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# News Release

## From Seattle Public Schools

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**Supreme Court Rules in *PICS v. Seattle School District*  
*Court Upholds Diversity as a Compelling Government Interest*  
*Provides guidance to District as to what can be done going forward***

On Thursday, June 28, the Supreme Court issued its opinion in *Parents Involved in Community Schools (PICS) v. Seattle School District No. 1* and *Meredith v. Jefferson County (Kentucky) Board of Education*. The two cases were heard together, and are widely considered to be the Court's most significant decision on segregation in public education in many years.

The Seattle case speaks to whether local school boards may use race as one of the tiebreakers in student assignment to oversubscribed schools. The District utilized this method from 1999 until the 2002-2003 assignment cycle, when the use of the tiebreaker was suspended pending outcome of the case.

The U.S. Supreme Court issued a divided 5-4 opinion this morning in the *PICS v. Seattle School District* and *Meredith v. Jefferson County Board of Education* cases. Chief Justice John Roberts drafted the majority opinion which was joined by Justices Alito, Thomas, Scalia, and in part by Justice Kennedy. Justices Kennedy and Thomas wrote concurring opinions; Justices Breyer and Stevens issued dissenting opinions, which were joined by Justices Ginsberg and Souter.

The five members of the Court (the dissenting Justices and Justice Kennedy) did agree that achieving racial diversity in public schools remains a compelling government interest. This means that School Boards may, within limits, take voluntary measures to prevent segregation in their schools.

The majority of the Court (the Chief Justice, and Justices Alito, Thomas, Scalia and Kennedy) ruled that the steps taken by the Seattle and Jefferson County School Districts were not narrowly tailored, thus did not pass the constitutional bar of strict scrutiny. The Chief Justice wrote that the two Districts had "failed to provide the necessary support for the proposition that there is no other way than individual racial classifications to avoid racial isolation in their school districts." The Majority did opine that a multi-factor admissions system that includes race as one factor, which is aimed at achieving diversity, remains constitutionally acceptable.

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Justice Kennedy's concurrence -- which becomes the key opinion on the issue -- set forth what will likely be acceptable going forward:

"In the administration of public schools by the state and local authorities it is permissible to consider the racial makeup of schools and to adopt general policies to encourage a diverse student body, one aspect of which is its racial composition. School boards may pursue the goal of bringing together students of diverse backgrounds and races through other means, including strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance, and other statistics by race. These mechanisms are race conscious but do not lead to different treatment based on a classification that tells each student he or she is to be defined by race, so it is unlikely any of them would demand strict scrutiny to be found permissible."

This means that the Seattle Public School's *Southeast Education Initiative* and popular programs like a dual-language immersion program at Concord Elementary School and the International Baccalaureate program at Chief Sealth High School are within the limits of the Constitution and do not need to pass the highest level of constitutional scrutiny to be lawful.

Justice Kennedy also wrote that he believed that there could be situations where "the assignment of individual students by race is permissible because there is no other way to avoid racial isolation," but that was not proven by either school district in this case.

"We are pleased that the Supreme Court upheld the concept of the compelling interest of the State in diverse schools, and gratified that the Court upheld the overall goal of local school districts taking steps to offer a racially and ethnically diverse student body," said Superintendent Raj Manhas. "Students and families tell us how strongly they value diversity in schools, and it is one of the treasures of public education in Seattle."

"Our community believes that the opportunity to learn with friends and peers from other cultures, races and backgrounds is a valuable part of the American educational experience," said Manhas. "By working in teams and interacting day-to-day with individuals different from themselves, students learn to respect themselves and others. They also learn how to function in an increasingly global community. Collaboration is the way of the future, and these are skills best learned early in life."

"Every child in the city must have access to an equitable – and excellent – education system," said Manhas. "We are very pleased that our ongoing efforts to work toward this goal were called out in today's Supreme Court decision as permissible measures to achieve diversity in public schools. We know that there is significant work to be done to have every school in our city achieve at a consistent level of excellence. That is why we have a clear and focused academic vision, accompanied by realistic milestones that guide us along the way."

