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School Desegregation and Federal Inducement: Lessons From the Emergency School Aid Act of 1972

Emily M. Hodge

Abstract
This study uses the example of the Emergency School Aid Act of 1972, a federal desegregation incentive program, to discuss the benefits and challenges of equity-oriented incentives. This study applies theories of policy instruments and the social construction of target populations to congressional records, archival program materials, and other historical sources to trace the origin and evolution of the incentives and mandates built into the Emergency School Aid Act. The study ultimately concludes that the program’s combination of a financial incentive with rigorous oversight offers lessons for how to incorporate equity-oriented incentives into current education policy.

Keywords
desegregation, education policy, incentives

Scholars have sounded alarm bells about the rise of school resegregation for decades, as many districts under court-ordered desegregation plans have been declared unitary, released from their court orders, and subsequently

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resegregated (e.g., Clotfelter, 2004; Orfield & Eaton, 1996; Orfield & Frankenberg, 2014; Reardon, Grewal, Kalogrides, & Greenberg, 2012). In addition, many districts were declared unitary not because they were ever fully integrated, but because the Court believed the district made a “good faith” effort to become unitary (Freeman v. Pitts, 1992) or erased segregation “to the extent practicable” (Board of Education of Oklahoma City v. Dowell, 1991). Court decisions like these, as well as the more recent Parents Involved (2007) decision curtailing the use of race in student assignment, continue decades of Court decisions limiting the extent to which districts are required—and able—to create classrooms and schools that reflect the racial and ethnic diversity of their larger metropolitan areas.

Many scholars trace this judicial retrenchment in school desegregation policy, in large part, to Richard Nixon: Nixon’s four Supreme Court nominees led the way in turning back the clock on earlier school desegregation decisions, beginning with the 1974 Milliken v. Bradley decision that limited the metropolitan remedies available to urban districts (Chemerinsky, 2005; Orfield, 1996; Siegel-Hawley, 2013a, 2013b). Ironically, however, the same president that both historians and civil rights scholars describe as toxic to school desegregation also proposed a federal package of desegregation assistance in 1970, the Emergency School Assistance Program, to meet the “emergency” of school desegregation in the South. This manuscript explains this contradiction, drawing on theories of the social construction of target populations (Schneider & Ingram, 1993) to explain how Nixon initially proposed a policy that placed few burdens on White districts in the South, while Congress altered the program to include far more stringent school desegregation requirements when it was passed in 1972 as the Emergency School Aid Act (ESAA). Furthermore, this manuscript explains the structure and funded programs of the ESAA, with the goal of providing practical examples of how future education legislation could incorporate incentives focused on equity. Although the 1970s and the 2010s are different historical contexts and cannot be directly compared, the historical example of the ESAA is nonetheless instructive for considering the structure and function of equity-oriented incentives.

I first discuss the context of metropolitan segregation today, the benefits of integration, and the importance of a federal role in promoting integration across metropolitan areas. Then, I provide an overview of existing literature on the Emergency School Aid Act and explain this study’s theoretical framework: Schneider and Ingram’s (1993) social construction of a policy’s target population. In brief, Schneider and Ingram argue that policy design is influenced by how policy makers believe society at large views a policy’s target population (the group of people at whom a policy is directed and whose
behavior the policy is intended to change in some way). They also argue that policy makers’ actions are shaped by how they believe particular groups will view a policy—with special attention to groups that may influence the outcome of the next election. As applied to the ESAA, I argue that once elected, the impending 1972 election motivated Nixon to quell growing unrest over school desegregation and that Nixon saw the ESAA as a way to appease both Southern conservatives and Northern liberals. Nixon’s desire to appeal to the South guided the initial structure of the program: grant funds sent to the South with little oversight. However, from the North’s point of view, Nixon still seemed to be supporting desegregation by providing the funds at all.

Next, I provide an overview of how the ESAA legislation evolved, drawing again on Schneider and Ingram’s (1993) theory of the social construction of target populations to explain how the program developed from Nixon’s original, toothless aid program into the legislation that Congress passed and later revised over the 1970s, largely due to a coalition of senior liberals in the Senate. Like Nixon, these senators saw White Southern districts as powerful, but because they were mostly from Northern states, their constituents had a largely negative view of Southern school districts. Therefore, they were able to usher through more stringent desegregation and review requirements than were found in the initial aid program. The combination of a financial incentive combined with pre-grant reviews and site visits was reportedly a potent one in both inducing and maintaining desegregation. Thus, the unintended consequence of Nixon’s initial aid program was a decade-long federal grant program that supported numerous desegregation efforts in the South—but also in the North and West—and more importantly, provided a financial incentive for districts across the country to fully desegregate, regardless of whether or not courts were involved. Then, I will provide an example of both the possibilities and limits of the ESAA to achieve desegregation using the example of New York City. Finally, I will discuss the implications of the ESAA for desegregation efforts at the time and today, as well as the general lessons the program offers about the power of financial incentives to motivate educational reform.

**Literature Review**

*The Benefits of Integration*

Reviews of the research literature on desegregation (e.g., Linn & Welner, 2007; Mickelson & Nkomo, 2012) summarize the short- and long-term benefits of integrated schools for students of all races, but especially for students from minority backgrounds. For instance, Black students in desegregated
schools are less likely to drop out of high school and more likely to graduate (Guryan, 2004; Saatcioglu, 2010; Schofield, 2001). Minority students attending racially diverse schools are also more likely to attend college, perhaps because desegregated schools often have high quality teachers and access to advanced curricula (Darling-Hammond, 2010; Mickelson, 2006). There are also important benefits to society when students of all races attend desegregated schools. Students who experience racially diverse school environments have more friends of different races as adults and are generally less prejudiced (Pettigrew & Tropp, 2006). Furthermore, students of all races who experience racially diverse school environments are more likely to seek out racially diverse communities as adults (Wells et al., 2009; Wells & Crain, 1994).

