, the school would cater to elementary students and have an environmental science theme. Like all charter schools, in Virginia and elsewhere, Patrick Henry would be freed from some of the regulations that govern traditional schools, but it would remain a public school and be open to all students in the Richmond school district.[1]

To open the school, the parents needed the Richmond School Board's approval. Under Virginia law, only local school boards can grant permission to create charter schools. Perhaps not surprisingly, very few charter schools have been created, as local school districts are not especially fond of setting up competitors. If the school board approved the proposal, Patrick Henry would be the fourth charter school in the entire state, even though charter school legislation has been on the books for nearly a decade. (Other states have dozens or even hundreds of charter schools.) The school itself would be small and serve just a tiny fraction of Richmond students. The need to obtain school board approval for each charter school, moreover, ensured that opening Patrick Henry would hardly represent the beginning of a charter school juggernaut.

Add a few historical and contemporary facts, and the controversy that erupted becomes much easier to understand. Recall that Virginians relied on school choice, as recently as the 1960s, to thwart school desegregation. Some

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white students received what were effectively vouchers to attend private academies, while freedom-of-choice plans were used in an effort to maintain segregated schools. To parents and grandparents in their fifties and sixties who were raised in Richmond, this is not ancient history. It is their story.

It did not help that those proposing the Patrick Henry School were overwhelmingly white. This fact added to the already well-developed suspicion of some African-American parents and community leaders that school choice in Richmond is unfair and manipulated by white parents. Indeed, while the charter school proposal was pending, the leader of the Richmond Council of PTAs told a local paper that she believed school choice programs in Richmond were in fact creating a two-tiered system, one catering to the few whites in the public schools and the other serving the black students.[2]

The executive director of the local NAACP chapter, King Salim Khalfani, strongly objected to the charter school. When the school board finally approved it by a five-to-two vote (two members did not vote), he lashed out. He claimed the school would serve as a private haven for white students. He further accused the school board of catering to white families, noting that the vote was "straight up white School Board members plus Uncle Braxton," a critical reference to the board chairman, George Braxton, who is African American. Some countered that these charges were nonsensical. But even critics understood the root cause of the controversy: the history of school choice and racial segregation in Richmond. As A. Barton Hinkle, a columnist for the *Richmond Times-Dispatch*, wrote, Khalfani's claims were "wildly off base—but, given Virginia's toxic racial past, not wholly unexpected. Massive resistance and other racial stains continue to poison the atmosphere decades after their abandonment."[3]

The controversy in Richmond highlights the tricky politics of school choice within urban school districts. Some believe school choice will worsen already high levels of segregation, or at the very least that it will give special privileges to the few white, middle-class families remaining in urban districts. Others believe that school choice, despite its checkered past, is now one of the few lifelines left for students stuck in failing schools. Race, in Richmond and elsewhere, is never far from the surface of debates over choice.

By contrast, school choice does not create much controversy in a suburban district like Henrico County because it is not on the agenda there. No one is seriously proposing charter schools or a voucher program in Henrico. According to the Henrico parents I interviewed, the issue of choice rarely comes up because most parents like the schools their children attend. Indeed, many of them settled in Henrico County *because* of the schools there. Choice may be fine for Richmond, but it is not something for the suburbs, so the thinking goes. What is true in the Richmond metropolitan area is true across the

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country; choice is a hot topic in urban districts but mostly a non-issue in suburban ones.

In addition, there is little discussion in Richmond or elsewhere about increasing opportunities for students to cross district lines to attend school. A few business and religious leaders in Richmond are trying to generate enthusiasm for interdistrict school choice, but the idea has yet to gain purchase. When the idea of interdistrict choice was raised in the past, suburban parents basically "went nuts," according to Lil Tuttle, who served on the state board of education when George Allen was governor in the 1990s. These suburbanites told her that the whole point of moving to the suburbs was "to get away from the problems of urban systems." Why turn around and invite these "problems" to the suburbs?[4]

Not all suburbanites in the Richmond metropolitan area—or elsewhere—share this sentiment, of course, but it nonetheless helps explain a ubiquitous feature of school choice plans: they operate within the confines of a single district, and that district is usually an urban one. The limited scope of school choice plans is rarely discussed. It is usually overshadowed by dire or optimistic predictions about the impact of school choice—especially voucher programs. That nearly all choice plans are geographically limited, however, is the most important and telling fact about them.

To understand why, consider what the world would look like if school choice were universal and all students could choose whatever school they liked—public or private—within a reasonable distance of their homes. The idea is not ridiculous, at least not in theory. School choice tends to be favored either for reasons of equity (all students should have the opportunity to choose a good school) or efficiency (competition will improve all schools). Either way, the more choice, the better. If universal choice existed, however, there would be no right to attend a neighborhood school, and school district lines would not determine placement. If one truly believed in the power of school choice, for example, it would be difficult to deny a student who lived in Richmond the opportunity to choose to attend Freeman High School.

A comprehensive school choice scheme would thus take away the advantage of living in the "right" neighborhood or the "right" school district, because doing so would no longer guarantee admission to the "right" public school. A comprehensive choice scheme would also equalize educational opportunities if structured to provide students equal access to all schools within a reasonable distance of their homes. The fate of all students within a metropolitan area would be tied together by virtue of their being part of a system that offered completely open access to local schools. Indeed, given the radical potential of school choice, it is more than a little curious that choice tends mainly to be associated with political conservatives.

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Returning to reality, nothing close to a comprehensive system of school choice exists in Richmond or anywhere else in the country. To the contrary, school choice has been constrained in precisely the same way, and for precisely the same reason, that desegregation and school finance reform have been constrained. In all three contexts, the cardinal rule of educational opportunity has been the same: provide some help to urban students but leave the suburbs alone. In school desegregation, buses to integrate students were halted at the boundaries of suburban districts. In school finance reform, suburban districts have been allowed to go their own way and raise and spend local revenue on their own schools. So it is with school choice: it tends to be available within urban districts but does not threaten the ability of suburban districts to control who attends suburban schools.

The reason is not hard to fathom. Suburban parents are generally satisfied with the public schools their children attend, and they want to protect both the physical and financial sanctity of those schools. School choice can threaten both. It creates the possibility, largely unwelcome, of city students being able to attend suburban schools at local taxpayers' expense. It also raises the possibility that locally raised revenues might exit local school districts if students left to attend private schools or schools in other districts. To the extent that choice threatens the exclusivity and superiority of suburban schools, it also threatens suburban housing values, which are linked to the perceived quality of neighborhood schools. Like suburban parents, suburban homeowners without school-age children thus have a strong, self-interested reason to be wary of school choice.[5]

The pattern of school choice in Richmond and throughout the country reflects these concerns and interests. Public school choice is available in most urban districts, though it remains somewhat controversial, as in Richmond. It is less available in suburban districts like Henrico, and there is little pressure for expansion. There is, finally, almost no serious discussion of ways to promote or expand interdistrict school choice.

Charter schools and the few existing publicly funded voucher programs face similar geographical constraints. Most charter schools are located in urban areas, and most, either by law or policy, cater to students who reside in urban districts. Voucher programs in Milwaukee and Washington, D.C., limit the use of vouchers to private schools within the district. The Cleveland voucher program allows vouchers to be used at either private, city schools or suburban public schools that agree to accept voucher students. None has.

This chapter explains the different types of school choice programs that exist, the features they have in common, and the politics that have shaped them. The chapter that follows assesses the impact of choice programs and the role that courts have played in fights over school choice.

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THE SHAPE OF SCHOOL CHOICE

Formal, publicly funded school choice plans come in four main varieties: intradistrict and interdistrict public school choice, charter schools, and vouchers. One could also say that the roughly two million homeschoolers exercise a form of school choice, and there can be no doubt that homeschooling is an important trend. Homeschooling is not pertinent to this chapter, however, because homeschoolers do not leave one school for another—they simply leave school altogether. This chapter is focused on the extent to which school choice allows students to attend better schools, either because students choose a better school or because choice improves all schools.