"That is why," said Manhas, "we have prioritized our budget dollars to fund key academic initiatives that will help all students reach those milestones. These include projects such as the K-2 classroom library initiative; 'Writers in the Schools,' at middle school; math curriculum adoption at elementary and middle school; Pathways, the International Baccalaureate and  
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increased Advanced Placement opportunities at high school; and the *Southeast Education Initiative*, which commits to three years of additional central support, funding and teaching positions to Rainier Beach and Cleveland high schools and to Aki Kurose Middle School.”

The Court’s decision provides important affirmation of the rights of School Boards in setting policy. “The Court has upheld the right of local school boards to set policy that is appropriate for the local community,” said Cheryl Chow, Seattle School Board President. “Our system is focused on academic excellence and equitable access to high quality programs for every student.”

“The goal of every member of the Board is to establish policies and procedures that move us toward that goal as quickly as possible,” said Chow. “While we have been anticipating the Court’s guidance on the use of race in making student assignment decisions, Seattle Public Schools has not stood still. We have taken action through initiatives and programs to ensure equitable access to excellent programs for all our students. We are very pleased that these are the types of measures the Court specifically allowed in today’s decision.”

The Seattle School Board is engaged in a comprehensive review of the Student Assignment Plan, which began in fall 2006. Background on the review is provided below. “The Student Assignment Plan is a key policy in relation to creating pathways for academic excellence,” said Chow. “The Board will consider the Court’s decision, and specific guidance, as we continue the plan review. We have not discussed as a board how the Supreme Court decision would weigh in to the policy review. What we do know is that all of us desire a student assignment plan that supports students, families, and above all, the academic achievement of all students.”

“As we ponder this decision, we must also see it as a chance to take stock of how our children are really doing,” said Superintendent Manhas. “This includes asking the questions: Why are there such persistent gaps in children’s preparation for school?, Why do some groups of children flourish amid the array of educational opportunities offered by public schools while other groups struggle to meet standards, stay in school, and graduate? Even as our students in Seattle overall outperform their peers across our state, trends for specific groups of children in Seattle mirror national trends.”

“The children caught at the intersection of race and poverty are the children who stand to benefit the most from strong public schools, and they are the children our entire community most needs to nurture so that they have what they need to live up to their promise,” said Manhas. “All of our children need to come to school fed, housed, safe from harm, and supported by caring adults involved in their education. This is the vision of a strong and vibrant community that has been unique to the American experience. Not a people divided by race and class, but a people united in our belief in the role excellent public education can play in every child’s life.”

### **Student Assignment Plan Review**

#### **Framework Adopted by Board on June 20**

The current Student Assignment Plan in Seattle Public Schools is based on the Open Choice Plan that was adopted in 1996, and applied first to elementary schools (1998-99), then to secondary schools (1999-2000). Although there have been numerous modifications over the years, this is still the basic plan that governs student assignment in Seattle today.

In fall 2006, the Superintendent and the School Board began a comprehensive review of the plan. The goal is to adopt a plan that supports academics, is easier for families to understand and manage, and results in cost savings. The review process included more than 20 board committee meetings, work sessions, extensive study of data related to student assignment, and an extensive community outreach process.

On June 20, the school board approved a framework for a new student assignment plan. Hallmarks of the framework include predictability, continuity and choice. The next steps in developing the plan include a review of elementary reference area boundaries, development of elementary clusters to feed into middle schools, development of designated high school assignment areas to provide assignment predictability to a nearby school if requested as first choice, in conjunction with designation of seats for Open Choice; and a review of tiebreakers for choice across the K-12 spectrum. Review of tiebreakers includes factors that could be used as tiebreakers, as well as the order in which they could be applied. The process also includes development of a timeline for implementation steps, and continued community outreach as the elements of the plan are developed.

### **Southeast Education Initiative**

Recognizing that equitable access to high-performing schools will be a central part of the revised assignment plan, *The Southeast Education Initiative* is part of the new Student Assignment Plan framework. *The Southeast Education Initiative* will provide District-level support to certain schools in the southeast region of our city, with an initial focus on Rainier Beach High School, Cleveland High School, and Aki Kurose Middle School. This includes identification of specific support for 2007-2008, as well as more comprehensive planning in conjunction with schools and their Communities for additional specific initiatives to begin in 2008-2009.