**The Importance of Metropolitan Desegregation Solutions and a Federal Role in Incentivizing Such Solutions**

As the judicial commitment to school desegregation has gradually waned since the 1970s, national demographic changes have resulted in a highly diverse student population. In 2011, public school enrollment nationwide was composed of 51.5% White students (down from about 80% in 1968), 15.4% Black students, 5.1% Asian students, 24.3% Latino students, 1.1% Native American students, and 2.5% students identifying as multiracial (Orfield & Frankenberg, 2014, p. 9). Although the school-age population has become increasingly diverse, school district boundary lines have become increasingly fragmented, or divided, in ways that end up concentrating the effects of poverty and increasing school segregation (Bischoff, 2008). These demographic and spatial trends have increased the challenge of creating equity across school district boundary lines, while policy makers’ attention has increasingly focused on other equity strategies—namely, choice and standards—rather than on court-ordered desegregation as strategies to increase access to high-quality educational opportunities. School choice is often framed as a way to provide students in low-income and/or segregated school environments with higher quality schools, and districts sometimes use magnet schools or controlled choice plans as a strategy to increase diversity through voluntary means (McDermott, Frankenberg, & Diem, 2014). Such strategies can be considered “race-neutral” (Bonilla-Silva, 2010), when they are implemented in ways that do not take students’ race into account when making decisions about student enrollment, but these strategies can be difficult to implement in ways that increase integration across a metropolitan area when politically powerful middle- and upper-class residents frequently resist changes to school enrollment plans (McDermott et al., 2014).
Given the difficulty of metropolitan desegregation in this context, what policy options remain? Siegel-Hawley’s (2013a, 2013b) study of the ways that four metropolitan areas sought to “mitigate Milliken” suggests that regional solutions are key to school desegregation; regional solutions might take the form of consolidation, annexation, inter-district transfer programs, regional magnet and charter schools, and/or careful site selection of new suburban schools. Like Siegel-Hawley, many scholars promote expanding inter-district choice programs, such as those that exist in St. Louis, Omaha, and Rochester (Finnigan & Stewart, 2009; Kahlenberg, 2001; Wells & Crain, 1997). Holme and Finnigan (2013) explored the benefits and drawbacks of different relationships between cities and the surrounding areas as solutions to between-district segregation in metropolitan areas (they discuss annexation; consolidation; school and/or housing mobility programs, such as inter-district transfer programs; and metropolitan governance reform). However, Holme and Finnigan conclude that there are few incentives currently in place for suburbs to participate in any of these arrangements. Similarly, Wells et al.’s (2009) study of inter-district transfer plans in the highly fragmented districts of Long Island pointed out that such plans are not likely to be expanded without state or federal support. The ESAA, as the only large-scale federal program to date to explicitly incentivize metropolitan solutions, provides an example of how federal support might be organized.

Many scholars agree that increased state and/or federal funds to incentivize metropolitan solutions would be an ideal policy solution to increase equity. Legal scholar Kimberly Robinson (2014) has proposed that equity-oriented incentives be included in a reauthorization of Elementary and Secondary Education Act (ESEA). Similarly, DeBray and Blankenship (2013) agree that Congress should “incentiv[ize] equality of opportunity” (p. 25, emphasis in original) and take up the question of whether state or federal support for desegregation incentives is politically viable. They point out that there is precedent for such incentives, both through the 2009 Technical Assistance for Student Assignment Plans (TASAP) program (authorized under Title VI of the Civil Rights Act) as well as through the ESAA (DeBray & Blankenship, 2013). Similarly, Gary Orfield has repeatedly pointed to the effectiveness of the ESAA as a desegregation solution and has suggested that a similar program be enacted today (e.g., Orfield, 2007a).

Despite these calls, however, very little is known about the details of the Emergency School Aid Act. Thus, this article is, in large part, descriptive, tracing the origin and development of the ESAA, as well as providing information about some of the ESAA-funded programs such as inter-district transfer plans and human relations curricula. An in-depth look at the Emergency School Aid Act is well warranted and long overdue; though the
ESAA was established at Nixon’s suggestion, Nixon historians have tended to overlook this federal grant program, whereas desegregation scholars generally speak highly of the ESAA but gloss over the details of how the program worked.

**Nixon’s Reputation on Civil Rights**

In general, historians and desegregation scholars consider the Nixon era toxic to desegregation efforts. For example, Richard Kluger (2004) wrote, “No one could mistake Richard Nixon for a friend of America’s people of color” (p. 761). Nixon biographer Stephen Ambrose (1989) wrote that “Nixon had to be hauled kicking and screaming into desegregation on a meaningful scale, and he did what he did not because it was right but because he had no choice” (p. 407). Similarly, Gary Orfield (1975) described the Nixon administration as “a movie running backwards,” as Nixon weakened judicial enforcement, appointed four conservative Supreme Court judges, and repeatedly blocked the use of busing as a desegregation remedy (pp. 116-117).

Traditionally, the executive branch under President Johnson has been seen as a powerful, responsive advocate for civil rights (Frankenberg & Taylor, 2015). For example, although the Johnson administration promptly responded to questions and concerns from Southern Congressman, their concerns did not affect civil rights enforcement, as they did when Nixon entered office (Orfield, 1975). As the executive branch under Nixon equivocated on school desegregation enforcement and openly opposed busing, and as Nixon’s Supreme Court appointees limited the extent to which districts should desegregate, Congress has been portrayed as the only branch of government to remain a staunch advocate of civil rights during the 1970s (Frankenberg & Taylor, 2015; Orfield, 1975).

However, several historians do offer sympathetic portrayals of Nixon’s civil rights record, such as Tom Wicker and Joan Hoff, who give Nixon some credit as a racial moderate who worked behind the scenes to advance desegregation. Similarly, political scientist Gareth Davies (2007a) argued that Nixon’s repeated emphasis on law and order, rather than on the “moral imperative of racial justice” (p. 380) allowed the South to save face and desegregate more rapidly. In general, however, historians and desegregation scholars view the Nixon era as unsupportive of civil rights and a time of retrenchment in desegregation policy. In this context, Nixon’s suggestion to provide funds to support school desegregation can initially seem paradoxical, although I will argue here that Nixon’s stance makes sense given his desire to appeal to White districts and quell unrest over desegregation before the 1972 election.
Previous Literature on the Emergency School Aid Act

Little has been written about the ESAA’s structure and funded programs, though Gary Orfield (1975) described the legislative process of the ESAA in great detail in *Congressional Power and Social Change*. The current literature on school desegregation, when mentioning the ESAA at all, tends to refer to the program’s effectiveness without going into detail. In more recent work, Orfield often mentions the ESAA in passing, saying that it had “substantial research evidence of benefits to schools” (Orfield & Eaton, 1996, p. 25) and “made a substantial difference for both achievement and race relations” (Orfield, 2007b, p. 3). The sources cited for this claim are large-scale, quantitative program evaluations from the 1970s conducted by the RAND Corporation and System Development Corporation (SDC; for example, Coulson, 1975, 1976). The ESAA evaluation reports are emblematic of federally sponsored education research of that era, in that they were designed to use quantitative methods to measure the effectiveness of compensatory education in raising student achievement (Lagemann, 2000). Therefore, ESAA evaluations generally focused on the school-level relationship between receipt of ESAA funds and student achievement, with some attention to measuring the racial climate of schools.