Of all the forms of school choice, publicly funded vouchers for private schools generate the most controversy and receive the most popular and scholarly attention. The attention, however, far outpaces the practical significance of vouchers, which occupy a tiny portion of the school choice universe. Only about thirty-three thousand students currently receive publicly funded vouchers, which represents less than one-tenth of 1 percent of all public school students. More students receive privately funded vouchers, but the numbers are still tiny. Most students who are able to choose a school participate in choice plans that offer options *only* among public schools, and most of these programs limit choices to schools within one district.[6]

Before describing these formal plans in more detail, it is important to recognize that the largest school choice "program" is not formalized at all. This form of school choice occurs when parents select where to live on the basis of the quality of local public schools. It is difficult to pin down exactly how many families exercise this type of choice, but conservative estimates—based on polling—put the number at 25 percent of all public school students, which dwarfs all other choice plans combined. School choice in this guise is rarely discussed. But the fact that such a large number of parents, who tend to be higher on the socioeconomic ladder, have already chosen a school for their children is a crucial starting point in trying to understand the shape of current choice plans, as well as the political dynamics confronting proposals to expand school choice.[7]

Intradistrict Public School Choice

The next most popular form of school choice, after what might be called residential school choice, allows students to attend a non-neighborhood school within a single district. Roughly five million students participate in intradistrict choice plans. That number greatly exceeds the number of students exercising

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other forms of choice, but it still represents less than 10 percent of all students. Even this relatively modest figure is somewhat misleading, insofar as it exaggerates the impact of intradistrict choice plans, most of which essentially preserve neighborhood school assignments while offering limited alternatives to a fairly small group of students.[8]

Intradistrict school choice programs are quite varied in design and scope. By far the most prevalent type offers students the opportunity to attend a specialized school within the district, or a specialized program at a school outside their normal attendance zone. Both Richmond and Henrico County offer students the opportunity to enroll in specialized programs at high schools outside of their normal attendance zones. For example, Tee-Jay offers the International Baccalaureate (IB) Program, which is a well known, highly regarded, and rigorous course of study that combines regular courses with those focusing on international affairs and foreign cultures. Henrico County high schools each sponsor a program organized around a particular theme, including the arts, technology, and political leadership; the last program is housed at Freeman.[9]

Many of these specialized schools and programs require an application, and they often use selective admissions criteria. The most famous examples outside of Richmond include the Boston Latin School, Bronx Science, and the Lowell High School in San Francisco. The specialized programs in both Richmond and Henrico also require an application, and the admissions process is competitive.

Richmond also hosts three alternative public schools. One is the Franklin Military Academy, which offers a regular course of study and mandatory participation in a Junior Reserve Officer Training Program. The two other alternative high schools, Richmond Community and Richmond Open, also take students from throughout the district. Both require an application, and Richmond Community is specifically geared to serve economically disadvantaged, academically gifted students. Both Richmond Community and Richmond Open are, by all accounts, excellent schools. In fact, both were ranked recently by *U.S. News and World Report* as among the best high schools in the country. Their student populations are primarily African American, and both schools are quite small, each enrolling roughly two hundred students.[10]

Both schools were created in the 1970s, during a period of intense white flight from the district. Some commentators argue that they were created in the hope of stemming that flight by offering a small, rigorous academic environment designed to retain white families who might otherwise head for private schools or the suburbs. Although there is some evidence to support this thesis, it is hard to understand how Community's focus on gifted, poor students was designed to retain white, middle-class families in Richmond. In any

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event, if keeping white students in Richmond high schools was the purpose of these schools, they were not especially successful. More than three-quarters of the students at both schools are African American. This fact, and the fact that both schools have existed for decades, may help explain why they, unlike the Patrick Henry Charter School, do not seem to generate much controversy today, even though both schools operate much like private schools in a public school setting.[11]

An important variation on the theme of specialized programs and schools are magnet programs and magnet schools. Magnet schools were originally designed to foster integration by attracting white students to city schools, and courts approved their use for this purpose in desegregation decrees. The federal government has also supported magnet schools since 1972, through a modest and little known spending program. The continued existence of this program, even through Republican administrations that were opposed to affirmative action of any kind, is somewhat surprising. The funding is relatively low and has remained stagnant—Congress spent $108 million on it in 1994 and the same amount in 2004—which might help explain the continued existence of the program. That said, it would probably come as surprising news to some members of Congress that the federal government continues to spend money to help schools "offer a special curriculum capable of attracting substantial numbers of students of different racial backgrounds."[12]

Magnet schools initially attracted bipartisan support, and many found the idea of using school choice to achieve racial diversity appealing, especially in contrast to "forced busing." The reality, however, has been more troubling. Because of the demographics of urban school districts, where almost all magnet schools were located, more black students than white ones tended to apply for admission. It followed that more black students were denied admission. Indeed, in some well-publicized instances, local black students were denied admission to magnet schools even though seats set aside for white students remained empty.[13]

A program that was designed to assist African Americans was thus seen by some as one that catered to whites. In a sense, the controversy generated by magnet schools was similar to that created by the Patrick Henry School. Like that charter school in Richmond, magnet schools in many urban areas became embroiled in the complicated racial politics that pervade urban schooling.

Over time, many magnet schools have deemphasized racial integration as a primary goal. The switch in focus in some places was prompted by the demographics of urban districts and the scarcity of white students. The move away from race has also been spurred by changes in the law, which have cast a cloud over the extent to which race can be used as a factor in selecting students, even when integration rather than segregation is the goal.

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The U.S. Supreme Court's 2007 decision in *Parents Involved in Community Schools v. Seattle School District*, discussed in chapter 2, may further the trend away from racial considerations in magnet admissions. The opinion in that case suggests that race cannot be the dispositive criterion for assignment to any school, even if the ultimate goal is integration rather than segregation. Magnet schools will thus have to rely on race-neutral characteristics, like geography or socioeconomic status, or have a comprehensive review of each candidate, where race is considered among a number of other factors. As time goes on, magnet schools may become less distinguishable from other specialized programs and schools that never had diversity as one of their goals. Even today, although researchers suggest that there are roughly three thousand magnet schools serving close to two million students, it is difficult to know just how many of these schools retain a strong focus on achieving student diversity.[14]

Magnet and other specialized schools or programs are as interesting for what they do not accomplish as for what they do. They certainly increase public school options for some students. But they do not alter the traditional pattern of neighborhood school assignments. A small percentage of students are given the opportunity to choose a specialized school, but the vast majority of students in these districts remain in neighborhood schools.

Some districts do offer greater opportunities for public school choice. These districts have abandoned neighborhood school assignments and instead require all parents to select a school for their children. Parents list several choices among district schools, and school officials make the final assignments, often with an eye toward creating socioeconomically integrated schools. While still confined to single districts, these controlled choice plans are nonetheless fairly radical in their departure from the traditional neighborhood assignment plan. They are also, probably for just this reason, rare. Developed first in Cambridge, Massachusetts, in 1981, comprehensive choice plans currently exist in little more than a handful of districts nationwide.[15]

Richmond has a modest variation on this theme. It divides the district into three so-called megazones, each of which contains a number of elementary schools. Students are allowed to attend any elementary school within that zone, provided space is available after all students who live in the school's specific attendance zone are enrolled. Open seats are allotted by lottery if demand exceeds supply. For years, Richmond provided transportation to students who chose to attend a non-neighborhood school within their megazone. In 2007, however, the school board cut that item from the budget in order to save money.[16]

The cut generated a good deal of controversy. Local papers carried stories of the hardships it created for families trying to transport their children to schools that they believed would better serve them. It did not go unnoticed that

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canceling the bus service disadvantaged the disadvantaged, who lacked the means or the time to shuttle their children to and from school. To some, it was further proof that the system of choice in Richmond was really designed to benefit the relatively few middle-class, mostly white families who, it was assumed, would have an easier time getting their own kids to school.[17]

To make matters worse, there are informal and ad hoc ways around the official school choice program in Richmond, and the same is true in other urban districts. Parents and school board members alike acknowledged that in Richmond there is one choice program on paper and another one in reality. The whole system, said one board member, operates on the basis of whom you know. The most frequently cited example was of parents whose children end up in schools outside their megazone. In theory, choice is supposed to be confined to schools within each megazone. In reality, principals and district administrators retain discretion to admit individual students, regardless of where they live. Some parents simply take this route and, rather than participate in a lottery for the more popular schools, just ask the principal or a district administrator for permission to enroll. As one board member explained in an interview, "if you know someone in the superintendent's office or the principal, you get what you want; otherwise, you deal with the written rules."[18]

