

**With All Deliberate Speed: The Reversal of Court-Ordered School Desegregation, 1970-2013\***

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**Abstract:** The retrenchment of court-ordered school desegregation has been more variable and incomplete than often acknowledged, challenging common accounts that blame changes in federal policy and legal precedent. This study supplements these accounts by examining local factors that influenced whether and when desegregation orders were dismissed between 1970 and 2013. After accounting for federal policy changes and districts' variable success in desegregating schools, several ostensibly race-neutral organizational, financial, and political incentives appear to influence the survival of desegregation orders. Racial competition dynamics related to local racial composition also seem to play a role, as desegregation orders have been most vulnerable when and where black population shares surpass a tipping point of about forty percent.

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Court-ordered school desegregation was one of the civil rights movement's prime achievements, it was the U.S. government's largest intrusion into a school system built on local

control, and it was often very effective. But like other civil rights policies, it was also rife with ambiguous goals and methods that permitted a range of outcomes and made it vulnerable to political attack (Stainback and Tomaskovic-Devey 2012; Pedriana and Stryker 2017). We are now witnessing its passing. While many school districts remain under court order, growing numbers have been granted unitary status, which not only ends their legal obligation to desegregate schools, but also limits their potential to do so voluntarily. To borrow Chief Justice Warren's phrase from *Brown v. Board of Education II* (1955:349), court-ordered desegregation is being dismantled "with all deliberate speed." We seek to explain why. In the most systematic analysis of this reversal yet, we follow all school districts under court order since 1970 through 2013, and we use hazard models to predict whether and when they achieved unitary status.

We begin by critiquing the most common account, a top-down explanation that features a conservative political movement hostile to desegregation and other civil rights policies. It claims that since the late 1980s, an increasingly conservative Supreme Court has relaxed the standards school districts must meet to attain unitary status, and conservative presidential administrations have neglected if not outright challenged desegregation policy (Orfield, Frankenberg, and Lee 2002; Clotfelter 2004). Though we agree with the gist of this account and find evidence that supports it, it fails to explain extensive variation across districts in the timing of unitary status or the considerable number of districts that remain under court order. In short, the top-down account overemphasizes national politics, particularly those revolving around racial inequality, and neglects critical local processes, many that are somewhat detached from racial politics.

A few case studies provide useful insights about these local processes (Orfield and Eaton 1996; Wells and Crain 1997; Mickelson, Smith, and Nelson 2015), but they focus on a select group of school districts with notorious desegregation battles, overlooking districts that remain

under order and stopping short of general explanations of the widespread yet incomplete retreat from desegregation. We build on this work to extract and test general hypotheses about organizational, financial, and political factors that give local actors incentives to seek (or not seek) the dismissal of desegregation orders. Others have shown how actors and organizations adapt civil rights policies to their own interests (e.g., Edelman 1992); we show how their interests influence decisions to abandon desegregation policy altogether.

Both the top-down account and these local explanations focus on fairly proximal influences on desegregation policy: factors that shape policy debates, legal battles, and court decisions. Whereas explicit racial conflict was endemic to these processes in earlier fights over the implementation of desegregation, we doubt this is the case in the current color-blind policy context (Winant 2001; Bonilla-Silva 2014). We argue that race currently has a more distal yet still pervasive influence on desegregation policy. Following scholars who have applied racial competition theory to other aspects of school segregation (Olzak, Shanahan, and West 1994; Andrews 2002; Renzulli and Evans 2005; Fiel 2015), we hypothesize that threats to whites' status under desegregation, particularly amid large black populations, set processes in motion that undermine court-ordered desegregation's popularity and effectiveness.

In the end, although changes in the national political and judicial environment present a grave threat to desegregation policy, we argue that local circumstances—both racial and non-racial—shape their ultimate impact. Our findings shed light on threats to surviving desegregation orders, as well as some possible sources of resilience that might inform efforts to buttress desegregation and other civil rights policies against political challenges.

### **Court-Ordered Desegregation and Unitary Status**

This is not a study of school desegregation in general, but of *court-ordered* primary and

secondary school desegregation. The first major landmark in this domain was *Brown v. Board of Education* (1954), when the Supreme Court declared *de jure* (legal) school segregation unconstitutional. It soon became clear, however, that most courts lacked the power and initiative to force desegregation on reluctant school districts. It was congress's passage of the 1964 Civil Rights Act and the 1965 Elementary and Secondary Education Act (ESEA) that gave the federal government power to promote change (Sutton 2001; Frankenberg and Taylor 2015). The Civil Rights Act gave the Department of Justice (DOJ) authority to sue districts on behalf of citizens and gave the Department of Health, Education, and Welfare (HEW) authority to withhold federal funds from noncompliant districts. The ESEA made the latter threat real by providing \$1 billion per year to poor districts, many of which were highly segregated.

With this leverage, DOJ and HEW officials toured the South offering superintendents a choice: voluntarily negotiate desegregation with HEW, or risk losing federal funds and be sued by the DOJ (Bullock and Lamb 1984). Many districts complied (Cascio et al. 2010), but many resisted. Local public pressure often deterred school boards from desegregating voluntarily, and segregationist governors and state legislatures threatened to defund or close districts that they feared might relent (Peltason 1961; Bolton 2005). School closures and government support for private "segregation academies" were especially pronounced where whites faced the threat of large, politically mobilized black populations (Andrews 2002; Brown 2010). Ultimately, courts forced the most resistant southern districts to desegregate with a flood of orders in the late 1960s and early 1970s, followed by several outside the South, where resistance was less uniform but still often strong (e.g., *Keyes v. School District No. 1* 1973).

We examine whether and when the courts granted these districts unitary status and thus released them from court orders. U.S. District Court judges usually preside over these cases,

although their decisions may be appealed to higher courts. Decisions in desegregation cases have always been based on ostensibly objective evaluations of desegregation's goals, but also on judges' preferences and on external social and political influences (Peltason 1961; Chesler, Sanders, and Kalmuss 1988). Unitary status decisions, in particular, seem to derive from complex and inconsistent processes. This is partly because the courts never established a clear or consistent definition of unitary status (Moore 2002). Vaguely, it means that a previously dual (segregated) system has eliminated any formal separation between schools serving different races, and that the district has made a good-faith effort to eradicate the vestiges of *de jure* segregation (Orfield and Eaton 1996). The closest the Supreme Court has come to specific guidelines was in *Green v. County School Board of New Kent County* (1968), when they listed six categories of segregation that should be eliminated: student, faculty, and staff assignments; transportation; extracurricular activities; and facilities. Judges weighing unitary status have considered these six "*Green* factors" but also things like racial disparities in academic performance and community support for desegregation policies (Moore 2002).