However, controversy surrounded the proposed measurement of human relations, which was a student survey using the racial categories of “White,” “Black,” and “Brown” students. The elementary school survey featured questions such as, “Do you think Brown students in this school cause more trouble than other kinds of students?” with answer choices, “Yes,” “No,” or “There are no Brown students in this school” (“Elementary School Questionnaire,” 1973). This controversy was strongest in New York City, where the Puerto Rican community publicly protested the use of the term “Brown” as a term for referring to Puerto Rican students (Monserrat, 1973). The human relations studies were tabled while a new survey of intergroup relations could be constructed, and the human relations evaluations were not administered until 1977-1978 (Longshore, 1983). The majority of the evaluations conducted and published in the 1970s, then, focused on the relationship between ESAA funds and achievement.

Coulson’s (1977) evaluation of the ESAA did demonstrate an increase in student achievement in elementary school by the third consecutive year a school received ESAA funds. The evaluations also demonstrated an increase in the number of staff focused on remedial instruction in reading and math and an increase in general per-pupil expenditures—both factors that Coulson speculated were related to the increase in student achievement. As the 1970s progressed, U.S. Department of Education annual evaluations demonstrated
a greater proportion of the funds being used for human relations activities (e.g., staff training on intergroup relations; “Annual Evaluation Report, Volume II, Fiscal Year 1980,” as cited in Stedman, 1982). However, evaluations also noted that ESAA funds increasingly went to support general school district budgets as the 1970s continued, rather than districts’ needs specifically related to school desegregation (Smith, 1978; U.S. General Accounting Office, 1978). Districts with older desegregation plans (presumably no longer in a state of “emergency”) were still supported by the ESAA, and states could give money that they received from ESAA basic grants to districts of their choice, rather than those with the most urgent desegregation need.

However, none of these reports, even those that focused on human relations (e.g., Longshore, 1983), rather than the ESAA’s effects on student achievement, looked at the structural aspects of the ESAA as a desegregation tool. For this reason, an examination of the components of the ESAA is well warranted.

**Theoretical Framework and Data**

Structurally, the ESAA was a hybrid of several policy tools (McDonnell & Elmore, 1991). Composed primarily of an inducement, ESAA grants provided a financial incentive for districts to desegregate. In addition to the financial incentive, Congress added a series of desegregation mandates to the ESAA in 1972 to ensure that districts were fully desegregated before receiving federal funds. The program’s use of a voluntary incentive allowed the ESAA to address de facto segregation in the North and West, where court orders were not possible as a remedy to de jure segregation. In addition, the pre-grant reviews conducted by the Office of Civil Rights (OCR) often required more stringent reforms than might have been made by a court-ordered plan, such as implementing bilingual education plans or correcting the over-identification of minority students for special education. It is not only the combination of the policy tools themselves that make the ESAA unique, however, but the ways in which those tools worked together to change the behavior of White districts and promote desegregation.

**The Social Construction of Target Populations**

Anne Schneider and Helen Ingram (1993) elaborated on existing theories of policy tools by investigating the relationship between how society views the target population of a policy, or the group at which a policy is directed, and the design of a policy itself. Schneider and Ingram propose four categories of target populations, each of which tends to receive certain kinds of policy
tools over others. The “advantaged” are privileged groups who society tends to view positively (such as the AARP), whereas “contenders” are powerful groups who are seen more negatively, such as “big Pharma.” “Dependents” and “deviants” are Schneider and Ingram’s terms for target populations with less power, the former with a positive social construction (e.g., mothers and children) and the latter (e.g., suspected terrorists) with a negative social construction. As one might expect, those who are viewed positively (advantaged and dependents) tend to receive policies with more benefits (although policies for dependents are generally paternalistic), and those who are viewed negatively (contenders and deviants) receive policies with more burdens. The advantaged often receive policies with incentives and capacity-building policy tools, whereas those groups constructed as deviants frequently receive mandates or have their rights otherwise curtailed.

The examples listed above, of course, represent stereotypical images of certain groups, but social constructions are neither universally held perceptions of particular groups nor fixed categories. Schneider and Ingram (1993) acknowledged that social constructions are fluid and depend on one’s perspective (p. 335). For example, welfare recipients may be construed as either “lazy” or “disadvantaged” depending on one’s point of view, and general perceptions of welfare recipients may shift over time. Furthermore, Schneider and Ingram also point out that policy design is not only influenced by how policy makers believe society at large views a target population but also how policy makers believe particular groups (especially influential groups) may view a policy’s target population. Taking up the example of welfare recipients again, policy makers may want to appeal to politically powerful business groups or conservative voters by emphasizing the social construction of “lazy” welfare recipients and promoting welfare-to-work policies.

Finally, Schneider and Ingram describe the relationship between reelection and social construction of a policy’s target population. They point out that

social constructions become part of the reelection calculus when public officials anticipate the reaction of the target population itself to the policy and also anticipate the reaction of others to whether the target should be the beneficiary (or loser) for a particular policy proposal . . . (Schneider & Ingram, 1993, p. 2)

In other words, politicians—almost constantly thinking of reelection—are often influenced by how they believe different groups will receive their actions.

Applying Schneider and Ingram’s framework to the Emergency School Aid Act provides a way to understand Nixon’s motive for proposing the
ESAA to change the behavior of “advantaged” White districts as well as to understand the ways that a small group of senior liberals in the Senate—mostly from the North—spearheaded changes to the program when it became clear that treating Southern districts as “advantaged” with little oversight resulted in rampant abuses of the funds.

Data

This study relies on a wide range of historical documents. Because the ESAA has received little modern scholarly attention, the study draws on primary source material, such as congressional hearings, reports, and the text of various iterations of the ESAA legislation itself. In addition, the study reviews reports of the implementation and effects of the ESAA (e.g., Coulson, 1976, 1977; Crain, 1973; Longshore, 1983). To better understand the context of the ESAA, I also examine the historical context of Nixon’s desegregation policy, using presidential statements (e.g., Nixon, 1970a, 1970b) and secondary sources such as Nixon’s biographies and studies of federal education policy (e.g., Davies, 2007b; Orfield, 1975; Perlstein, 2008). Although much of the congressional material and national reports were available from online databases such as LexisNexis Congressional or the Educational Resources Information Center (ERIC), I also conducted archival research at the Tamiment Archives at New York University, using Albert Shanker’s files from the United Federation of Teachers collection to understand the controversy and legal history surrounding the ESAA in New York City. I also analyzed local applications for ESAA funds, program officer notes, and local district reports on how the funds had been used from the records of the Office of Education at the National Archives location in College Park, Maryland.