The same is true for at least some middle schools. In theory, Binford Middle School is the only middle school entitled to accept students from throughout the district. All the other middle schools are supposed to accept only students who reside in their attendance zones. But as one parent explained, the reality is different from the written rules. White students who attend Linwood Holton Elementary School in north Richmond, for example, mostly attend Albert Hill Middle School, which is neither their assigned middle school nor designated as a school of choice. "There's no official policy," said this parent, whose children attended Holton. "White parents just go and knock on the principal's door."[19]

Something similar happens at Tee-Jay, which has a formal program of choice, the IB Program, and an informal one. The informal program is not widely advertised. One searches relevant websites for information in vain, for example, and one school board member I interviewed did not realize the option existed when I first asked about it. According to Tee-Jay principal Barbara Ulschmid, however, she had discretion to admit students from outside the attendance zone as long as space permitted. Because the school was under-enrolled, it had plenty of room for transfer students. When deciding whether to admit such students, Dr. Ulschmid indicated that she considered grades, courses taken, standardized test scores, and discipline. We "always have room," she remarked, "for good students from out of the zone." The qualifier is hard to miss and gives

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a sense of the principal's latitude, as well as the potential for the unfair treatment of students—or at least the appearance of unfairness.[20]

Just how many parents circumvent the formal system of school choice is impossible to know. No data are available. A fairly widespread assumption, however, is that these parents are mostly white and middle-class and that they manipulate the system to ensure that their children cluster in certain elementary schools. Most complaints, it bears mentioning, are directed toward elementary schools, at least in part because there is a noticeable decline in white enrollment beginning in middle school and continuing through high school.

The two elementary schools in Richmond most often targeted by critics of school choice are Mary Munford and William Fox. In a school system that is nearly 90 percent African American, both schools are predominantly white: Munford's student body is 75 percent white; Fox's is 63 percent. No other elementary school has anywhere close to this percentage of white students. Most have less than 5 percent. What is not clear is how many of the Munford and Fox students live within the relevant attendance zone or at least within the megazone. The fact that at least some parents manipulate the system, however, is enough to fuel suspicion about the very lopsided demographics at these two schools.[21]

The existence of these schools, moreover, bolsters the belief among some that school choice is being used, whether intentionally or not, to segregate students. Some school board members agree that open enrollment has allowed "a type of closet segregation" to continue. Richmond PTA members are more blunt, calling the system "a farce" that has created "a separate, unequal and dual education system" in Richmond.[22]

Controversies like these are repeated in urban districts across the country, which should come as no surprise. Offering limited choices will necessarily leave some families with no choice at all. If some schools are perceived as better than others, charges of unfairness are bound to arise. This is especially true when school choice seems to benefit white, middle-income students and families in urban districts such as Richmond. In their defense, these districts face a real dilemma with regard to such families. Many district leaders, in Richmond and elsewhere, believe with justification that it is important to retain middle-class families in urban school districts. Yet the means of doing so sometimes entails offering them something that poorer and often black families might not receive. At the very least, it creates the impression of favoritism.

Similar controversies have yet to erupt in Henrico County. Aside from the few specialized programs at the high school level, students attend their assigned schools. Expanding school choice, as mentioned earlier, is not on the agenda there. That could change in the near future, however, given the increasing

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diversity within the district. Henrico recently became a majority-minority district, and the percentage of poor students is also on the rise. As the demographics change, Henrico might also become attracted to the idea of using choice as a means of retaining middle-class families.

One final program of intradistrict school choice bears mention. Under the No Child Left Behind Act (NCLB), students who attend schools that fail to meet annual testing goals for two years in a row are entitled to transfer to another school within the same district that has met these goals. The choice measure was a compromise of sorts, as the Bush administration initially wanted to give students the opportunity to obtain vouchers to private schools. As it stands, the option to transfer is rarely used. In some districts, there are not enough successful schools available to accept transfers. Even where such schools exist, most parents are not exercising their options, either because they are not interested or because the option is not widely known. In Richmond, for example, in one year roughly 9,500 students were eligible to transfer, but only 199—2.1 percent—exercised the option.[23]

Notably absent from the NCLB is the option to transfer to a school in another district. The law does not require outside districts to accept students, nor does it encourage them to do so. Instead, it feebly suggests that school districts unable to provide enough options on their own should, "to the extent practicable, establish a cooperative agreement with other [school districts] in the area for a transfer." The Department of Education, moreover, has made clear that it is uninterested in monitoring this aspect of the law, stating that "it would be inappropriate to regulate in this area of State authority." This is an odd rationale, to say the least, given that the NCLB leaves no stone of state educational authority unturned. At any rate, the basic point, as commentators have observed, is that "inner-city students seeking transfers to suburban schools should hardly hold their breath for 'practicable' cooperative agreements to materialize."[24]

Interdistrict Choice

In contrast to the NCLB, some state programs provide students with more of a chance to transfer across district lines, but the pickings here are still pretty slim. There are roughly three types of interdistrict choice programs: statewide open enrollment plans; limited urban-suburban choice plans created to foster racial integration; and specialized regional schools. None of these programs has led to much movement across district boundaries. The most recent estimates suggest that only about 480,000 students across the country—less than 1 percent of all students—attend public schools outside their home districts.[25]

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On paper, most states have open enrollment plans, which ostensibly allow at least some students to attend any school within the state. Some plans apply only to specific districts, while others target specific populations of students, including those who are economically disadvantaged or attending a failing school. Minnesota created the first open enrollment plan in the late 1980s, and other states followed in the 1990s. Virginia is now one of only twelve states that do not offer any formal opportunities to cross district lines.[26]

Despite the ubiguity of open enrollment plans, a number of restrictions and practical obstacles work to limit the options actually available to students. One of the most significant restrictions is that participation by school districts in most state programs is entirely or at least partially optional. District participation is completely optional in twenty-four of the thirty-eight states that have open enrollment plans. In the fourteen states that require at least some district participation, most require only that districts allow students to transfer out; they do not require districts to accept students from other districts. This discrepancy itself is telling. If one makes the reasonable assumption that suburban districts with good schools would more likely receive than lose students to interdistrict transfers, it follows that allowing districts to reject all transfers in effect shields suburban districts from outsiders. All state plans, moreover, give first priority to students living within the district and allow all schools to reject transfers if no space is available.[27]

From a historical perspective, it is easy to understand why existing plans are structured this way. Given the history of interdistrict integration and the intense opposition it aroused, it would be surprising if most state legislatures required districts to accept transfer students. Allowing districts to exclude students when space is not available, moreover, is consistent with the traditional preference for neighborhood schools. Indeed, this limitation is similar to one commonly found in intradistrict plans, like the one in Richmond, which allow for transfers only if space is available after all neighborhood students have enrolled.

These structural limitations significantly reduce the options available to students. In some states, the majority of districts have simply declined to participate. In other states, districts might participate but rely on space limitations to limit the number of transfers allowed. No reliable data are available regarding the actual or reported capacities of districts, so it is difficult to assess how many open seats are not being taken. One cannot know for certain, therefore, whether the low participation rates are due more to a (claimed) lack of space or to lack of interest. Undoubtedly both play a role, but without relevant data, it is impossible to tell which factor is more important.[28]

That said, it is important to recognize that at least relatively high-spending districts have a financial incentive to limit or block the transfer of students into

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their schools. School financing, as discussed in chapter 3, is organized by district, and disparities in funding exist across districts. Interdistrict transfers thus pose more complicated financial (and political) questions than do intradistrict transfers. Under most existing plans, state aid follows students across district lines, but states typically do not cover the local district's share of school funding. Incoming students can thus represent a significant cost to districts, given that their parents are not taxed by the receiving district. Wealthy districts tend to contribute higher shares of local spending than poorer ones, so these districts in particular would suffer financially from accepting interdistrict transfers.[29]

School districts that view transfer students as a bad bargain can protect themselves quite easily, either by opting out altogether where that is permissible or by claiming not to have space available where opting out is not allowed. The latter strategy is easily exercised, as states do not seem to monitor district capacity and instead allow districts to self-report available space. Notice that this structure conforms precisely to what one would expect after studying school finance litigation. In the context of school finance reform, local districts are rarely required to share local revenues with other districts. Here, they are also shielded from that requirement by rarely if ever being forced to accept transfer students and spend local revenues educating them. And, again, if one assumes, as seems entirely reasonable, that suburban districts would most likely be in the position of accepting transfer students, these provisions essentially protect suburban autonomy.[30]

Even where space is available, additional limitations in most plans make it difficult to attend a school in another district. Most states do not provide funds for transportation. Parents who wish their children to participate thus have to transport their children either directly to the school or to a bus stop within the receiving district. Although some states provide transportation subsidies to low-income families, these subsidies are usually reimbursements, which means that the families must first pay the costs of transportation. In addition, not all states require that information be given to parents about the existence of interdistrict choice programs, let alone the availability of transportation subsidies.[31]

Pursuing interdistrict choice is thus not for the faint of heart. Some parents might find that they have no realistic options if nearby districts do not participate or claim that no space is available. Even where options remain available, parents must learn about the schools and have the resources and time to transport their children across district lines. It is undoubtedly true that many parents would not take advantage of interdistrict choice under the most favorable conditions, but it is also true that most open-enrollment plans are hardly

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designed to maximize transfers. In truth, many seem more like gestures toward choice, designed as much to protect local district autonomy as to offer parents more options.