But before a judge can decide, the case must come before the court. Judges do not continually monitor school districts, and they do not usually seek out districts to grant unitary status (Hannah-Jones 2014). A variety of events can bring a case before a judge, at which point unitary status becomes a possibility. To list a few examples, unitary status rulings have followed school districts asking that orders be dismissed, plaintiffs' unsuccessfully seeking to expand orders, families suing districts for allegedly discriminatory desegregation policies, states contesting their obligations under desegregation orders, and plaintiffs and school districts negotiating to end desegregation cases. Whether, when, and how any of these events occur depends on a variety of circumstances, many of which arise outside the formal legal process. We

will discuss some of these processes more thoroughly in subsequent sections.

Before we do, it is important to note that there has always been a loose relationship between being under court order and actual desegregation. Just as the nature and effectiveness of court-ordered desegregation plans has varied (Rossell 1990; Orfield and Eaton 1996), so might the impact of unitary status. In some cases, unitary status is granted under a commitment to gradually phase out existing desegregation policies (Moore 2002; Clotfelter, Vigdor, and Ladd 2006). In others, existing policies may no longer be effective, making unitary status inconsequential. Recent investigations show that some districts and federal agencies are not even sure whether court orders remain in effect (Hannah-Jones 2014).

Nonetheless, research shows that court-ordered desegregation was generally effective, especially when these policies were most aggressive (Logan, Oakley, and Stowell 2008; Reardon and Owens 2014), and that unitary status tends to lead districts to become more segregated (An and Gamoran 2009; Reardon et al. 2012). Moreover, court orders delimit a variety of potential efforts to address educational inequality more broadly. Districts under a desegregation order remain responsible for civil rights violations, so plaintiffs need not prove discriminatory intent to challenge policies that harm minority students' interests or to request compensatory remedies. Conversely, districts with unitary status are given a clean slate; they cannot use race as a deciding factor in assigning students to schools, and plaintiffs must prove discriminatory intent to challenge district policies (Ryan 1999; Hannah-Jones 2014).

### **Resegregation: Trends, Explanations, and Critiques**

[Figure 1. School Desegregation Court Orders and Dismissals, 1953-2013]

Figure 1 illustrates the major trends in court-ordered desegregation. It plots the number of school districts first coming under court order and the number subsequently granted unitary

status from 1953 through 2013. We have labeled key Supreme Court decisions and Presidential administrations. In our data, described subsequently, 728 school districts came under court order during this period. Most began in the 1962-1972 window, although several began earlier and some much later. Roughly 60% (452) of these orders were dismissed by 2013, with 360 unitary status decisions in the post-1990 “resegregation” era, most between 1995 and 2010.

### *Top-Down Resegregation*

The simplest and most popular explanation of the retrenchment of court-ordered desegregation is a top-down account that emphasizes federal actors such as presidential administrations and the Supreme Court. We draw heavily on Clotfelter (2004) and Orfield and Eaton (1996), who tell this story well. By the late 1960s, a conservative political movement was growing, rooted at least partly in a post-civil rights backlash among whites (e.g., Crespino 2007). It would yield Republican administrations—Nixon’s and Reagan’s in particular—that vocally opposed desegregation policies, filled the federal courts with conservative judges hostile to desegregation, and transformed the DOJ from desegregation advocate to opponent. Meanwhile, the Supreme Court began to undermine desegregation policies.

A key early moment was the Supreme Court’s *Milliken v. Bradley* (1974) decision, which severely limited inter-district desegregation efforts. By the 1980s the DOJ opposed mandatory busing and began cooperating with districts to pursue less onerous but arguably less effective choice-based remedies (Lyles 1997). In the late 1980s and early 1990s, a handful of Supreme Court rulings showed a clear preference to release districts from court supervision and set standards for unitary status that freed districts from any responsibility to address *de facto* (informal) segregation (Landsberg 1988; Orfield and Eaton 1996). Figure 1 shows that the most notable of these decisions—*Board of Education of Oklahoma City Public Schools v. Dowell*

(1991), *Freeman v. Pitts* (1992), and *Missouri v. Jenkins* (1995)—preceded a sharp uptick in dismissals. The 2000s saw the executive branch complete its pivot to openly prod districts to seek unitary status and to support them in court (United States Commission on Civil Rights 2007); this coincides with the flurry of dismissals in the second Bush administration.

Lower federal courts receive less attention but are also important, particularly in understanding presidents' long-term impact. Below the Supreme Court are the U.S. Courts of Appeals (appellate courts), and below them are the U.S. District Courts (trial courts). Appellate courts are key interpreters of Supreme Court decisions and arbiters of disputes at the district court level. Appellate and district courts have carried a heavy load adjudicating civil rights and desegregation cases, and presidential administrations have increasingly worked to appoint judges favorable to their political goals and ideological leanings. During the 1970s-1990s, Democratic presidents increased minority representation on the bench, which may have made courts more sympathetic to desegregation (Lyles 1997). Republicans appointed more federal judges overall, however, some of whom terminated desegregation cases (e.g., Mickelson et al. 2015).

### *Critiques of the Top-Down Story*

The foregoing account comes with some caveats. One is that we may read too much into the notion of a conservative movement and overstate partisan differences. Aside from peak desegregation activity in the late 1960s and early 1970s, Democratic politicians have been ambivalent about desegregation. Republicans have criticized mandatory busing policies more harshly, but most Democrats have not advocated such policies either, and both parties have favored magnet schools and other choice-based desegregation strategies (Lyles 1997; Orfield, Kucsera, and Siegel-Hawley 2012). As Figure 1 shows, there were more unitary status declarations under President Carter (27), the only Democrat in the 70s and 80s, than under Nixon

(18), Ford (nine), or either of Reagan's four-year terms (20, 16). There were also far more under each of Clinton's terms (20, 73) than under the first Bush administration (11).

Another caveat is that it is unclear how much the conservative reshaping of appellate and district courts has influenced desegregation policy. Findings are mixed about the importance of judges' backgrounds when deciding civil rights cases (Grossman 1966; Uhlman 1978; Ashenfelter, Eisenberg, and Schwab 1995; Segal 2000; Chew and Kelley 2012). The evidence most relevant here is somewhat dated, but it shows that district court decisions in school desegregation cases through 1996 were similar across judges appointed by different presidents; especially striking is that appointees of Johnson and Nixon, the most vocal desegregation proponent and opponent, respectively, had a near-identical record in desegregation rulings (Lyles 1997).

We will assess the role of federal political and judicial changes in the retrenchment of court-ordered desegregation. But there are two additional weaknesses of the top-down account that we give greater scrutiny. First, it cannot explain, and often overlooks, substantial variation across districts in the timing of unitary status, as well as many districts never declared unitary. Figure 1 includes over 90 school districts granted unitary status before 1990, and it does not include over 275 districts—almost 40% of those ever under court order—that remained under order in 2013. As we mentioned, courts typically revisit desegregation cases in response to litigation at a local level, which the top-down account fails to explain.

Second, this account risks misunderstanding the role that race relations play in resegregation. Because desegregation policy is explicitly racial, it is easy to assume that policy changes are dominated by racially-infused conflict between those who support and oppose the idea of desegregation. But this risks overracializing these processes to the neglect of important

non-racial factors (e.g., Wimmer 2013), and it risks overlooking the subtler ways that race operates in a race-neutral legal and policy context (Winant 2001).