The Evolution of the Emergency School Aid Act

The 1968 Election and Nixon’s Early Actions on School Desegregation

To secure the Republican presidential nomination in 1968, Nixon had to win the support of South Carolina Senator Strom Thurmond, who promised to deliver the Republican delegates from the South to the candidate whose policies he found most acceptable. Thurmond, previously a Southern Democrat, had only defected to the Republican Party in 1964 as part of the “Southern strategy” or the plan to turn the “Solid South” from a Democratic voting bloc to a Republican one, as the Democratic Party nationally became more liberal on civil rights. Nixon laid out a nuanced position to Thurmond’s
aide, Harry Dent, and then to Thurmond himself: *Brown v. Board* was “settled law” and therefore unassailable. Nixon did, however, promise to appoint only “strict constructionists” to the Supreme Court. Nixon agreed that a constructionist view of the Constitution necessitated a limited federal role in school- ing and desegregation enforcement. Nixon also agreed to choose a vice-president that the South had approved (Dent, 1978, p. 82; Perlstein, 2008, p. 283).1

From the very beginning of his presidency then, Nixon had limited his options for advancing school desegregation, not that he seemed to have much desire. As president, Nixon was far more concerned with foreign affairs and handling the war in Vietnam (Davies, 2007b; Perlstein, 2008). Biographer Stephen Ambrose (1989) reported, “Nixon was as bored by domestic-policy issues as he was excited by foreign policy. Discussions of budget matters or government organization would cause his eyes to glaze over” (p. 431). He primarily relied on his Cabinet and other subordinates to manage his domestic policy (Davies, 2007a, 2007b). In the area of desegregation, these subordinates were Robert Finch, Nixon’s appointed head of the Department of Housing, Education and Welfare (HEW), and Leon Panetta, appointed by Finch as head of the OCR (Davies, 2007b). From the beginning though, there was tension between Nixon and HEW; in fact, Harry Dent, who had left Strom Thurmond’s staff to work in the White House, reports that those in the White House soon learned to call HEW “WHEW!” because of the constant headaches the White House felt HEW caused for them (Dent, 1978, p. 121). There was also tension within HEW itself about how strongly to push forward with school desegregation. When Finch bowed to pressure from Nixon to relax HEW guidelines for when schools were required to desegregate or lose federal funds, Finch’s own appointee to head the OCR, Leon Panetta, pushed back, eventually resigning in protest (Davies, 2007b).

Caught between Nixon and Panetta, Finch acted inconsistently on desegregation, delaying the loss of federal funds in some districts, but imposing it in others. Nixon finally forced Attorney General John Mitchell and Finch to issue a joint statement in July of 1969 that would move the bulk of school desegregation enforcement from HEW (under Title VI) to the Justice Department (under Title IV). This was generally seen as a victory for the South, because Southern judges would be more sympathetic than HEW, but both departments continued to work at cross-purposes (Davies, 2007b). The need for clarification of Nixon’s position became overwhelming, and on March 24, 1970, Nixon released a long-awaited, 8,000-word statement on school desegregation, in which he first proposed the funds that eventually became the Emergency School Aid Act.
The Emergency School Assistance Program: White Districts as “The Advantaged”

It certainly seems paradoxical for Nixon to propose an incentive for schools to desegregate, when so many scholars see him as opposed to school desegregation, even calling him “the principal enemy” of African Americans (Orfield, 1975, p. 116). Schneider and Ingram’s framework provides one way to explain Nixon’s seemingly contradictory actions. Schneider and Ingram point out that officials, particularly when seeking reelection, often craft policies that are designed to privilege groups they perceive as “advantaged” or politically powerful. Policies intended to appeal to advantaged groups typically offer incentives and capacity building, with few burdens (such as blanket mandates). In this section, I argue that Nixon deliberately constructed his desegregation program to appeal to White Southern districts, an advantaged, politically powerful group, before the 1972 election.

Several Nixon scholars believe that awareness of impending reelection shaped Nixon’s attitude toward school desegregation. I argue that this awareness extended to his decision to use an incentive program to encourage White districts to desegregate, rather than relying on cutting off federal funds or pursuing districts through the court system. Although he does not connect the desire for reelection specifically with the ESAA, Nixon biographer Stephen Ambrose (1989) did say that “Nixon wanted the confrontations [over school desegregation] over and done with in 1970, so there would be relative peace on the racial front during his re-election campaign in 1972” (p. 364). Similarly, historian Gareth Davies (2007a) wrote that Nixon grew worried about George Wallace foiling Nixon’s “Southern strategy” by running for president again in 1972 and exploiting the issue of desegregation if it remained unresolved (p. 369). Even though initially Nixon paid little attention to desegregation, once he decided that it should be a high priority, he took swift action to make his position clear and provide federal funds to support it. In March 1970, while preparing the statement that announced the emergency assistance for school desegregation (the precursor to the ESAA), Nixon stated that he felt he “must assume the responsibility here [for school desegregation] . . . because it will be the major issue of controversy for the foreseeable future” (Nixon memo, March 2, 1970, cited in Davies, 2007a, p. 379).

Schneider and Ingram indicate that when facing reelection, politicians will often construct policies that benefit the advantaged, even when those policies seem to be for the direct benefit of another group. In this case, Nixon framed his desegregation policy as beneficial to advantaged White districts, even though the policy could also be seen as benefiting African American students. In Schneider and Ingram’s framework, policies for the
advantaged over-subscribe benefits and under-subscribe burdens. This is clearly shown in the structure of the initial aid program, which took a dramatically different tack to encourage school desegregation than cutting off federal funds. Nixon had long believed that cutting off funds was “going too far” (Perlstein, 2008, p. 331), punishing children instead of adults. Instead, Nixon suggested that the federal government do the direct opposite: provide funds to support desegregating districts. In his statement, he said, “Words often ring empty without deeds. In government, words can ring even emptier without dollars” (Nixon, 1970a). Because he believed that “. . . communities desegregating their schools face special needs—for classrooms, facilities, teachers, teacher-training—and the Nation should help meet those needs” (Nixon, 1970a), Nixon proposed open-ended financial support for White districts with very little oversight. He assumed that White districts that were actively desegregating or newly desegregated would use the money in good faith.

To put the issue of school desegregation to rest before the 1972 election, Nixon needed a policy that would operate in multiple dimensions: He needed a policy that would appease the South, while still giving him credibility with civil rights activists in the North. In his follow-up statement to Congress in May, officially proposing the desegregation aid program, he suggested three categories of assistance:

(I) Aid to districts now eliminating de jure segregation either pursuant to direct Federal court orders or in accordance with plans approved by the Secretary of Health, Education and Welfare, for special needs incident to compliance.

(II) Aid to districts that wish to undertake voluntary efforts to eliminate, reduce or prevent de facto racial isolation, with such aid specifically targeted for those purposes.