Open enrollment plans can also work to aggravate segregation rather than ameliorate it. Most segregation, both racial and socioeconomic, occurs across district lines. It follows that interdistrict choice plans create greater opportunities for meaningful integration than choice plans confined to single districts. It does not follow, however, that those who cross district lines will be a representative sample of students. To the contrary, in some states, those who leave for the suburbs tend to be white, middle-class students currently enrolled in majority-minority and majority-poor schools. Open enrollment policies, in the view of some researchers, are thus "allowing whiter and more affluent students to transfer to white and more affluent school districts."[32]

A good illustration of the limits and drawbacks of open enrollment plans comes from Minnesota, long hailed as a progressive pioneer in the territory of school choice. In 1999, a decade after Minnesota created an open enrollment program, the NAACP sued the state. Like the plaintiffs in the Connecticut case of *Sheff v. O'Neill*, discussed in chapter 4, the Minnesota plaintiffs claimed that the state constitution outlawed school segregation regardless of its cause. The parties to the Minnesota suit ultimately settled. Under the terms of the settlement, suburban districts outside of Minneapolis agreed to make a total of five hundred seats available for low-income city students. The state agreed to pay for transportation.[33]

The case highlighted the deficiencies in the existing open enrollment plan. Open enrollment existed on paper, but it did little to alleviate racial or socioeconomic segregation between Minneapolis and surrounding suburbs. To the contrary, the few students who crossed district lines tended to exacerbate the situation, as most who transferred from city to suburb were white and most who went the other way were black. The larger point, however, is that very few transfers occurred because options were limited and hard to exercise. The state did not require suburban districts to accept city students, nor did it provide any funds for transportation.[34]

Equally striking was the settlement of the case. The plaintiffs initially argued that all students in Minneapolis should have the option to attend any school within the metropolitan region. They settled instead for much less, but even this modest plan generated controversy. Some suburbanites likened it to "forced busing" and objected to the fact that local school revenues would be spent on outsiders. At the same time, however, that a settlement was reached at all does suggest that there was at least *some* tolerance among suburban districts for the enrollment of urban students.[35]

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The limited scope of the Minneapolis program is typical of other urban-suburban choice programs that are designed to foster racial integration. These plans represent the second type of interdistrict choice program. Most of them were created decades ago and were designed to foster the voluntary integration of city students with suburban ones by allowing a limited number of city students to attend school in the suburbs. Programs exist in just a few places across the country, including districts around Boston, Hartford, Indianapolis, Rochester (New York), Milwaukee, and St. Louis.[36]

All of the programs, aside from the one in St. Louis, are quite small. Boston's METCO program, for example, began in the 1960s with 220 students and currently allows roughly 3,100 students to attend nearby suburban schools. Hartford's program also began in the 1960s and started with roughly 250 students. It has since expanded because of the Connecticut Supreme Court's decision in *Sheff*; choice is being used to comply with the court's order to ameliorate school segregation between Hartford and its suburbs. Still, only about a thousand city students, which is a small fraction of the total, cross district lines to suburban schools. The programs in Rochester and Milwaukee are similar in scope, involving roughly six hundred and three thousand students, respectively.[37]

The programs are not limited because of insufficient demand. To the contrary, most have waiting lists that are much longer than the list of participants. Twelve thousand students are on the waiting list for Boston's METCO program, for example, which is roughly four times the number of students who participate. Three thousand are on the list for the Rochester program, which is five times the number of participants. The scope of these programs is intentionally limited to ensure sufficient space for district residents and, it appears, to prevent the programs from becoming too threatening or controversial. As Susan Eaton, who studied Boston's METCO system, said of that program, it "operates on terms that suburbanites can accept. It does not greatly alter the status quo of either suburbia's schools or their larger communities."[38]

The only relatively large-scale interdistrict choice program is in St. Louis. This program sprang from the settlement of a school desegregation lawsuit, which many suburbanites reasonably believed would lead to forced busing across district lines. This was one of the rare lawsuits where there seemed sufficient proof of an interdistrict violation to satisfy the requirements of *Milliken v. Bradley* and support an interdistrict remedy. To forestall that result, the state secured agreement from sixteen suburban districts to accept a limited number of city students, with the goal of increasing black enrollment in these districts to somewhere between 15 and 25 percent. The state greased the wheels by providing an "incentive payment" to suburban districts, which equaled the

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per-pupil cost of education within the suburban districts. The state also paid for transportation.[39]

In the mid-1990s, this program dwarfed all others in size, involving nearly thirteen thousand city students who each year attended suburban schools. This is a large number compared to other programs, but it still only represented about one-fourth of all St. Louis students. The vast majority of students stayed in the city. Most suburban students also stayed put, even though they had the option to attend city magnet schools that were created as part of the court settlement. Only about fifteen hundred of them took advantage of the opportunity.

The St. Louis program has generated mixed reactions over time. Some suburbanites have been less than thrilled by the program and have repeatedly suggested, in words President Nixon would have appreciated, "that the millions of dollars the state pays to bring in nearly 13,000 African-American students would be better spent 'fixing up' the city schools." On the other hand, experience with the program seems to have changed quite a few minds in the suburbs. Opinion polls over the years reveal increasing support for the program among suburban students and residents. Most important, when the suburbs had the chance to opt out of the program, they declined. In 1999, the desegregation settlement was dismantled, state funding for the program was set to diminish over time, and suburban districts were gradually relieved of their obligation to participate. Yet all of them agreed to extend the program for another five years, and thirteen of the sixteen agreed to accept new African-American students during the extension—even though they were receiving significantly less funding from the state.[40]

Many suburban students, moreover, became ardent defenders of the program. In 2004, for example, hundreds of suburban students in the affluent Clayton High School walked out in protest over the school board's tentative decision to bow out of the program. Similar examples of support have been reported for programs in the Boston and Rochester regions, and in each area, more suburban districts have signed on to accept students in recent years.[41]

Despite the show of support in St. Louis and elsewhere, the fact remains that these programs are tiny and are not always embraced where tried. The suburban-urban transfer program in Indianapolis, for example, was court-ordered and is now being phased out. In St. Louis itself, the program has shrunk in recent years and participation is down to about eight thousand students. Whether the program will hold steady or continue to decline is difficult to predict. If state funding continues to fall, it seems likely that more slots will disappear as suburban districts decide not to shoulder the costs of transfers. More generally, there does not seem to be much support in any of these metropolitan areas for significantly expanding existing plans.[42]

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Rounding out the picture of interdistrict school choice programs are regional, specialized schools. Some of these are magnet schools, or at least began with the purpose of attracting a diverse student body. The vast majority of magnet schools are open only to students who reside in the district, but a few accept students from elsewhere. Precise numbers are hard to come by, but given that no more than 450,000 students in total cross district lines, it is safe to assume that the number of students attending regional magnet schools is relatively small.