### **Incentives and Constraints at the Local Level**

Like the top-down account, we seek general explanations of the retreat from court-ordered desegregation, but we address some of its limitations by incorporating local processes. No study can account for all of the factors involved in every case. The most thorough efforts to do so are exemplary case studies of Charlotte, St. Louis, and a few other areas (Orfield and Eaton 1996; Wells and Crain 1997; Mickelson et al. 2015). These studies show that court-ordered desegregation is not only a legal matter adjudicated in court, and it does not always involve clear-cut disputes between desegregation advocates and school districts. Instead, it is a complex social and political process with many potential stages involving a host of actors with competing interests and shifting alliances.

Yet case studies have their own limitations. For one, they craft particularistic narratives, limiting their ability to explain the broader retreat from desegregation. Another is that they focus on a select set of districts with common features: they tend to be urban, with well-publicized clashes over desegregation policies that have been weakened or abandoned. There are obvious case selection and generalizability problems when using these cases to infer causes of the broad (but partial) retreat from desegregation. Nonetheless, they are rich with details that suggest hypotheses worthy of analysis in a general context.

We draw on these case studies and other prior research to consider the circumstances facing local actors, including school boards, state governments, and citizens. First, rather than assume that these actors are motivated simply by racial attitudes or their ideological support for or opposition to desegregation, we situate desegregation policy within a web of institutions and

organizations that impose various constraints and incentives (e.g., Edelman and Suchman 1997). These considerations can pull actors in different directions and may help explain variation in the retreat from court-ordered desegregation.

### *Organizational Considerations*

Consider a simple, idealistic account of how desegregation orders might evolve. On one side, school districts strongly value their autonomy and are eager to attain unitary status. On the other side, plaintiffs and courts demand that school districts adequately eliminate the vestiges of *de jure* segregation. Of the aforementioned *Green* factors, the Supreme Court highlighted “the degree of racial imbalance in the school district” as the most fundamental (*Freeman v. Pitts* 1992:474). Hence, we hypothesize that declining school segregation within districts should increase the probability of attaining unitary status.

In reality, other organizational considerations likely lead districts to vary in their desire for unitary status and lead courts to vary in their tendency to grant it. For one, desegregation presents logistical difficulties related to coordinating school assignments and transportation, and unitary status may allow simpler and cheaper methods of assigning students to schools—namely, neighborhood schools or parental choice (United States Commission on Civil Rights 2007). Moreover, courts have been lenient in granting unitary status in cases where school segregation can be attributed to *de facto* residential segregation rather than discrimination by school districts (e.g., *Freeman v. Pitts* 1992:495-6). We hypothesize that logistical difficulties are most pronounced, and thus unitary status will be most likely, in metropolitan areas, highly residentially segregated areas, and districts with a large number of schools.

Additionally, districts must compete for student enrollment with neighboring districts and private schools. We hypothesize that such competition increases the desire for unitary status,

which can allow districts more freedom to create appealing policies that might run afoul of a desegregation order (Watson 2001; Moore 2002; United States Commission on Civil Rights 2007).

### *Financial Considerations*

Desegregation cases also involve complex financial considerations. Most obviously, the legal costs of a court battle might deter financially constrained actors from pursuing unitary status. This is the main hypothesis considered by Reardon and colleagues (2012), who provide the only quantitative analysis of the timing of desegregation dismissals. They focused on the effects of unitary status on segregation, but preliminary analyses found larger districts with higher per-pupil spending to be more prone to attain unitary status in the 1990s-2000s, presumably because they could afford the costs of litigation. This is not as straightforward as it seems, however, because remaining under order also entails legal costs; districts under court supervision often require lawyers to vet policies or defend them in court.

Less obvious is that court orders often mandate desegregation funding, which can be a boon to some actors and a burden to others. Kansas City provides an illustrative example. There, the metropolitan school district (KCMSD) cooperated with plaintiffs against the state of Missouri despite being a codefendant in the case, which ultimately created a lavish magnet school program. After voter referenda to raise funds in the school district failed, a district court judge ordered the school board to levy property taxes anyway and forced the state to fund the rest. The Supreme Court upheld the court-ordered taxes in *Missouri v. Jenkins* (1995), which was controversial enough to spark a hearing before the U.S. Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts (1996). There, witnesses argued that by providing funds that school districts could not otherwise acquire, the courts made districts

financially dependent on desegregation orders. The KCMSD plan cost well over \$1 billion dollars and as much as \$200 million per year, with about 25% paid by the school district and 75% by the state. It was a boon to KCMSD, which fought Missouri to remain under court order, although the courts reduced the state's obligations and urged KCMSD to work toward unitary status, which occurred in 2003 (*Missouri v. Jenkins* 1995; Orfield and Eaton 1996).

There are many similar examples of school districts supporting court orders and joining plaintiffs to seek state funding (Berger 1996; Wells and Crain 1997; Ryan 1999). Note that these orders not only fund desegregation per se; they also fund new personnel, instructional resources, capital improvements, and magnet school programs. Ironically, these resources stem from court decisions that undermined desegregation. In *Milliken v. Bradley II* (1977), the Supreme Court ruled that states could be forced to fund compensatory programs in districts that could not be desegregated as a result of *Milliken I*. This allowed the Court to rectify the harms of segregation without supporting inter-district desegregation, and it spread to within-district plans that failed to desegregate particular "Milliken schools" (Orfield and Eaton 1996; Ryan 1999). Once a district achieves unitary status, however, legal justification for these funds becomes dubious. Unitary status thus threatens budget cuts for school districts, putting jobs and popular programs at risk, and likely giving districts incentives to remain under order (Rossell 1990; Wells and Crain 1997; Ryan 1999; Moore 2002; United States Commission on Civil Rights 2007).

Conversely, these financial obligations give states incentives to have desegregation orders dismissed. States have responded by challenging court orders and pressuring districts to seek unitary status, with some states offering districts lump-sum payments for educational spending as an enticement (Ryan 1999). Wells and Crain (1997) document this dynamic in St. Louis during the 1980s and 1990s, where Missouri unsuccessfully alternated between fighting

their funding obligations in court (at a cost of nearly \$4 million in extra state appropriations) and urging the city to pursue unitary status in exchange for short-term funding packages (e.g., an offer of \$172 million over five years). Their account also suggests that states' desire to end desegregation peaks when they face budgetary problems.

Hence, on the basis of legal costs alone, we hypothesize that financial constraints could either deter or motivate states and school districts considering whether to seek unitary status. On the basis of desegregation funding, we hypothesize that districts receiving more of such funding will be less likely to pursue unitary status. The latter association should be tempered, however, in financially constrained states that apply pressure on districts to pursue unitary status.