(III) Aid to districts in which de facto racial separation persists, for the purpose of helping establish special interracial or inter-cultural educational programs or, where such programs are impracticable, programs designed to overcome the educational disadvantages that stem from racial isolation. (Nixon, 1970b)

Nixon’s statement reflects canny political craftsmanship. Nixon apparently supported court-ordered school desegregation, the voluntary dismantling of de facto desegregation, and giving more money to racially isolated schools (when racial isolation is clearly at odds with full desegregation). In addition, Nixon emphasized multiple times that the same standards would apply throughout the country, so that the South could not accuse the executive branch of imposing tough standards on the South while ignoring rampant
segregation in the North. *The New York Times* remarked on the statement’s ambiguity, saying that it

has been read by critics as an endorsement of the status quo in racial matters, and by friends as a long overdue effort to set forth a strong Government commitment to desegregation, but allow the courts and, preferably, local communities to work the problem out in their chosen ways and at their own pace. (Semple, 1970, p. 143)

The entire statement allowed for multiple interpretations and that was precisely the point. Nixon proposed a politically popular menu of options, in which it seemed that most districts would be eligible for federal money. However, it is clear from the program’s botched efforts to achieve any meaningful desegregation in its early years that the initial program was primarily designed to benefit White Southern districts.

**The Turning Point: White Districts Become “The Contenders”**

The Nixon administration received a short-term appropriation of US$75 million in August 1970, just weeks before the start of the 1970-1971 school year (Orfield, 1975). To meet the tight deadline, HEW did not closely scrutinize districts’ applications before awarding funds (Orfield, 1975). Perhaps unsurprisingly then, the first round of grants was the subject of an exposé by a group of lawyers working with the American Friends Service Committee. The group found that 266 of 295 districts receiving the initial grant money had either definitive or probable segregation in their student assignment practices, transportation, and/or faculty. In addition, some districts provided assistance to segregation academies or used the money for racist programs (American Friends Service Committee et al., 1970). One particularly egregious example was the Lee County, Georgia school district whose grant application stated that the money would be used for providing “bathing facilities for black children . . . because the homes from which these students come are without ‘modern bathing facilities [that] cleanliness, good health and sanitary conditions in the school demand’” (American Friends Service Committee et al., 1970, p. 25). Alternatively, many districts simply used the funds for general classroom supplies, drawing the most tenuous of links to desegregation in their grant applications. For example, Berrien County, Georgia stated that funds would be used for electric fans because fans “should make students of all races more at ease in the classroom” (American Friends Service Committee et al., 1970, p. 32). These findings did not just indicate a problem with oversight in the field, they also indicated a need for a more careful reading of grant applications by the short-staffed HEW offices.
In response, a group of senior Senate liberals took the lead in reshaping the bill to include more administrative safeguards (Orfield, 1975). These senators, including Walter Mondale (D-Minn) and Abraham Ribikoff (D-Conn), were mostly from the North, allowing them the political cover to treat Southern districts as “contenders,” rather than as “advantaged,” in Schneider and Ingram’s (1993) terms. In other words, Northern liberal senators saw Southern districts as a powerful group that must be engaged for desegregation in the South to continue, but with a negative social construction, indicating that policies should include some burdens as well as benefits.

As the ESAA legislation evolved from 1970 to 1972, there was increasing controversy over busing, which quickly became a flashpoint political issue in the wake of the 1971 *Swann v. Charlotte-Mecklenburg Board of Education* decision endorsing busing as a desegregation strategy. After the *Swann* decision, Nixon told HEW Secretary Elliot Richardson (who had replaced Robert Finch in the summer of 1970) to “do what the law requires and not one bit more” (Kotlowski, 2001, p. 39, emphasis original). Shortly thereafter, Richardson informed Congress that the executive branch endorsed a total anti-busing provision in the ESAA (Orfield, 1975). The White House put its support behind other anti-busing measures as well, even pushing for a Constitutional Amendment forbidding busing. Debates about busing had grown more intense, in large part, because it was no longer just the South under pressure to desegregate, but Northern districts as well. At the same time, as the Senate and the House were debating various provisions of the ESAA, lower court decisions in Michigan (decisions that were the precursor to the 1974 *Milliken v. Bradley* Supreme Court case) held that many of the outlying suburbs of Detroit must collaborate with the center city to bus students and create racially balanced schools across the Detroit metro area, correcting the problem of de facto segregation.

The distinction between de jure and de facto desegregation had been a long-simmering issue between legislators from the North and South, with Southerners feeling that they had been unfairly targeted by desegregation policy because the cities of the hypocritical North were just as segregated but outside the reach of the law because there was little to no de jure segregation. When Senator John Stennis of Mississippi proposed an amendment to the Civil Rights Act in February 1970 that proposed to unify school desegregation policy across de jure and de facto segregation, it exposed divisions among liberals over how to proceed on desegregation (Crespino, 2006). Liberal Democrat Abraham Ribikoff of Connecticut joined the Republican Southerner Stennis to argue for a single standard. Ribikoff believed that metropolitan desegregation plans were necessary to help address what he considered to be a crisis in the urban cities of the North in particular (Crespino,
2006; Orfield, 1975). In Ribikoff’s more liberal view, this crisis could only be solved by applying a single standard and recognizing that de facto segregation often proceeded from housing policies, even if there were no explicit, de jure laws. Mondale took a more centrist liberal position, worrying that the Northern response to a single standard would be so severe that it would hamstring all desegregation efforts and turn back important progress that had been made in the South (which was Stennis’s goal exactly). These liberal divisions provide important context for understanding the evolution of the ESAA, proposed only a few months after the Stennis Amendment and debated the following year, while the lower courts were deciding the role of suburban districts in rectifying racial isolation in urban areas.

In the meantime, the ESAA bill that the president proposed was first modified in the Senate in response to the reports of the widespread misuse of funds in the South, with Mondale taking the lead in adding pre-grant requirements and shaping the ESAA funding structure away from one, general pool of money into a program with certain amounts earmarked for different desegregation activities (including metropolitan desegregation efforts, district-level grants to support specific desegregation projects, bilingual education, and educational television). When the bill went to the House, the debate shifted to whether or not ESAA funds could be used for transportation, with many liberal members feeling that they must take a symbolic stand against busing to protect their chances of reelection. The bill that passed the House in November 1971 included a Republican-suggested provision outlawing the use of any federal funds for transportation and a Democrat-suggested provision banning federal officials from even hinting that busing could be used to desegregate (Orfield, 1975). When the bill went back to the Senate, the minority and majority leader compromised with a caveat that federal funds could not be used for busing unless local officials provided a written request to do so, and that federal officials could not suggest to local officials that federal funds be used for busing. Still, a conference committee between the House and Senate had to agree on these provisions, as did Nixon, for the bill to be signed. The conference committee, including Senate liberals, came to an agreement that included the House’s recently passed moratorium on busing (which they thought was so poorly worded the courts would soon overturn it, as they did; Orfield, 1975).