Some regional schools are not designed with integration in mind but are designed to attract talented students or students interested in a particular area of study. In Virginia, for example, there are a number of Governor's Schools, which have particular themes and are designed to attract talented students from across nearby school districts. One is located in Richmond and draws students from more than ten school districts.[43]

The Governor's School in Richmond is 75 percent white and only about 8 percent black, with Asian Americans constituting 12.5 percent of the student body. As might be expected, a predominantly white regional school located in the city of Richmond presents a delicate, if not embarrassing, subject for members of the Governor's School Board. "We've struggled with this for years," said the board chairman recently. "It's something we've always wanted to improve, and we've struggled with how to do it." Indeed, a board member made a pledge nearly a decade earlier, in 1999, to work on the issue. It is still a work in progress.[44]

The contrast between regular Richmond students and Governor's School students continues to draw attention, but the contrast is nowhere near as visible and dramatic as it was when the school first opened in 1991. In that year, there was no separate building available for the school—so it opened in Tee-Jay! The nearly all-white student body of the Governor's School occupied the top floor of Tee-Jay, while the nearly all-black student body of the regular high school occupied the two floors below.[45]

The marriage was rocky from the start and continued to be troubled throughout its ten-year existence. It is one thing to be aware that educational disparities tend to track lines of race and class. It is quite another to see the divide on a daily basis. From the perspective of those who lived it, Governor's School students had more freedom to roam around the school, seemed to have better materials, resources, and teachers, and were obviously much whiter as a group than the regular students at Tee-Jay. Although relations were superficially cordial, controversies erupted fairly regularly and served as a reminder of the unequal status of the programs. Race may have been in the background with regard to most controversies, but it never disappeared from view. When

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someone from the Governor's School, for example, requested that only Governor's School students be allowed to enter the school through the front door, this was not just an insensitive request but, in light of Richmond's history, a racially charged one.[46]

The Governor's School relocated in 2002 to the old Maggie Walker Building. The unusual proximity of the separate educational worlds of Tee-Jay and the Governor's School gave way to a more comfortable distance, which took some of the edge off of the disparities. But the disparities, while not as obvious, have not disappeared. And the Governor's School seems, at least to some, just another example of the unequal status of education in the Richmond metropolitan area.

In sum, interdistrict choice remains an unfulfilled promise. It can and has been used to increase integration among urban and suburban students. In many places where it has been put to this use, initial controversy and opposition have given way to tolerance and even boosterism. Students who transfer, moreover, tend to improve academically and to set their academic sights higher. On the other hand, interdistrict choice has not been embraced everywhere it has been tried. In addition, existing programs are quite small and do little to diminish the general importance of the urban-suburban boundary in education. And there does not seem to be much support, anywhere, for dramatically increasing the scope of interdistrict choice programs.[47]

Charter Schools

A charter school, as mentioned, is something of a cross between a public and a private school. Allowed only where authorized by state statute, these schools are publicly funded, tuition-free, and nonsectarian. They operate pursuant to a contract—the charter in charter schools—between the school and an agency authorized by the state to grant charters. Depending on the state, that agency might be the local school board, the state board of education, or a third party, such as a college or university.[48]

Charter schools can be opened and operated by any number of groups, including teachers, parents, and private corporations. Some states prohibit for-profit corporations from creating, though not necessarily from operating, a charter school. Charter schools are freed from various regulations governing things like teacher hiring and certification, the curriculum, the school calendar, and the length of the school day. In exchange for this freedom, they are supposed to be held accountable for results. Indeed, the core idea behind charters is to grant greater flexibility to schools in exchange for greater accountability,

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which includes closure if a school fails to perform adequately. Charter periods vary from between three and fifteen years, though most last for five years. Renewal of the charter, at least in theory, is contingent on the school's performance.[49]

Charter schools can be created from scratch or by "converting" a traditional public school. Some states also allow existing private schools, including religious ones, to convert to charter status, provided that religious observances and exercises drop out of the curriculum. The No Child Left Behind Act also encourages the conversion of persistently "failing" public schools into charter schools.[50]

Unlike interdistrict choice plans, which have grown slowly at best, charter schools are the kudzu of school choice. Minnesota opened the first charter school in 1992. Four years later, 178 charters were operating in seventeen states. Another four years after that, at the turn of the new millennium, roughly two thousand charter schools operated in thirty-four states and the District of Columbia. Today, there are more than four thousand charter schools in forty states plus the District of Columbia. The number of students attending such schools has also grown exponentially. Starting from a few hundred students in 1992, more than a million now attend charter schools—a large number, though it still represents only about 2 percent of the total public school enrollment.[51]

Charter schools tend to be smaller than traditional public schools, enrolling on average about half as many students. Many offer alternative curricula, emphasize particular fields of study, or focus on special student populations, most often students at risk of failure. At least initially, one of the chief attractions of charter schools was the opportunity to innovate and create truly alternative schools. Many drawn to charter schools relished the opportunity to pursue their own vision of the nature and purpose of public education. That opportunity has been constrained at least somewhat by the concurrent rise of the standards and testing movement, discussed in detail in chapter 7. Charter schools are now subject to the same testing regimes facing traditional public schools, which limits their ability to pursue a separate path.[52]

Charter schools have attracted bipartisan support. Republicans and Democrats at both the state and federal level have championed the cause, though not always for the same reasons. Charters are seen by Republicans and Democrats alike as a halfway station between public school choice and voucher programs. Republicans who like voucher programs support charter schools in the hope that they will lead to vouchers. Democrats who oppose vouchers, by contrast, hope that charters will satisfy the demand for school choice and therefore dampen support for vouchers. Regardless of their different motives, Republicans and Democrats have been unified in backing both state and federal

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spending programs designed to ease some of the financial burdens faced by those who wish to open charter schools. Under a program started in 1994, the federal government now spends more than $200 million annually to help charter schools—about twice the amount of assistance it provides to magnet schools.[53]

State statutes regarding charter schools vary a great deal in terms of funding, who can authorize charter schools, the degree of autonomy granted charter schools, and the number of charters that can be granted, either annually or in total. The variation among statutes means that, in reality, some states are much more hospitable to charter schools than others. This helps explain why charter schools are not distributed evenly across the country but are instead concentrated in California, Arizona, Florida, Texas, and Michigan. It also helps explain why so few charter schools exist in Virginia. Virginia's law, which is routinely tagged by charter supporters as one of the worst in the country, allows for charter schools in theory but then sets up enough roadblocks to ensure that few are actually opened.[54]

Variations among state charter laws make it difficult to generalize, but the statutes and schools themselves share three common features that are relevant for the purposes of this chapter. First, charter schools tend to enroll students from their home districts. A minority of states explicitly limit enrollment to district residents, while most states either require or allow that preference be given to local students. Given that most charter schools report having waiting lists, local residency preferences operate in practice to exclude outside students. Even where nonresidents can attend charter schools, they are rarely provided with transportation, which also works to limit attendance to resident students.[55]

The second common feature of charter statutes involves funding. The details of funding schemes vary both across and within states, depending on whether the charter is granted by a local school board or state agency. In general, however, charter schools are funded with a combination of state and local dollars—money that would otherwise go to regular public schools. Put differently, in districts where charter schools are located, public schools stand to lose a portion of their state and local funding.[56]

The potential loss of funding adds to existing incentives among local school boards to block charter schools. Many school board members already see charter schools as unwelcome competition; the financial threat they represent makes it worse. It should come as no surprise, therefore, that local school boards have proven more reluctant than other agencies to grant charters. It should also be obvious that states—like Virginia—that give local districts exclusive authority to approve charter schools are not committed to helping charter schools

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flourish. Indeed, giving local school boards complete authority to approve charters is, as one observer noted, akin to allowing "the *New York Times* to decide whether the *Wall Street Journal* can sell papers in New York City." In districts where there is a good deal of support for the local schools, obtaining a charter from a local school board can be especially difficult, if not impossible.[57]

This last point leads to the third and final common feature of charter schools: their location. Most charter schools are located in urban school districts. In some states, this concentration is required or encouraged by charter statutes. At least twelve statutes, for example, require that priority be given to charter schools that serve poor, minority, or low-achieving students, and urban districts have a disproportionate share of each. Virginia's law, for example, until recently required that half of all charter schools in the state cater to "at-risk" students; it still requires that such schools be given priority consideration. Ohio and Missouri go even farther, allowing charter schools *only* in urban districts. Wisconsin is more subtle and simply stacks the deck in favor of opening charter schools in Milwaukee. Several different agencies can grant charters in Milwaukee; everywhere else, only local school boards can grant permission.[58]