### *Political Considerations*

Beyond financial disputes, local politics are endemic to desegregation battles, as school boards, superintendents, and other state and local officials involved in these cases are either elected themselves or appointed by elected officials. Political considerations when weighing unitary status might involve broad philosophical approaches to government and policy as well as specific concerns about taxing and funding desegregation plans. As such, conservative Republican politicians are often cast as desegregation opponents. They have used their distaste for high taxes and federal encroachment into local governance and their support of laissez-faire school choice policies to rebuke court-ordered desegregation (Crespino 2007). Accordingly, though not directly related to court orders, there is evidence that increased Democratic representation on school boards reduces school segregation (Macartney and Singleton 2018).

Yet we have also mentioned ambivalence toward desegregation among politicians across the political spectrum. Moreover, abandoning desegregation raises its own problems. People are often more sensitive to perceived losses than gains (Tversky and Kahneman 1991), making it

risky to end policies with benefits, even those that seem unpopular. School boards may fear a backlash from desegregation advocates or from the broader community when schools experience financial losses that can accompany unitary status (Parker 2004). Amid political controversies in the 1980s and 1990s, many districts opted not to abandon desegregation, but to exchange unpopular methods like busing for more palatable ones like magnet schools (Rossell 1990).

Given desegregation's financial costs and benefits, its popularity also likely depends on grassroots support for educational taxes and spending more generally, which is linked to the concentration of constituencies with interests in educational investment. Specifically, educational spending is typically greater in more socioeconomically advantaged areas and in areas with larger school-age populations and smaller elderly populations (Miller 1996; Poterba 1998).

Some of these political complexities are apparent in the history of Charlotte, from the famous *Swann v. Charlotte-Mecklenburg* (1971) desegregation case. There, the school board resisted unitary status in the 1990s, fighting to preserve its desegregation order after being sued by a white family for discriminatory assignment policies. This resistance was fueled by a pro-desegregation school board elected in a backlash against efforts to weaken desegregation policies that had long-standing support from much of the community (Orfield and Eaton 1996; Mickelson et al. 2015). Charlotte business leaders supported desegregation for a time as well, fearing that resegregation would harm the city's reputation and stifle efforts to attract new residents and outside investment (Mickelson et al. 2015); businesses in St. Louis took a similar stance in the 1990s (Wells and Crain 1997). These efforts almost certainly prolonged desegregation orders, but the courts chipped away at both cities' policies and eventually declared the districts unitary.

In sum, we hypothesize that unitary status will be more likely in districts located in more conservative areas, but we also have reasons to doubt that this is the case. We are more confident

that unitary status will be less likely in areas with larger constituencies prone to favor educational investment (families with children, highly educated adults).

### **Racial Competition and Resegregation**

Our review of the literature suggests that many non-racial factors affect desegregation orders, and we find no evidence that explicit racism among decision-makers contributed to successful attempts to attain unitary status. If anything, explicit racism may hinder efforts to convince courts that desegregation is no longer necessary. Yet desegregation is an inherently racial policy, so racial issues are inescapable. We expect race relations to affect the reversal of desegregation orders subtly and outside formal processes, and we incorporate them using racial competition theory (Blumer 1958; Blalock 1967; Banton 1983; Olzak 1992). The idea is that members of different racial categories have unequal status due to disparate resources and status beliefs. Those in disadvantaged positions aim to improve their status, which threatens the status of those in advantaged positions, who respond defensively. Under school segregation, whites can avoid or exclude lower-status minorities to monopolize certain schools and the status that comes with them (Fiel 2013, 2015). Court-ordered desegregation challenged these monopolies, and its reversal may stem in part from competitive responses.

For one, many of the ostensibly non-racial factors we have already discussed may be intertwined with racial competition. Declining segregation may not only make unitary status more likely because a key policy goal was satisfied, but also because it induces efforts to reinforce deteriorating social boundaries, as when increasing interracial exposure exacerbated white antibusing activity early in the desegregation era (Olzak et al. 1994). Similarly, the competition for students that might prod districts to seek unitary status is at least partly due to the need to attract whites who flee desegregated schools (Farley, Richards, and Wurdock 1980;

Andrews 2002; Renzulli and Evans 2005; Logan, Zhang, and Oakley 2017). Financial and political considerations are also racially tinged; the tendency for lower educational investment in older populations is most pronounced when disproportionately white older populations are paired with more diverse student populations (Figlio and Fletcher 2012).

Beyond these factors, racial competition is a fundamental feature of the social environment that likely has more pervasive if more distal effects on desegregation orders. We follow others and relate racial competition to local racial composition. Larger black population shares are commonly thought to threaten whites' perceived status, and they are associated with heightened segregation, inequality, and prejudice, especially beyond tipping points where perceived threats may be most pronounced (e.g., Blalock 1967; Clotfelter 1976; Quillian 1996; Taylor 1998). We expect large black population shares to promote a host of conditions related to status threat that can evoke competition and make unitary status more likely.

### *Status Threat*

One dimension of threat pertains to the status that schools confer on their members. Whites commonly view predominantly minority schools as low-status and low-quality (Holme 2002; Sikkink and Emerson 2008). In their book, *Both Sides Now*, Wells and her colleagues (2009) argue that desegregated schools that took on large black enrollments (e.g., 40% or more) saw their reputations decline before any change in resources, curricula, or student achievements; this sparked white flight and racial turnover. Blacks are less prone to associate race with status (Sikkink and Emerson 2008), but white flight can make desegregation seem pointless and raise blacks' fears that schools will no longer receive adequate resources (Wells et al. 2009). These problems are especially likely where black population shares are large enough to make predominantly minority schools inevitable under desegregation.

Status threat also involves cultural conflict. Several studies show that desegregation was often implemented in an ostensibly race-blind manner meant to cater to middle-class whites. Previously white schools often expected new black students, many from segregated lower-class backgrounds, to assimilate to white standards. Minority students in such schools have recounted disciplinary problems, perceived discrimination, racial conflict, and struggles to maintain a positive racial identity, ultimately contributing to their disillusionment with desegregation. Meanwhile, some whites have portrayed attending predominantly minority schools as a negative cultural experience (Wells and Crain 1997; Wells et al. 2009; Garland 2013). These conflicts may be most pronounced when large black enrollments make it difficult for whites to control schools' cultural environments.

### *Racial Politics*

The effects such processes have on policy change are likely mediated and supplemented by political processes. In the desegregation era, black political mobilization threatened whites' sense of control over government and their own lives, resulting in countermobilization to resist integration (Bobo 1983; Andrews 2002; Brown 2010). In the resegregation era, several scholars have highlighted the fragmentation of the civil rights movement and blacks' growing frustrations with desegregation (e.g., Chesler et al. 1988; McAdam 1999). There have always been separatist-leaning factions of the black community that prefer improving black institutions over desegregation, particularly when racism precludes equal treatment and shared power in integrated settings (Du Bois 1935). Common frustrations under school desegregation include harsh treatment from white peers, teachers, and administrators; within-school segregation via tracking; blacks' disproportionate share of the burden in busing; and perceived costs to black schools (Bell 1980; Wells and Crain 1997; Wells et al. 2009; Garland 2013). The threats induced

by larger black populations might exacerbate these conditions, thereby promoting separatist sentiment and undermining support for desegregation. Moreover, the larger the black population, the more potential political power they bring to policy disputes.