The bill finally passed both houses in 1972, and the President—galled that his anti-busing proposals were not included and that busing was not universally forbidden—signed it saying, “Not in the course of this administration has there been a more manifest congressional retreat from an urgent call for responsibility” (Orfield, 1975, p. 182). In the passage of the ESAA, a small group of senior, liberal senators ultimately proved to be the most influential
in shaping the legislation. Although some of the senators were motivated by maintaining progress in the South (treating the South as “contenders” in Schneider & Ingram’s [1993] framework—a safer political route for a Northern senator to be reelected), others, such as Abraham Ribikoff, were motivated to treat Northern districts as “contenders” as well, requiring metropolitan-level desegregation plans. Either way, stronger pre-grant requirements and more stringent desegregation measured were included in the ESAA legislation. Later, as part of the Education Amendments of 1974 reauthorizing the ESEA, busing was firmly prohibited as a federally funded activity (Orfield, 1978, p. 260). While districts could not use ESAA funds for transportation, the categorical aid program, the only large-scale federal program to explicitly support desegregation, remained.

Even with the limits on busing, the ESAA of 1972 incorporated a number of structural changes that made it a more rigorous desegregation tool, combining a stronger mandate with the financial incentive. Districts had to prove that segregation had been eliminated “root and branch” using factors similar to those listed in Green v. New Kent County. There could be no racially identifiable school facilities (including a ban against segregation academies), no discrimination in teacher or student assignment, and no segregated extracurricular activities. Uniquely, the ESAA also required districts to demonstrate that they had addressed “second generation” desegregation problems, such as tracking. The ESAA prohibited “assignment of students to racially isolated classrooms, with the exception of educationally justified and objectively determined ability grouping” and also prohibited “discrimination against non- or limited-English-speaking students” (“Civil Rights Implication of the Education Block Grant Program,” 1982, p. 5). This aspect of the ESAA is notable because second-generation problems were rarely addressed through other channels; these violations were generally not egregious enough to cause a complaint to the OCR that might result in a legal challenge (“Civil Rights Implication . . .” 1982). In fact, the pre-grant reviews often required more stringent reforms than might have been made by a court-ordered plan, such as implementing bilingual education plans, correcting the over-identification of minority students in special education, and addressing discriminatory forms of school discipline (“Emergency School Aid Extension Act of 1983,” 1983). James Stedman, conducting a federal report on the impact of consolidating the ESAA in 1982, found that “the most significant impact of the consolidation of ESAA may be the termination of non-discriminatory requirements that ESAA applicants have had to meet as a precondition of their eligibility for funding” (Stedman, 1982, p. 3), rather than the loss of the money itself. The combination of the pre-grant reviews with the financial incentive appears to have been particularly potent.
Several officials in the OCR testified about the effectiveness of combining the initial financial incentive or “carrot” the ESAA offered with the “stick” of pre-grant reviews. David Tatel, a former director of the OCR, testified to a Senate subcommittee in 1983 about the effectiveness of the ESAA saying, “By incorporating both a carrot and a stick—federal funds and pre-clearance civil rights requirements—ESAA provided a strong incentive to school districts to correct civil rights violations quickly and voluntarily” (“Emergency School Aid Extension Act of 1983,” 1983, p. 166). In fact, Tatel points out that many districts first deemed ineligible were sufficiently motivated by the funds to change their behavior. If a district could provide evidence of how they had corrected their violations, they could apply for a waiver to receive the funds. Tatel stated that between fiscal years 1975 and 1981, an average of 69% of districts that were originally denied funds completed waivers and received ESAA funds. Likewise, Cynthia Brown, who managed the civil rights requirements of the ESAA during the Carter administration, testified to the effectiveness of the dual approach, saying that “a carrot-and-stick approach . . . often resulted in faster elimination of serious discrimination problems than Title VI of the Civil Rights Act of 1964” (“Civil Rights Implication of the Education Block Grant Program,” 1982, p. 4). Another aspect of the rigorous oversight Congress put into place was the built-in chain reaction when a district decided to apply for ESAA funds. That application set in motion a full-fledged review of their compliance with Title VI of the Civil Rights Act. If the district did not correct any violations found on a voluntary basis, the OCR was authorized to cut off all federal funds, a much more stringent penalty than merely being denied some additional funds (Stedman, 1982).

An Example of Stringent Pre-Grant Reviews in New York City

To provide an example of the stringency of the pre-grant reviews, take the case of New York City’s Community School Districts. In 1977, the citywide Board of Education applied for ESAA funds that would be distributed among all the 32 community school districts, while 18 of the individual community school districts also applied for additional ESAA funds. All 18 of those community school districts’ applications were denied, as was the citywide Board of Education’s application. Each of the district superintendents received strongly worded letters from Dr. Herman Goldberg, associate commissioner of Equal Education Opportunity Programs in HEW’s Office of Education. Commissioner Goldberg informed the school districts that their grant applications were turned down due to offenses such as discriminatory teacher assignment practices leading to racially identifiable schools and misidentification of the number of English language learners.
In almost all the 18 districts, HEW flagged a discrepancy in their federal reporting of the number of English language learners, which was enough to disqualify the district. For example, District 6 reported that they had 4,120 students with “limited English ability” on their application for Title VII funding (Bilingual Education), but on a “Special Information Compliance Report” for the same 1975-1976 school year, said they had only 1,887 students with “moderate and severe English language difficulty.” HEW reprimanded the district for the discrepancy saying,

Your district has apparently failed to properly ascertain whether or not these 2,233 students are in need of educational services to remedy their English language difficulty. The large discrepancy between these two reports demonstrates a failure on your part to properly identify and assess the needs to students with English language difficulty. (Goldberg, 1977a, p. 2)

These letters were in stark contrast to the first round of grant applications in 1970, which funded the fans to keep students cool in Berrien County, Georgia, providing a striking example of the “burdens” Congress placed on districts applying for ESAA funds.

However, it was not just individual community school districts that were called on the carpet by the OCR. Chancellor Irving Anker, head of the entire New York City school system in 1977, also received a similar, strongly worded letter from Commissioner Goldberg. Commissioner Goldberg’s list of civil rights violations committed by the New York City public school system at large was 10 pages long, including many of the same violations as the individual school districts, but on a citywide basis. Goldberg pointed out the “discriminatory teacher recruiting, hiring, and assignment patterns” in staff assignment, which were consistent across elementary, junior high, and high schools. Schools with higher minority enrollments had more minority teachers and principals, who also tended to be less experienced and lower paid. The letter also included an appendix listing the 39 racially identifiable high schools in New York City, identified as “intended for either minority or non-minority students” based on the ratio of minority students to minority teachers. In addition to identifying racial patterns in teacher assignment, Goldberg pointed out to Chancellor Anker the discrepancies between the number of students identified as needing language services and the number of students actually receiving language services. Even though only 18 of the 32 community school districts applied for individual grants, the Office of Education investigated the remaining 14 as well, concluding that the same patterns were found across the entire city of New York. The letter concludes by reminding Chancellor Anker that simply correcting the numerous violations will not
necessarily guarantee ESAA money, as “Funding decisions, of course, are made on the basis on the quality of applications submitted by eligible applicants,” not merely “the establishment of eligibility” (Goldberg, 1977b).