In addition to statutory provisions that encourage or require charter schools to locate in urban districts, constituent demand and local politics push in the same direction. Suburbanites, in general, seem less interested in charter schools. In fact, in some suburban districts, charter schools are seen not only as unnecessary but as an insult to local public schools and a threat to property values. A recent fight over a charter school proposal for Glen Cove, an affluent New York suburb, is a good example. As reported in the *New York Times*, a resident explained her opposition this way: "We want to keep our community desirable. The connotation of a charter school is, 'The schools are lousy, they're not meeting the needs of our children.' Our property values will go down, [and] our taxes will increase because we'll need to pay more money to keep up the standards." Another resident echoed the point. "There's nothing wrong with our public schools," she exclaimed, "and I take great offense to people coming in here and telling me otherwise."[59]

Charter schools, of course, can send the same message in urban school districts, and many urban leaders and educators also see charters as a threat to existing public schools. The difference, however, is that urban residents are generally more prepared than their suburban counterparts to admit that their public schools are failing and alternatives are needed. Urban school board members, in turn, generally seem more willing to endorse alternatives, both because of the more obvious need for education reform in urban districts and because the large size of urban districts makes it easier to absorb a few charter

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schools. Some of the school board members in Richmond who approved the Patrick Henry Charter School, for example, conveyed a "why not" attitude, believing it appropriate to explore alternatives given the less-than-stellar track record of some traditional public schools.[60]

The need to cater to middle-class families also explains the different stances among urban and suburban school officials. Some urban leaders see charter schools as a way of attracting and retaining middle-class families. This use of charter schools can create its own controversy, as the protest over the Patrick Henry School illustrates. But there is undoubtedly a felt need in cities to maintain a middle-class presence in public schools. Many suburbs, by contrast, are already filled with middle-class residents, and charter schools, because of the signals they send about the quality of traditional public schools, may drive some of them away.

Charter schools are thus an interesting political phenomenon. As mentioned, they draw broad and bipartisan support on the national level and in most state legislatures. But charters are not universally embraced at the local level. The general sense one gets, from both the details of state charter laws and trends on the ground, is that charter schools are mostly appropriate for students in failing urban districts. They are rarely viewed or created as a means of offering significant opportunities for interdistrict choice, and they can be greeted with outright hostility when proposed in suburban districts. Charter schools are thus seen by many as an innovative, not to mention relatively low-cost, way of reforming ailing urban school systems. At the same time, they do not pose much of a threat to existing suburban schools.

Save the cities, spare the suburbs. In this sense, charter schools are quite similar to the few existing voucher plans.

Vouchers

Although school vouchers might seem like a new innovation, the basic idea of vouchers—providing funding for students to use at the schools of their choice, whether public or private—is quite old. The intellectual history of vouchers stretches back at least to eighteenth-century luminaries like Adam Smith and Thomas Paine, and to John Stuart Mill in the nineteenth century. Each proposed a system of education funded by the government but not controlled by it. Mill famously argued against requiring that students attend government-run schools, claiming that "a general State education is a mere contrivance for moulding people to be exactly like one another." Contrary to thoroughgoing libertarians, however, Mill thought education should be compulsory and that

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the government should pay the costs for those too poor to afford private school fees. Government schools should exist, if at all, only as "one among many competing experiments."[61]

These libertarian-inspired calls for tuition vouchers went unheeded in this country for well over a century. The common school movement, inspired by Horace Mann and others, was in some ways a complete rejection of the idea that the government should have only a limited role in education. To the contrary, Mann thought government-run and government-funded schools were the path toward social equality and the creation of good citizens. Tuition vouchers would have seemed antithetical to the central idea behind the common school. Vouchers also would have aided those attending Catholic parochial schools, and those in the Protestant-led common school movement had no interest in providing financial support to the Catholic Church or to its schools, as described in more detail in the next chapter.

The Nobel Prize–winning economist Milton Friedman tried to revive the libertarian case for vouchers in 1955, but his timing could not have been worse. He argued that the government's role in education should be limited to providing tuition vouchers and lightly monitoring private schools. According to Friedman, the government should assure "that the schools meet certain minimum standards such as the inclusion of a minimum content in their programs, much as it now inspects restaurants to assure that they maintain minimum sanitary standards." The analogy to restaurants, in retrospect, was probably not the most effective. Friedman's call for deregulating education, moreover, was accompanied by his call to deregulate the training and certification of doctors, which might have made the former seem as radical as the latter. The real problem, however, was that Friedman's proposal coincided with the use of vouchers to avoid desegregation, which tended to preclude dispassionate consideration of Friedman's idea. His proposal went nowhere for decades.[62]

John Chubb and Terry Moe breathed new life into Friedman's cause in 1990 when they published their surprisingly popular book, *Politics, Markets and America's Schools*. They argued that the market, rather than the government, should control schooling and claimed boldly that "reformers would do well to entertain the notion that choice *is* a panacea" for all that ails education. Despite the attention the book received, both favorable and not, the idea of creating a truly market-driven alternative to the public school system never really caught on.[63]

In the meantime, moreover, another intellectual line in the genealogy of vouchers had begun. A little more than a decade after Friedman's call for vouchers, liberal and progressive reformers associated with the War on Poverty began arguing for their own equity-based versions of a voucher plan. Christopher Jencks and Theodore Sizer, two academics, each proposed voucher schemes in

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the late 1960s and early 1970s that would create more opportunities for inner-city students to attend either private or good public schools. Instead of simply creating an unregulated market in education, dominated by private schools, Jencks and Sizer wished to create a highly structured voucher scheme that would rely on public and private schools alike. Both proposed giving poorer students a voucher worth more than ones given middle-income students, in order to cover the greater costs of educating poor students and to "bribe" suburban districts into accepting them.[64]

During the same time period, John Coons and Stephen Sugarman also threw their hats into the voucher ring, even though they were simultaneously pursuing school finance reform. This dual pursuit may seem incongruous, at least at first. Like Jenks and Sizer, however, Coons and Sugarman saw vouchers as a way to equalize educational opportunities by expanding the options available to poor students. They, too, endorsed the idea of providing greater funding to poor students. They also believed vouchers would create pressure to equalize access to funding. It would become harder, they thought, to justify locally based inequalities in spending if students were using vouchers to go to public and private schools within and outside their local districts. Or at least the inequalities would become more visible, which might increase pressure to eliminate them.[65]

Neither the market-based version of vouchers nor its equity-based counterpart has been adopted in pure form. Instead, the few existing voucher plans have elements of each. All essentially provide a limited number of vouchers to poor, urban students (thus reflecting a concern with equity) that can be used at local private schools (thus reflecting belief in private, market-based alternatives to public education). Although something of a compromise, it would be wrong to think that these plans represent an intellectual melding of ideas, with the most promising elements from each model combined into one program. Existing voucher programs are the product of political compromise, not political theory.[66]

There are currently four publicly funded voucher programs—in Milwaukee, Cleveland, Washington, D.C., and across the state of Ohio. Each program targets just a small slice of students and limits eligibility either to poor students, those who attend low-performing schools, or those who are both poor and attend low-performing schools.[67]

Milwaukee's program is the oldest and largest of the four. Created in 1990, it offers vouchers to students whose family income does not exceed 175 percent of the federal poverty guidelines. Roughly nineteen thousand students currently receive vouchers worth a maximum of $6,500. The Cleveland program, begun in 1995, gives first priority to students whose family income is below 200 percent of the poverty guidelines. Roughly six thousand students receive a

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voucher worth, on average, about $2,800. The program in Washington, D.C., started in 2004, offers vouchers worth nearly $7,000 to about nineteen hundred students. To be eligible, family income cannot be greater than 185 percent of the poverty guidelines, and priority is given to low-income students who attend low-performing schools.[68]

The Ohio Educational Choice Scholarship program is the most recent addition to the field and currently the only statewide voucher program. Not all students across the state, however, can participate. To be eligible, students must attend public schools that posted low test scores in two of three consecutive years. No more than fourteen thousand students can receive vouchers in any year, and priority is given to low-income families. Currently, about 6,700 students participate and receive a voucher worth between $4,375 (for K–8 students) and $5,150 (for high school students). Nearly all of the students who participate live in urban districts.[69]

In addition to the four existing plans, two other voucher plans were created in Colorado and Florida, but these were discontinued after courts declared them illegal. Both programs had a structure similar to Ohio's and offered a limited number of vouchers to students in low-performing schools across the state. Colorado's plan capped the total number of students who could participate, and at its peak was projected to include no more than twenty thousand students. Florida's plan did not have an explicit cap, but eligibility limitations worked to severely limit the number of students who could participate. Indeed, a few years after it was created, only fifty-two students were using vouchers to attend private schools.[70]

Given all of the ink that has been spilled over vouchers, it is worth recalling that only about thirty-three thousand students across the country are using publicly funded vouchers. More than twice as many students receive privately funded vouchers, and many more students either attend charter schools or are homeschooled. Indeed, at least forty times as many students are homeschooled as receive publicly funded vouchers.