Much of this is on display in Garland's (2013) account of desegregation in Louisville. There, pro-integration civil rights leaders had long competed with black nationalists advocating self-determination. The nationalists originally accepted desegregation as the only way to improve their schools, but they grew disillusioned with its implementation. They argued that desegregation diluted blacks' power, and they wanted more resources and control over traditionally black schools, which were instead threatened with closure due to declining enrollments. They eventually created an organization that teamed with black students upset at being rejected from their preferred schools (due to efforts to meet racial quotas), and together they sued the school district, winning when the judge declared it unitary (Garland 2013).

In sum, we hypothesize that processes of race-based status competition related to white resistance and subsequent black dissatisfaction make court-ordered desegregation less effective, less popular, and thus less stable. We expect these dynamics to be most pronounced beyond tipping points where large black population shares make predominantly black schools likely and give blacks greater political influence.

## **Data and Methods**

[Figure 2. Conceptual Diagram]

The foregoing discussion posits several hypotheses in general terms; Figure 2 summarizes them in a conceptual diagram. Testing these hypotheses is a challenge, in part because it is impossible to collect comprehensive data on all aspects of the relevant processes (e.g., school board meetings, public sentiment), and in part because spotty court records on these

cases preclude a complete account of the legal processes (e.g., all of the times a district attempted to have a court order lifted). Hence, we test many of these hypotheses indirectly, examining how relevant variables predict the ultimate attainment of unitary status.

We do so by linking data on school districts under court-ordered desegregation plans with other national, state, and local data from several sources. To standardize for age or grade differences across districts, all school-based or district-based measures use elementary school data only. Several of our covariates are collected intermittently; we follow standard procedure and linearly interpolate unavailable years.<sup>1</sup> Prior to interpolation, we impute missing covariates using chained equations, creating 20 imputed data sets.<sup>2</sup> We follow recent recommendations and impute the data in wide form (districts as observations), which uses variables for the same district at different years as predictors in the imputation (Young and Johnson 2015), and we include each district's estimated cumulative hazard of unitary status as a predictor as well (White, Royston, and Wood 2011).

### *Court Orders*

District-level desegregation order data include the first year of the court order, an indicator of whether the district was ever granted unitary status, and if so the year that occurred. We rely primarily on the School Desegregation Orders Data (SDO) from the nonprofit investigative journalism organization ProPublica (Qiu and Hannah-Jones 2014); this is the most comprehensive and up-to-date source of information on desegregation cases. We checked SDO records of 749 cases active between 1970 and 2013 against earlier data used by others (Logan et

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<sup>1</sup> In an alternative analysis to reduce the influence of interpolation, we used covariates at the beginning of each decade to predict unitary status over the remainder of the decade. The findings are very consistent with those we report here (only the two county-level educational attainment associations were substantively altered).

<sup>2</sup> Only a few variables are missing in more than 2% of cases: residential segregation in 1970 (47%) and 1980 (37%); the number of schools in 1970 (54%), 1989 (22%), and 1991 (18%); school segregation in 1970 (55%), 1989 (22%), and 1991 (18%); and district debt in 1970 (33%). Our findings appear robust to these variables' imputation: their associations are similar in analyses restricted to the post-1991 period, when the data are more complete.

al. 2008; Reardon et al. 2012). We searched other records to resolve discrepancies and dropped 21 cases with insufficient information.<sup>3</sup> This left 728 districts with court orders beginning anywhere from 1953 to 2002. Of these, 452 attained unitary status, the earliest in 1970 and the latest in 2013.<sup>4</sup> The full district-year dataset (N = 24,063) includes each district from 1970 (or the order's first year if after 1970) until it was dismissed (or 2013 if never dismissed). Our outcome variable is an indicator of whether each district was granted unitary status in each year.

### *National Policy*

Our goal is not to rigorously test all aspects of the top-down account, but to explore its general implications and account for them when examining local factors. The simplest approach compares temporal trends (year effects) in unitary status to the timing of influential Supreme Court decisions and presidential administrations. We also include duration effects (years under order) to account for differences in time under order due to different starting years. We then add more specific measures. We capture the executive's influence with dummy indicators for presidential administrations and Supreme Court ideology with the median justice's Martin-Quinn (MQ) score (Martin and Quinn 2002, 2007) in each year. MQ scores are based on decisions in civil rights and civil liberties cases; positive scores indicate conservatism. We also include yearly measures of the Supreme Court's racial composition (% white) and the party of justices' appointing presidents (% Democrat); these data come from the Biographical Directory of Article

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<sup>3</sup> Logan's data are available at <https://s4.ad.brown.edu/Projects/USSchools/index.html>; Reardon's are available at <https://cepa.stanford.edu/data/district-court-order-data>. We found 135 discrepancies. Most (81) were SDO updates of cases dismissed since the earlier data were collected. For the rest, we examined court case summaries and reports from the DOJ and U.S. Commission on Civil Rights, state education agencies, and other resources on the web (e.g., archival records, news articles, dissertations). We verified 21 SDO records and corrected an additional 12 dismissals listed as active in SDO. We drop 21 discrepant cases for which we find no records of a court order; we obtain almost identical results when we treat them as not dismissed.

<sup>4</sup> Reardon et al. (2012) analyzed unitary status between 1990 and 2009 in medium and large districts; we analyze districts of all sizes through 2013, including an additional 92 released from court supervision in the 1970s and 1980s. We find similar patterns when restricting our analysis to 1990-2013.

III Federal Judges at the Federal Judicial Center.

To capture local variation in the role of federal courts, we match school districts to their appellate and district courts using the County/District Locators service from the Public Access to Court Electronic Records database. We include indicators for 11 appellate circuits. There are too many district courts and too few cases per court to reliably capture their individual effects. At both the appellate and district court levels, we include yearly measures of judges' racial composition and the party of their appointing presidents, again from the Biographical Directory of Article III Federal Judges.

#### *Local Processes*

*Organizational Variables.* We measure within-district school segregation (imbalance) using black-white dissimilarity (0-100 scale) between schools, which represents the percentage of students of either group that would have to switch schools to achieve racial balance.<sup>5</sup> John Logan's US Schools Project provides these data for 1968-71 and 1980-82 (see Note 2). We calculate analogous measures every two years from 1989 to 2013 using elementary school data from the Public Elementary/Secondary School Universe Survey in the Common Core of Data (CCD) at the National Center for Education Statistics.

To capture logistical difficulties of desegregation, we include an indicator of whether the school district is in a metropolitan area (a census-defined combined statistical area), a measure of black-white residential segregation in the area (0-100), and the total number of schools in the district (log-transformed). We calculate residential segregation using black-white dissimilarity between census tracts in the surrounding metropolitan area or nonmetropolitan county every ten years, 1970-2010. The requisite tract-level racial composition data come from the Longitudinal

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<sup>5</sup> We focus on white-black segregation, because the vast majority of desegregation orders focused on the segregation of black and white students.