Although OCR Director David Tatel said that many districts denied funds corrected their violations and received waivers to get ESAA funds, not all districts blindly obeyed. The New York City Board of Education, under Chancellor Anker, mounted a legal challenge in combination with the Bronx’s District 11 (Board of Education v. Califano, 1978). HEW found that District 11, like the city’s Board of Education and many of the Community School Districts, reported varying numbers of English language learners as well as discriminatory teacher assignment practices resulting in racially identifiable schools (Goldberg, 1977c). In their legal challenge, the District 11 did not dispute the finding that the ratio of minority teachers to minority students was disproportionate and resulted in racially identifiable schools. Instead, the district argued that the teacher assignments were unintentional, resulting from such “neutral factors” as

the state education law . . . the requirements of collective bargaining agreements . . . demographic changes . . . the wishes of black principals and the desires of individual parent-teacher associations and of the black and white communities. (Board of Education v. Califano, 1978, para. 20)

Therefore, the New York Board of Education and District 11 contended that they should not be penalized for their unintentional discrimination. This rationale followed the legal precedent set in cases such as Denver v. Keyes (1973), Washington v. Davis (1976), and most recently, Dayton Board of Education v. Brinkman (1977). In these cases, the Court found that violations of the Fourteenth Amendment should be determined using a “constitutional test of intentional discrimination,” for which “the constitutional standard requires a showing not only of disparate impact, but also of illicit motive” (Board of Education v. Califano, 1978, Footnote 2). In other words, deliberate discrimination should be remedied, but unintentional segregation should not be penalized.

However, the Second Circuit Court of Appeals rejected the districts’ argument in their decision on August 21, 1978, finding in favor of HEW’s original decision to deny ESAA funds to the districts based on their discriminatory policies. The court ruled that it is irrelevant to this case whether or not the segregation was intentional, because Congress, not the Supreme Court, passed the guidelines. Supreme Court cases explicating the Fourteenth Amendment, then, have no bearing on HEW’s regulations, which were set based on the Congress’s legislation. Therefore, “It is permissible for Congress
to establish a higher standard, more protective of minority rights, than constitutional minimums require” (*Board of Education v. Califano*, 1978, para. 27). This finding demonstrates the importance of the Emergency School Aid Act during the 1970s. As the Supreme Court began to reverse or quality their earlier decisions, due in large part to Nixon’s appointees, the Second Circuit Court upheld the more rigorous standard set by Congress.

**The Emergency School Aid Act in New York City’s Community School District 25**

Although District 11 filed suit, many other districts changed their policies and complied with the Office of Education’s requirements. While District 11 was busy mounting a legal challenge that lasted until 1978, Community School District 25, under the leadership of Superintendent Joan Kenney, came up with a plan to provide services for all their English language learners immediately after receiving Commissioner Goldberg’s letter in July of 1977. District 25 was able to receive a waiver in time to implement the program described in their grant application for the 1977-1978 school year called, “Improving Human Relations Through Individualized Instruction in Integrated School Settings” in their seven junior high schools. A district training and orientation manual from September 1977 outlines the program, which had both a “cognitive” and “affective” domain (“Personnel Orientation,” 1977, p. 1).

The cognitive dimension of the program was basically a remedial reading program. Each junior high school had to establish a reading center, which would be staffed by a reading specialist and an educational assistant (“Personnel Orientation,” 1977). The reading center would target students whose reading skills were suspected to be below grade level, use the Stanford Diagnostic Reading Test as a pretest, and then offer individualized instruction based on the results (“Personnel Orientation,” 1977). The program sought to increase students’ responsibility for their own learning by having them track and record their own performance (“Personnel Orientation,” 1977). The program also sought to increase the skills of the classroom teacher by having the reading specialist train the teachers to take over the program at the end of the grant (“Personnel Orientation,” 1977).

In social studies, Community School District 25 planned to have their junior high students participate in activities designed to promote “wholesome intergroup relations” and the related goals of “cultural pluralism, cultural diversity, intergroup understanding, the democratic process, urban problems and positive social relationships” (“Personnel Orientation,” 1977, pp. 2). ESAA money would be used to fund a “human relations specialist” with a
background as a social studies teacher and to establish a center that would instruct groups chosen on the basis of the percentage of minority students served and the need for “improved intergroup relationships” (“Personnel Orientation,” 1977, p. 11) Students would participate in educational games and role-plays to promote “democratic participation” in an abstract, general way but would also practice direct democratic citizenship by solving problems within their schools and communities.

The district’s training manual includes examples of materials for “educational gaming and simulation”: for example, a role-playing exercise called “Sunshine”, in which “students become members of different races in a mythical city and face various urban problems” (“Personnel Orientation,” 1977, p. 12) or a game called “Culture Contact”, “an expedition into the concept of ‘Cultural Relativism’” (“Personnel Orientation,” 1977, p. 12). Finally, students might play “Ghetto”, which “simulates ghetto conditions as students play the roles of fictional persons who seek to improve themselves and their neighborhood” (“Personnel Orientation,” 1977, p. 12). Students might also participate in other role-playing activities designed to help them cultivate empathy for others’ perspectives. In addition, students would use community case studies to practice problem-solving strategies for learning to “live together effectively” (“Personnel Orientation,” 1977, p. 13). The human relations specialist would coach students in how to use case studies and data from their own communities to determine problems both in the school and in the community. Then, the teacher would help students participate in the political process to change those problems, modeling a grassroots approach to community activism. Although some of these exercises may feel dated and may have stereotyped different races or neighborhoods in ways that undercut their goal of cross-cultural understanding, Community School District 25 provides an example of an approach to ESAA implementation that tried to encourage empathy, stronger ties between students of different races, citizenship, and student voice.

Discussion

When many desegregation scholars write about the Nixon era, they focus on the negative impact Nixon had on the composition of Supreme Court or his obdurate opposition to busing. Although Nixon did little for the ESAA besides provide the initial suggestion, that fact should not devalue the contributions made by this understudied program during the 1970s. In fact, as the Supreme Court continued to limit districts’ remedies for implementing desegregation, it becomes increasingly important to study the ways that other branches of the government strengthened desegregation requirements, such
as through the Emergency School Aid Act’s financial incentives and pre-grant reviews.