It is also instructive to consider that most voucher proposals have been rejected, and that every single proposal to create a large-scale voucher program has been soundly defeated. Between 1990 and 1993 alone, for example, fourteen state legislatures considered and ultimately rejected voucher proposals. Voters have not been any more receptive. Voucher or tax-credit initiatives appeared on a number of state ballots in the 1990s, including ones in California, Colorado, Oregon, and Washington. In each case, voters rejected the proposals by wide margins.[71]

School choice proponents have typically blamed these losses on teachers' unions, arguing that the unions generally outspent voucher proponents on

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initiative campaigns. The well-financed opposition of teachers' unions certainly played a role in the defeat of these initiatives. That cannot serve as the sole explanation, however, because voucher initiatives have failed even when supporters have outspent opponents. In a 2001 voucher campaign in Michigan, for example, supporters of the voucher initiative spent $7 million more than opponents. Nonetheless, a proposal to provide a $3,300 voucher to all students in failing schools—which was projected to include roughly 180,000 students—lost by a wide margin. A more recent campaign in California cost supporters and opponents $30 million each, yet the proposal there, to give all students in the state a $4,000 voucher, was crushed at the polls by a margin of 71 to 29 percent.[72]

Even more recently, in 2007, voters in Utah exercised their rarely used right to repeal legislation that had already been passed. The state legislature had enacted a voucher plan that offered vouchers worth between $500 and $3,000 to all students in the state. Voucher opponents secured enough signatures to put the legislation on the ballot, and 62 percent of those who voted rejected the measure, even though voucher supporters outspent opponents by more than $1 million.[73]

Voucher ballot initiatives failed in Michigan, California, and Utah not only, and perhaps not even primarily, because teachers' unions opposed them. They failed because suburbanites did not support them. In explaining the defeat of an earlier voucher initiative in California, in 1993, John J. Miller, associate director of the pro-voucher Manhattan Institute, said simply: "School choice failed in California because Republicans did not want it." He continued:

> Most suburbanites—the folks who make up the GOP's rank and file—are happy with their kids' school systems. Their children already earn good grades, score well on tests, and gain admission into reputable colleges and universities. Moreover, suburban affluence grants a measure of freedom in choosing where to live and thus provides at least some control over school selection. It's not that suburbanites refuse to admit the country's deep education crisis; they just don't believe the problem affects them personally.[74]

Voucher opponents in California exploited these sentiments by arguing that a statewide voucher program would weaken all public schools by taking money away from them and giving it to families whose children were already in private schools. Voucher opponents used similar tactics, with equal success, in fighting ballot initiatives in Michigan and Utah. They convinced suburbanites that a universal voucher program threatened their interest in maintaining high-quality local schools.[75]

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Voucher campaigns have revealed an odd disjuncture between the leadership of the two main political parties and their rank-and-file members. Vouchers are typically associated with the Republican Party, and many Republican leaders do indeed support them. Many suburban members of the Republican Party, however, remain skeptical of large-scale voucher programs. As one high-ranking Republican official explained: "School choice is popular in the national headquarters of the Republican Party but is unpopular among the Republican rank-and-file voters[,] who have moved away from the inner city in part so that their children will not have to attend schools that are racially or socioeconomically integrated." Another person involved in voucher campaigns made a similar point and acknowledged that his "most difficult encounters were casual conversations in living rooms with white, middle to upper-class conservative voters . . . who expressed deep reservations about vouchers."[76]

Those who have worked on similar campaigns in Virginia have noticed the same dynamic. Everyone I interviewed said that it was difficult to push school choice through the state legislature because suburbanites were not interested in it. Suburbanites were dead set against interdistrict public school choice, while they remained leery of private school choice, uncertain about what the ramifications might be. As one person described, "it was hard to get over the WIFM [What's in it for me?] problem." Suburbanites were pleased with their schools and saw no personal benefit to expanding choice options.[77]

The divide between the leaders and members of the Republican Party helps explain why, when push comes to shove, many Republican officeholders back away from large-scale voucher plans. Governor Pete Wilson, for example, came out in opposition to the 1993 voucher initiative in California. Republican Governor John Engler of Michigan opposed the voucher initiative there, as did Republican senator Spencer Abraham. Governor Christine Todd Whitman in New Jersey toyed with a voucher proposal while in office, but she ultimately let it die in the face of legislative opposition from both Democrats and Republicans.[78]

The recent voucher fight in Utah is especially instructive. Governor Jon Huntsman signed the voucher bill there in 2007, after it passed in the legislature by one vote. When the measure was subsequently put on the ballot for voter review, however, Huntsman all but disappeared. In an article in *Education Week* entitled "Voucher Backers: Where is Governor Huntsman?" voucher supporters criticized Huntsman for laying low during the public campaign. As one state legislator explained: "I think the overall feeling is, 'Where is Governor Huntsman? Where is he and why has he backed away and separated himself from this issue?' Because that's what it appears he's done." The answer, suggested a political

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scientist at Brigham Young University, was easy: Huntsman didn't "want to be on the losing side."[79]

President George W. Bush showed similar instincts in the brief fight over whether to include vouchers as part of the No Child Left Behind Act. The White House pushed for this initially, but when Congress pushed back, the president quickly dropped the proposal without a fight. He apparently understood, as his overheard comments at a press conference suggested, that many Republicans had no interest in vouchers because their children were already in good schools.[80]

These examples are important to consider when assessing the claim that voucher proposals fail because teachers' unions oppose them. Given the traditional association between teachers' unions and Democratic candidates, it seems highly unlikely that Republican leaders who opposed large-scale voucher plans were trying to court the teachers' unions. More likely, they were responding to the less than enthusiastic message being sent by their suburban constituents.

The voucher issue is equally interesting when one looks across the aisle to the Democratic Party. There is also a gap there between the leadership and some core constituents, although the arrows point in the opposite directions. Democratic Party leaders generally oppose vouchers, and this stance undoubtedly reflects the influence of the teachers' unions. Younger African Americans, however, consistently express fairly strong support for vouchers.[81]

This support is not altogether surprising. Parents are much more likely to support vouchers when they are dissatisfied with their children's public schools, and African Americans are disproportionately represented in failing, urban school systems. This fact, along with the history of vouchers, also helps explain the generational divide among African Americans. Those older than sixty are more likely to oppose than support vouchers. This group is obviously less likely to have children currently enrolled in K-12 schools, and they are more likely to recall the role of vouchers in massive resistance.[82]

There has yet to be much of a grassroots movement for vouchers in Richmond. The *Richmond Times-Dispatch* routinely calls for vouchers and tax credits on its editorial pages. No local group, however, has been a visible or reliable supporter of vouchers. Some local and state leaders nonetheless believe that there is untapped support for the idea. One school board member, when asked, said that she could not recall parents specifically requesting vouchers. She did say, however, that a number of parents have pointed to all of the failures in Richmond schools and told her that they would like their money back. A state legislator, Chris Saxman, who has been a strong proponent of tuition tax credits, also believes that private school choice would be popular among Richmond

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parents. He recently announced plans to start a grassroots movement in favor of school choice, which he hopes will draw more urban legislators to the cause.[83]

No one, by contrast, is planning to push for vouchers or tax credits in Henrico County. The parents I spoke to found the idea far-fetched for Henrico. One of them, it bears noting, originally lived with her family in Richmond but moved out to Henrico when her children were ready to attend school. She did so because she believed the public schools in Henrico were superior. Like so many other suburban parents, she and her husband had already exercised school choice by moving to Henrico; once there, they understandably saw little need for a formal school choice program.[84]

PULLING TOGETHER THE POLITICS OF CHOICE

The pattern of school choice programs, whether public or private, suggests that suburbanites are the key constituents. Suburbanites strongly support local control over student attendance, as demonstrated by their resistance to interdistrict desegregation. Suburbanites also support local control over local revenues, as demonstrated by the myriad battles over school finance reform and the intense opposition to revenue sharing. Most choice plans, in turn, involve choices within single school districts, and districts where choices are available tend overwhelmingly to be urban ones.