### **Background on *the PICS v. Seattle School District* Case and Overview of Evolution of Student Assignment in Seattle Public Schools**

A document follows that includes a review of the background of this case since July 2000; and an overview of student assignment plans in Seattle Public Schools since the 1960's.

## **Case Background**

**Case: *Parents Involved in Community Schools (PICS) vs. Seattle School District No. 1*, 05-908**

**July 2000:** Organization of primarily Magnolia and Queen Anne area parents files a suit claiming that the District is violating both state and federal law by considering racial diversity as a factor in its assignment of students to oversubscribed high schools.

**April 2001:** United States District Court upholds the District's consideration of racial diversity as a factor in its assignment of students to oversubscribed high schools, ruling that the District did not violate Initiative 200 (Washington's Anti-Affirmative Action Law passed in 1998) or the United States Constitution.

**April 2002:** A three-judge Ninth Circuit Court of Appeals panel overturns the District Court ruling that the consideration of racial diversity violated I-200.

**June 2002:** The Ninth Circuit withdraws its April decision and sends a certified question to the Supreme Court of Washington asking that it determine if the District's assignment plan violated I-200.

**June 2003:** The Supreme Court of Washington, in an 8-1 ruling, concludes that the District's consideration of racial diversity as a factor in its assignment of students to oversubscribed high schools does not violate I-200. The Court also states that they believe the District's plan to comport with the Constitutions of both Washington and the United States. The case then returns to the federal court system to resolve the remaining constitutional claims.

**July 2004:** A three-judge Ninth Circuit Court of Appeals panel rules, in a 2-1 decision, that the District's assignment plan violates the Equal Protection Clause of the United States Constitution.

**June 2005:** A majority of the active Ninth Circuit Court judges decide that the case should be heard a panel of 15 judges, mooting the July 2004 ruling.

**October 2005:** The en banc panel rules in favor of the District, concluding that the District's consideration of racial diversity as a factor in its assignment of students to oversubscribed high schools does not violate the Equal Protection Clause of the United States Constitution.

**June 2006:** The US Supreme Court agrees to hear the case.

## **Details Regarding the Racial Tiebreaker and Its Use**

Over the last 40 years the District has used a series of measures to address *de facto* segregation (segregation based upon in fact, as opposed to segregation based upon deliberate government action) in its schools.

- Late 1960's and Early 1970's
  - Voluntary transfer program
  - Mandatory elementary school transfer program
  - Middle school assignment program with racially balanced attendance zones
- 1977
  - Seattle Plan.
    - Creation of racially balanced attendance zones and mandatory student busing
- 1988
  - Controlled choice.
    - Families chose from two or more schools within geographic zones
    - Neighborhoods in north (predominately white) and south (predominately minority) Seattle were paired into zones.
    - Assignment based factors including whether or not a school reflect District student demographics
    - Enrollment lids and transfer restrictions prevented the transfer of students if the school's demographics became more imbalanced, even if space was available.
- 1996
  - Open Choice Plan
    - 1998-99. Elementary schools. Families could send their children to any school in the District
    - 1999-2000. Secondary schools now available to families District wide.
- If a school was over-subscribed (more students requesting school then room for), a series of tiebreakers would be used. Tiebreakers are used for students entering kindergarten, sixth grade and ninth grade. They were:
  - Sibling Preference – Requesting student's sibling already enrolled at school
  - Racial Tiebreaker – If the school was more than 15% plus or minus out of balance with district's overall racial make-up of 40% white to 60% minority, race was used.
  - Distance – Students living closure to the school were given preference

In 2001-2002 school year, 300 students were impacted by the racial tiebreaker. 210 were white and 90 were minorities. In 2001, Ballard High had a make up of 43.2% minority students and in 2005 the minority population decreased to 38%. In 2001, Franklin High had a make up of 79% minority students and in 2005 the minority population increased to 90%. The racial tiebreaker helped some white students get into predominately minority schools and vice versa. Due to the continuing legal battle, the District discontinued the use of the racial tiebreaker prior to the start of the 2002-03 school year.

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