As the 1974 *Milliken* decision narrowed options for metropolitan-wide desegregation, ESAA funds were used in the North to support metropolitan-wide plans, encouraging districts to collaborate with each other to reduce segregation. For example, Hamden, Connecticut, received ESAA funds to take 100 students out of the neighboring New Haven schools and “reduce minority isolation” for those 100 students (“Close Out Report, Title VII Project,” 1973-1974). In Rochester, New York, local school districts created a voluntary inter-district transfer program and opened a new school called “Metropolitan World of Inquiry” for any interested student in the Rochester area. The school was reportedly very popular with parents as well as effectively integrated. In fact, when ESAA program officer David Lerch conducted a site visit of the school in 1973, his report glowed that he would “definitely . . . recommend it for replication” because “the school is 40% minority in a 99% white district and white parents are begging school officials to allow their children to attend” (Lerch, 1973). The ESAA was one of the few strategies available to the federal government to encourage desegregation in the North and West and provided an important source of encouragement for suburban districts to partner with urban districts.

The Emergency School Aid Act was certainly not a panacea for school desegregation efforts. It is clear from the program applications over the course of the 1970s that many ESAA-funded programs had no direct bearing on desegregation. Many ESAA grants funded reading or math programs to improve student achievement without any direct connection to promoting an integrated school environment. In addition, as with most legislation, the ESAA was subject to a process of *bricolage* that added some legislators’ pet projects. Between 1972 and 1975, many of the archival program files document Special Arts Projects across the country. These programs funded residencies for artists, dancers, and dramatists of any race to work in the schools with the rationale that students of multiple races would work together on art projects. Still in the National Archives project files is an oversized Sony videocassette from Texas documenting the “Cow-Creek Hoedown,” for example, and a folder of misspelled student letters about how much they liked the program although not how much it increased their understanding of other races or cultures (“Texas Special Arts Program,” 1972-1975). In addition, ESAA funds could not be used for busing, one of the most urgent needs of many desegregating districts. District administrators in Rochester, New York, with their inter-district transfer program and Metropolitan World of Inquiry School, asked ESAA program officers in 1975 if some of their funds could be used for student transportation because it was one of their most
urgent costs. Program Officer Donna Gold replied regretfully that they could not because of the 1974 amendments prohibiting the use of funds for busing (Gross, 1975).

Lessons From the Emergency School Aid Act for Current Education Policy

There are several ways in which current education policy might take up some of the lessons from the Emergency School Aid Act, especially around the use of incentives for metropolitan desegregation. Certainly, there is no better recent example of the power of an inducement than the 2009 “Race to the Top” competition, in which state legislatures scrambled to pass policies attractive to the Obama administration to increase their chances of receiving federal funds. However, the two policies incentivized in Race to the Top—college and career readiness standards (in most states, the Common Core State Standards) and teacher evaluations tied to measurable student growth—have both become flashpoint issues with a great deal of popular opposition. The political climate right now is such that states would be unlikely to buy into any other incentive program led by the executive branch.

However, although state-level incentives may not be politically viable, district-level incentives might be: a stand-alone incentive program for individual districts or groups of districts similar to the TASAP grants from the U.S. Department of Education, but on a larger, more sustained scale. These one-time grants were provided to 11 districts in 2009 in the wake of the Parents Involved decision to help them revise their student assignment plans (McDermott, DeBray, & Frankenberg, 2012). To strengthen the potential of a TASAP-like incentive to create meaningful integration across district lines, instead of providing grants to individual districts, the Department of Education might provide funds to groups of districts, especially in regions with smaller, fragmented districts rather than large metropolitan districts, to collaborate on inter-district options. Inter-district desegregation could take the form of transfer plans, inter-district magnet schools, and/or locating new school sites in areas that are accessible to students in several contiguous districts.

Another policy option for incorporating aspects of the ESAA into current policy would be in the implementation of a reauthorized ESEA. ESEA’s 2001 reauthorization, No Child Left Behind, focused more heavily on using mandates and system-changing policy instruments (McDonnell & Elmore, 1991). For example, all public schools must meet their mandated requirement of making adequate yearly progress (AYP) toward universal proficiency. When
schools did not make AYP, a series of interventions was triggered to supplement and sometimes replace school staff. Under NCLB, students were allowed to transfer out of a “failing school” to another school within that district, but states could consider interpreting Title I of a reauthorized ESEA to allow students to transfer to a school outside of a particular district, weakening district boundaries. Unlike the ESAA, Title I funds may be used for transportation. In addition to inter-district transfers, Title I might also incentivize new school construction in carefully chosen locations—perhaps in a racially diverse, inner-ring suburb, rather than a distant exurban enclave, to attract racially diverse student body. This would be similar to the ESAA’s provision for education park planning, in which metropolitan areas were allotted funds to plan large school complexes that would serve a diverse group of students (see Hodge, Taylor, & Frankenberg, 2016, for further suggestions on how to incorporate the lessons of previous federal legislation, including the ESAA, into the implementation of a reauthorized ESEA).

**Conclusion**

Although ESAA funds were reportedly helpful for many districts and critical sources of funds for some urban districts, the ESAA was subsumed into Reagan’s Education Consolidation and Improvement Act (ECIA) of 1981, effectively ending the program. Under ECIA, states received a large block of federal funds to administer as they chose: desegregation could be one of those purposes, but did not have to be. Many districts testified that they would see their annual budgets drop by large amounts, such as the Buffalo public schools, who would receive 86% fewer federal dollars to support their magnet schools and other desegregation programs under the ECIA than they had under the ESAA (“Civil Rights Implication of the Education Block Grant Program,” 1982, p. 42).

However, on balance, the ESAA is a window into a unique federal program to encourage desegregation through a financial incentive, rather than using the judicial branch or simply cutting off all federal funds. Frederick Cioffi, then-chief of OCR operations, remarked in 1975, “You’d be surprised how quickly superintendents come to terms when they realize that last year’s money and next year’s grants are in jeopardy” (“Desegregation Spawns Huge Data-Gathering Projects,” 1975). The consolidation of ESAA funds into state education block grants in 1981 under President Reagan eliminated one route to assist school desegregation, but the ESAA offers lessons for the present about the power of a financial incentive to change school districts’ behavior as well as to encourage innovative metropolitan desegregation remedies.
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Note

1. This meeting, on May 31, 1968, was only a few days after the May 27 Green v. School Board of New Kent County (1968) decision, which outlawed freedom of choice plans and said that schools must desegregate both “root and branch.” With this threat hanging over the South, Thurmond was looking for the assurances he needed to deliver to the Southern delegates. In exchange for delivering the Republican nomination, Thurmond needed to hear that Nixon’s presidential policies would be agreeable to the South (Perlstein, 2008, p. 283).

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