Tract Data Base (Logan, Xu, and Stults 2014), which adjusts earlier census data to match 2010 tract boundaries. Data are missing for some areas that were not tracted in 1970 or 1980; we incorporate these cases into our multiple imputation procedure prior to interpolation. Data on the number of elementary schools come from the School District Geographic Reference Files in 1969 and 1973; data for 1980, 1990, 2000, and 2010 come from the CCD.<sup>6</sup>

To capture districts' need to compete for students, we include county-level measures of the total number of districts (log-transformed) and the share of school-age children attending private schools. The number of districts comes from the School District Geographic Reference Files in 1969 and 1973 and from the CCD in 1980, 1990, 2000, and 2010. Private school enrollments come from the 1970-2000 decennial censuses and the 2009-2013 ACS (for 2010 estimates), all provided by the IPUMS National Historical Geographic Information System (Manson et al. 2017).

*Financial Variables.* Yearly state-level financial data come from the Government Finance Database compiled by Pierson, Hand, and Thompson (2015); district-level data for 1970 and 1980 come from the Elementary and Secondary General Information System; and yearly district-level data for 1990-2013 come from Local Education Agency Finance Survey at the CCD. At both levels, we capture financial constraints using log-transformed total outstanding debt. At the district level, we measure the total share of districts' revenue acquired from states. We expect this to capture variation in state-based desegregation funds that might provide incentives to remain under court order. Unfortunately, we cannot identify which specific funds are tied to desegregation orders, so this is not a perfect measure. One problem is that it may

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<sup>6</sup> The School District Geographic Reference Files, the Elementary and Secondary General Information System, and the 1980 CCD are provided by the Interuniversity Consortium for Political and Social Research (ICPSR) at the University of Michigan.

confound desegregation funds with state differences in funding generosity. To prevent this, we control for the share of each state's total spending devoted to primary and secondary education. State educational spending may also have independent effects on unitary status if lower-spending states are less willing to fund desegregation orders. We include interactions between the state-level finance variables and districts' state-based revenue to assess whether districts' incentives to remain under order for state funding are offset by states' incentives to end these orders.

*Political Considerations.* At the state level, we include an indicator of whether the current governor is a Democrat, obtained from the National Governors Association's Governors Database. At the county level, we include Democratic vote shares in presidential elections every four years, which come from the CQ Voting and Elections Collection.<sup>7</sup> We also include four demographic variables related to public support for educational spending: the percentages of each county's population that are school-aged (5-17), are middle-aged or older (55+), have not completed high school degrees, and have completed bachelor's degrees. These data come from the 1970-2000 decennial censuses and the 2009-2013 ACS (for 2010).

*Racial Competition.* Finally, we use the county-level black population share as a proxy for racial competition. This comes from the 1970-2000 decennial censuses and the 2009-2013 ACS. We specify a quadratic function, since we expect a convex nonlinear relationship with a tipping point at which the association with unitary status strengthens.

#### *Discrete-Time Hazard Model*

We use a discrete-time hazard model—a logistic regression applied to the district-year data—to predict unitary status in each year among all districts at risk. Unitary status is the culmination of processes that take time, and many of our predictors may not have immediate

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<sup>7</sup> We use presidential election data because it is widely available and comparable across areas. The downside is that votes for specific presidential candidates are likely only loosely related to local education policy.

effects; moreover, many school-based measures correspond to the academic year beginning in the fall. For these reasons, we specify most of our time-varying predictors as one-year lags; exceptions are our year and duration trends, as well as our presidential indicators and court characteristics, given that the latter can have a more immediate impact.<sup>8</sup> We adjust standard errors for clustering at the school district level.

## Results

[Table 1. Court Orders by U.S. Appeals Court (Circuit)]

[Table 2. Summary Statistics, Selected Years]

Tables 1 and 2 provide some basic descriptive statistics of the districts under court order. Table 1 shows their distribution across 11 U.S. Appeals Court circuits and 34 states. About two-thirds of the cases are in the 5<sup>th</sup> and 11<sup>th</sup> circuits, which include the southern states that were most resistant to desegregation. Appeals court jurisdiction may help explain variability in the retreat from court-ordered desegregation, but it is not a strict determinant, as the share of districts granted unitary status varies from 30% to 85% across circuits.

Table 2 summarizes most of our covariates in the full district-year sample (1970-2013) as well as year-specific samples in 1970, 1990, and 2010. The district-year sample weights districts according to their duration under order; this is not the case in the year-specific samples, which only include the districts under order in that year. The changing sample sizes indicate that the number of active court orders increased from 1970 (602) to 1990 (633), then declined by more than half by 2010 (305). We should not read too much into changes in our covariates, as they could reflect exogenous patterns that might alter the risk of unitary status or endogenous patterns unique to districts that remain in the sample because their court orders survived. If it was the

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<sup>8</sup> We reach similar conclusions when we do not lag our predictors.

former, several trends appear conducive to the retreat from court ordered desegregation: the federal judiciary became more conservative (higher MQ scores, fewer Democrat appointees), school segregation declined, private school attendance increased, state debt grew, fewer districts were in states with Democratic governors, and school-aged populations declined relative to older populations. Other trends appear conducive to the survival of desegregation orders: the judiciary became more diverse, residential segregation declined, there were fewer schools per district and fewer districts per county, and educational attainment increased. Other trends are less clear.

[Table 3. Hazard Model Estimates of Unitary Status, 1970-2013]

Next, we turn to our hazard model estimates from our preferred specification, which includes all covariates simultaneously. We occasionally mention notable findings from other specifications, which we can provide upon request. Table 3 summarizes the results, including the direction of the hypothesized effects (we make no hypotheses about circuit courts or presidential administrations), logit coefficients, standard errors, and average marginal effects (AMEs). We calculate AMEs using the standard approach for logit analyses (e.g., Long 1997) but multiply by 100 to rescale them in percentage point units. Here, they approximate the covariates' average effects on percentage point changes in the hazard of unitary status under typical conditions among districts at risk. These are small because the overall yearly hazard is small (1.85%), as only 452 cases were dismissed over 44 years, with an average case duration of 36 years. We do not show estimates for the year and duration effects, although they are included as controls, and we discuss them shortly. We rescale all covariates measured as percentages or proportions (including segregation) in 10 percentage-point units; hence, those coefficients and AMEs represent the partial effects of ten-point increases in the predictors (e.g., 20% black vs. 30% black).

### *National Policy*

[Figure 3. Dismissal Duration and Period Effects, 1970-2013]

As we mentioned, we control for all national-level changes with temporal effects. We tested different specifications for duration and year effects and found fourth-order polynomials for both to provide the best fit. Figure 3 shows the corresponding predicted hazards of unitary status from a model without any other covariates. The duration effects are modest but indicate the highest hazard around 10-15 years under order. This may be because some desegregation cases lose plaintiffs when they leave the school system, which would correspond to a twelve-year (first through twelfth grade) career (Landsberg 1988). The period effects smooth out much of what we saw in Figure 2, capturing the moderate risk of unitary status in the mid-1970s and the peak in the late 1990s-2000s, but failing to capture the modest spike in the early 1980s. The latter may have been captured by the duration effects. Overall, this is consistent with a powerful effect of Supreme Court precedent in the post-1990 resegregation era.