Plans that allow for interdistrict choice are not only less prevalent but almost always contain restrictions designed to protect the autonomy of local school districts. Districts can usually opt out of participating altogether or limit transfers on the basis of lacking space for them. Plans that *require* suburban schools to accept urban students are exceedingly rare and usually quite limited in scope.

Charter schools, by practice or design, are most often found in urban districts and enroll local students. Three of the four voucher plans, meanwhile, specifically target poor, urban students, while the fourth operates much the same way in practice. All four essentially limit the use of vouchers to private schools, mostly if not entirely located in cities.

All of these plans protect the ability of suburban parents to send their children to local public schools, limit the ability of city students to attend suburban schools, and limit the extent to which suburban schools have to spend money on outsiders. At the same time, the plans represent some attempt to reform urban school systems and to improve the opportunities available for students

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currently stuck in failing city schools. In other words, this is Nixon's compromise all over again: Save the cities, this time through school choice, but spare the suburbs.

At the same time, it is important to recognize that there are not many groups currently working to expand school choice to the suburbs or to use it as a way to increase integration, either along racial or socioeconomic lines. There are few organized groups, for example, working to expand interdistrict public school choice programs. There is plenty of organized support in favor of expanding charter schools and vouchers, but those who support expansion express little interest in using choice to increase racial or socioeconomic integration. They are attracted to the promise of competition or alternative pedagogical approaches, not to the benefits of integration.

Groups that remain committed to integration, by contrast, do not fully embrace school choice in all its forms. Some individuals and foundations, most notably the Century Foundation, embrace public school choice as a means of achieving socioeconomic integration. But they remain opposed to vouchers and are somewhat wary of charter schools. Traditional civil rights groups have steadfastly opposed voucher plans. Several years ago, for example, the NAACP partnered with People for the American Way for the stated purpose of preserving public education. The partnership's main activity, however, was fighting against vouchers. One sees a more local example in the opposition of Richmond's NAACP leaders to the Patrick Henry School.[85]

Absent from the field is any sort of broad-based coalition among those who favor expanding school choice and those who favor increasing integration. One sees tentative steps in this direction: Bill Taylor, a veteran of the civil rights movement and lead litigator in some important desegregation cases, recently coauthored a thoughtful article proposing ways to use charter schools and vouchers to enhance racial and socioeconomic integration. Choice and integration advocates, however, generally remain in divided camps, each somewhat suspicious of the other's activities and motives. Those who favor integration tend to doubt the sincerity of conservatives and libertarians who claim to favor vouchers as a way of helping poor, minority students. Why, they wonder, have these choice advocates suddenly become so concerned about equal opportunity for the poor, and if they *are* so concerned, why are they not also pushing to open good suburban public schools to inner-city students? Conservatives and libertarians, in turn, recoil at the idea of structuring school choice to enhance integration, believing that this involves too much coercion. Given the strength of suburban voters and legislators, it is not clear whether even a strong push toward expanding school choice into the suburbs would be successful. As it stands, however, no one is pushing that hard.[86]

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Recent developments in Milwaukee illustrate many of these themes. The story of the Milwaukee voucher program is fairly well known, at least in school choice circles. In the late 1980s, Annette "Polly" Williams, a liberal African-American state legislator, teamed up with Republican leaders to launch a pilot voucher program in Milwaukee. Williams pushed the choice program in part because she was fed up with school desegregation in Milwaukee, which she believed was unfair to blacks and educationally ineffective. Indeed, before proposing the voucher program, she favored carving out an all-black school district in Milwaukee that would be run by African-American leaders.[87]

Williams was not interested in using choice to encourage more integration, nor were her Republican allies. Civil rights groups that remained committed to racial integration, by contrast, opposed the plan. With this line up, it is not surprising that the voucher plan was limited to private schools in the city; no one was pushing to allow vouchers to be used at suburban schools.[88]

Most accounts of the voucher program suggest that it was offered as an alternative to the failed attempt to desegregate Milwaukee's schools, and the participation of Williams is highlighted as proof that African Americans have turned their backs on integration. But this is not exactly right. What never makes it into the conventional tale is that the Milwaukee metropolitan area has operated a voluntary desegregation program for roughly thirty years. Known as the Chapter 220 plan, this program allows a limited number of Milwaukee students to attend suburban schools that have volunteered to accept them, while also allowing some suburban students to attend city magnet schools.[89]

The program began in 1976 as a voluntary measure and then in the mid-1980s was folded into the settlement of a school desegregation case. That settlement expired in the mid-1990s, but the program has continued. It has not exactly thrived, however, and in fact has been curtailed over the years. In 1993, roughly six thousand students participated; now, only about three thousand do.[90]

The cutbacks cannot be explained by a lack of interest on the part of city students and their families—the program has a waiting list. Nor could one say the program has been ineffective. An audit of the program found that students who used Chapter 220 to transfer to the suburbs performed better on statewide tests than those who remained in Milwaukee, including those who tried to transfer but did not win the lottery for participation. There is no evidence that vouchers have been more effective at boosting achievement than Chapter 220. Moreover, a number of suburban students, parents, and officials who were involved in the program have accepted and even embraced it over time.[91]

The cutbacks seem due instead to the cost of the program, as well as a lack of enthusiasm among state legislators for helping city students attend suburban schools. The program is expensive because the state pays both the full per-pupil

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amount to the receiving districts and a hold harmless amount to Milwaukee, which represents about three-fourths of the amount of state aid Milwaukee would receive if each student remained within the district. The payments to both districts were necessary to secure their support, but the high cost of the program has made it a perpetual target for cutting. Vouchers—which are now worth about $6,500 in Milwaukee—are much less expensive. They also keep city students in the city. Both factors help explain why Chapter 220 has shrunk to cover three thousand students, while the voucher program started with one thousand students and has grown to cover more than eighteen thousand.[92]

The lesson from Milwaukee is not that school integration in general, or urban-suburban integration in particular, is a failure. Nor has it lost all support among African Americans or suburban whites. Milwaukee suggests that there is continued support for such programs, more so among those who have participated in them. At the same time, however, there is obviously stronger support in Milwaukee for school choice limited to inner cities. What is true in Milwaukee is true elsewhere, which helps explain the current shape of school choice programs.

CONCLUSION

One lesson to draw from studying school choice is that politics trump ideology. Despite the ideological appeal of school choice to many conservative Republicans, the politics of education have precluded many of them from embracing it wholeheartedly. The need to court suburbanites outweighs the desire to translate attractive theories into concrete policies. Thus, instead of choice plans that conform to academic theory about the benefits of competition and markets, we have choice plans that conform to the political realities of educational opportunity.

The dominant reality is that suburban local control must be preserved, regardless of the reform. The need to preserve local control has been used by conservative majorities on the U.S. Supreme Court as justification for limiting school desegregation and school finance reform. It would be easy to think on the basis of these examples that protecting local control is a way to limit "liberal" education reforms that would otherwise require measures like racial integration or the equalization of funding. But the example of school choice shows that preserving local control—and, more specifically, protecting the suburbs—can also hamper reforms more closely associated with conservatives than liberals. To be sure, the protection of local control is less visible and explicit in

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debates about school choice than it has been in court cases about desegregation or school finance. But it has been no less influential. School choice has been shaped in ways that leave suburban local control largely intact. Choice touches, if lightly, some cities, but it mostly steers clear of the suburbs.

What remains to be examined is the impact of choice on the ground and the role that courts have played in this context. What effect will limited school choice programs have on the students who exercise choice and those who remain behind? Will this particular manifestation of Nixon's compromise—offering choice programs as a way to improve city schools while not threatening suburban ones—work to close the urban-suburban gap in educational opportunities? And what, if anything, have courts done to encourage or discourage school choice? It is to these questions that the next chapter is addressed.

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