Table 3 shows the results for specific variables related to national policy. With respect to presidential administrations, the hazard of unitary status is highest under Reagan (Republican) and Carter (Democrat), followed by Clinton (D), Bush I (R), Bush II (R), Obama (D), Ford (R), and Nixon (R). This is not what we might expect based on partisanship or political rhetoric. None of the Supreme Court variables are statistically significant, although their effects are difficult to detect given that they only vary over time, and all point estimates are in the expected direction. Unitary status is more likely when the median justice is more conservative, a greater share of justices is white, and fewer justices are Democratic appointees.

We find appellate court differences in line with the patterns from Table 1. The hazard of unitary status is highest in the 6<sup>th</sup>, 7<sup>th</sup>, and 10<sup>th</sup> circuits, which include much of the Midwest and

Southwest; it is lowest in the 2<sup>nd</sup> circuit, which includes parts of the Northeast; and it is middling in the circuits serving most of the South (4<sup>th</sup>, 5<sup>th</sup>, 11<sup>th</sup>), where desegregation orders were concentrated. Judges' characteristics appear to matter as well. The share of white judges on an appeals court is positively associated with unitary status and comparable to the same effect at the Supreme Court level, but here it is statistically significant. Based on the AME, replacing two black judges with white judges on a twelve-person appeals court (e.g., the current 11<sup>th</sup> circuit) would increase the hazard of unitary status in that jurisdiction by about one percentage-point.<sup>9</sup> The share of appeals court judges appointed by Democrats is negatively associated with unitary status, but the effect is weaker than that of racial composition and is not statistically significant. Both variables operate in the same direction at the district court level, but their effects are weaker and neither is statistically significant. In short, several patterns are consistent with the top-down explanation of resegregation. The main exceptions are those related to the partisanship of presidential administrations and their judicial appointees.

#### *Local Organizational Considerations*

Turning to local processes, the most fundamental hurdle districts must clear to attain unitary status is supposed to be reducing racial imbalance across schools. Accordingly, we find a negative, statistically significant association between unitary status and within-district school segregation. It is not a particularly strong effect, however. The AME corresponds to a 0.18 percentage-point increase in the hazard of unitary status for a 10-point decline in dissimilarity (segregation), which is comparable to other associations we will report. A standard deviation decline in segregation (about 25 points in dissimilarity) increases the probability of unitary status by about one-half of a percentage point, comparable to the effect of a standard deviation (three

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<sup>9</sup> Two of 12 judges is 17%. After rescaling to 1.7 (covariates are in 10% units) and multiplying by the 0.61 percentage point AME, this translates to a 1.04-point increase in the hazard.

percentage-point) decline in the school-age share of the population. In an alternative specification, coefficients for two separate variables capturing the starting levels of segregation and changes over time were very similar, and there was no interaction between them. This suggests that the absolute level of segregation matters most; there is no extra effect of progress relative to a district's starting point and thus no evidence that districts are held to different standards. In another specification, we found no evidence of a quadratic effect, suggesting that there is no specific threshold of segregation at which unitary status becomes especially likely.

We can interpret the remaining findings having already accounted for variation in the national context, federal courts, and districts' progress toward school desegregation. The analyses support one of our three hypotheses about logistical challenges that might incentivize unitary status. Unitary status is positively and statistically significantly associated with a greater number of schools in the district, which we expect makes coordinating desegregation more difficult. With schools on the log scale, the AME corresponds to a modest 0.05-point increase in the hazard of dismissal for a 10% increase in the number of schools ( $10 \times 0.50 / 100 = 0.05$ ). Although the hazard of unitary status is higher in metropolitan areas, as expected, the association is not statistically significant, and residential segregation in the area appears irrelevant.

With respect to organizational competition that might incentivize unitary status, the number of districts in the county and the county's share of students in private schools are both positively associated with unitary status, as expected. The former is statistically significant and the latter is marginally significant; both effects are modest. In additional analyses, we find no association with the county share of public school students in charter schools.

#### *Local Financial Considerations*

Our results for financial factors are complex because we incorporate interactions between

state finances and districts' revenue from states. One finding not complicated by interactions is that school district debt is not systematically related to unitary status. Any tendency of debt to prod districts to escape expensive desegregation orders may be offset by the inability to afford the short-term costs of litigation or by a greater dependence on desegregation funding.

We expect districts' revenue from states to capture variation related to state-based desegregation funding. Accordingly, the negative main effect suggests that districts' reliance on state funds deters unitary status. It is not statistically significant, but it is not meaningful either, because it refers to hypothetical districts in states with no debt who spend nothing on education. The AME is more useful; it is significant and indicates that under typical conditions, a 10 percentage-point increase the share of districts' revenue acquired from states corresponds to a 0.27-point decline in the hazard of unitary status. That is about 50% stronger than the effect of a 10-point decline in school segregation.

The other main effects indicate that unitary status is positively associated with state debt and negatively associated with state educational spending. Both are statistically significant, consistent with the idea that states facing financial constraints or spending little on education seek to end desegregation orders. Yet these main effects correspond to districts with no revenue coming from states, which is unrealistic; the average in our sample is about 50% (Table 2). Based on the AMEs, both associations hold under typical conditions, but neither is statistically significant. These variables' main effects are less relevant than their interactions with districts' state-based revenue, however, given that we expect state finances to matter insofar as they cause conflict between states' and districts' interests in preserving state-based desegregation funding. We expect financially constrained states and states that spend less on education to apply more pressure to districts that rely more on state funds. The interaction effects accord with this logic:

both are statistically significant and indicate that the negative effect of districts' reliance on state funds is attenuated when states have more debt or spend less on education.

[Figure 4. Dismissal Hazard by District Revenue from State, by State Debt]

To illustrate, Figure 4 plots the hazard of unitary status against districts' state-based revenue separately at the 25<sup>th</sup>, 50<sup>th</sup>, and 75<sup>th</sup> percentiles of state debt.<sup>10</sup> The higher the level of state debt, the flatter the negative slope that presumably captures districts' incentives to remain under order when they receive more desegregation funds from states. Moreover, in districts with below-average state-based revenue (<50%), higher state debt corresponds to a lower hazard of unitary status, as if legal costs deter debt-ridden states from pursuing unitary status in cases where districts receive less state funding. The opposite is true in districts with above-average state-based revenue, where states' desegregation obligations may be costly enough to justify the short-term costs of litigation, even under high levels of debt.

Although we cannot explicitly link districts' state-based revenue to desegregation funds, our findings are consistent with such a link, and there is no obvious alternative explanation. A few additional analyses also increase our confidence that this measure captures variation in desegregation funding. First, after adjusting for differences in state educational spending, the districts most reliant on state-based revenue are in the South and had court orders beginning in between the mid-1960s to mid-1970s, which corresponds to the most vigorous desegregation activity targeting districts in the most resistant states. Second, our findings are only apparent in states that had *de jure* segregation prior to *Brown*, which courts were most to hold liable and force to fund desegregation.

### *Local Political Considerations*

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<sup>10</sup> A comparable plot for state education expenditures looks similar, but with high levels of education spending mirroring low levels of debt.

Turning to politics, we find that partisan variables are not strong predictors of unitary status. At the state level, the governor's party appears irrelevant. At the county level, the Democratic vote share in presidential elections is negatively associated with unitary status, but this effect is modest and only marginally significant. An alternative specification yielded a non-significant quadratic effect of the Democratic vote share, failing to support the idea that unitary status is especially unlikely in competitive political environments (e.g., 50% Democratic).

Local demographic composition seems more relevant. Counties with larger school-age populations and college-educated populations are less likely to attain unitary status. Both associations are statistically significant and consistent with the hypothesis that these groups are less averse to educational investments or more averse to the lost programs and funding that might follow unitary status. Unexpectedly, unitary status is also less likely in counties with larger older populations and higher proportions of people without high school degrees, although these associations are not as strong, and the latter is not statistically significant.

### *Racial Competition*

[Figure 5. Dismissal Hazard by County Black Population Share]

Finally, we turn to our racial competition hypothesis, which receives strong support. We find the expected convex nonlinear association between unitary status and counties' black population shares, and both the linear and quadratic terms are statistically significant. The AME indicates a slight positive association under typical conditions, but given the nonlinear nature of our hypothesis, it is best to interpret the relationship visually. Figure 5 plots predicted hazard rates, showing a take-off in the hazard of unitary status when the black population share passes 40-50%; there is practically no association below this point. This is consistent with the idea that racial threat is most pronounced beyond a tipping point where the black population is large

enough that desegregation becomes conducive to predominantly minority schools and blacks wield more potential political influence.

## **Discussion**

Like many transformations in American education and civil rights policy, the retreat from court-ordered school desegregation is often told as a top-down story dominated by elite actors, a story implying racially-tinged conflict between desegregation advocates and opponents, and featuring political and legal processes proximal to the resolution of this conflict. But like other accounts of educational change (e.g., Meyer et al. 1979; Kaestle 1983), such explanations overlook more distal and local processes that underlie, interact with, and compete with top-down forces. And as scholars of race and ethnicity have noted (Wimmer 2013), we are prone to neglect non-racial processes that shape racial and ethnic relations in important ways. Our study suggests that court-ordered desegregation policy hinges partly on local actors' seemingly rational responses to non-racial constraints and incentives, but also on more conflict-oriented racial dynamics operating below the surface.

Before revisiting these findings, we remind readers that we lack systematic data on many details of these desegregation policies and court cases, which makes many of our empirical tests indirect and our interpretations speculative. We cannot observe all of the failed attempts to challenge desegregation orders, for instance, or the specific ways they may have been thwarted. We also lack data on the characteristics of local school boards, social movement organizations, racial attitudes, and public sentiment toward desegregation. These are notable shortcomings, but some loss of detail is inevitable when merging general explanations with a local perspective. Moreover, many of our findings accord with prior top-down and particularistic case-based explanations of the retrenchment of court-ordered desegregation.

On that note, despite the top-down account's limitations, it is a critical part of the retrenchment of desegregation policy. Like others (Orfield et al., 2002; Clotfelter 2004), we recognize that key Supreme Court decisions in the 1990s spelled the end of many desegregation orders. We also find that court-ordered desegregation has been at greater risk when and where federal courts have lacked minority representation. It is interesting, however, that unitary status rulings are not convincingly related to the political party of presidents or their judicial appointees. Court orders have been resilient under some Republicans, and they have been vulnerable under some Democrats. More fundamentally, the national policy story cannot explain the wide variability in the timing of unitary status across school districts, let alone over 275 districts that remained under court order as of 2013.

Some of this variation is due to differential success in meeting courts' demands. The primary legal requirement for school districts to achieve unitary status is to eliminate the vestiges of *de jure* segregation, especially with respect to racial imbalances in student enrollment. It is not surprising, then, that unitary status is more likely in districts when and where school segregation is lower. Yet this association is not particularly strong relative to others in our analysis. Hence, beyond changes in federal policy and districts' differential success in desegregating schools, there is room for other factors to affect desegregation orders.

Of the organizational problems we hypothesized to incentivize unitary status, the logistical burden of coordinating desegregation across a large number of schools appears more salient than any issues related to residential segregation or other challenges unique to metropolitan areas. With respect to districts' need to compete for students, competition from neighboring districts and private schools seems to hasten the retreat from desegregation. If so, efforts to improve educational productivity by increasing competition (Hoxby 2000) may have

the unintended consequence of undermining desegregation policy.

Local financial considerations play an interesting role. Unitary status is no more or less likely in financially constrained school districts, suggesting that legal costs are not as influential as often thought. Incentives tied to desegregation funding do appear influential, however. Court orders are more prone to survive in districts that rely more on state funding, yet this is tempered when states have high levels of debt. This accords with the argument that by forcing states to fund desegregation policies, courts gave school districts incentives to remain under order and gave states—especially those under fiscal constraints—incentives to have these orders end. Ironically, then, when the DOJ, school districts, and federal courts replaced aggressive policies (e.g., busing) with more palatable but expensive alternatives that did less to desegregate schools, they may have built an edifice of incentives that helped prolong desegregation orders. Perhaps these changes were a necessary bargain that preserved some form of desegregation, or perhaps they maintained benefits for some actors while abandoning desegregation's original goals. Regardless, it seems that one way to protect controversial policies is to attach financial benefits, which become costs when ending the policy.

Local politics also seem to matter, but not in obvious ways. As at the national level, local partisanship is not a strong predictor of unitary status. Desegregation orders are only slightly more vulnerable (if at all) in counties with larger Democratic vote shares, and the governor's party appears irrelevant. This is consistent with preferences for race-neutral policies across the political spectrum. The presence of demographic groups with a stake in educational taxes and spending seems more salient. Most notably, desegregation orders are more prone to survive where there are larger school-aged and college-educated populations. These constituencies may be more amenable to educational investments or more averse to the losses accompanying unitary

status, and appealing to them may help efforts to defend surviving desegregation orders.

Hence, desegregation policy is sensitive to several local factors ostensibly unrelated to race relations. But we also have evidence that local racial competition dynamics hasten the retreat from court-ordered desegregation. Beyond a threshold of about 40% black, desegregation orders are at heightened risk of dismissal as black population shares increase. This is comparable to tipping points in other analyses of school segregation (e.g., Clotfelter 1976). We are left to speculate about mechanisms, but we note that this corresponds to contexts where desegregation will create predominantly minority schools and where blacks have substantial political power. This may threaten whites' status, provoking reactions (white flight, cultural conflict) that undermine desegregation's effectiveness and appeal among blacks and whites. Regardless of the mechanisms, desegregation policies appear most vulnerable in areas with the highest concentrations of those they are designed to benefit.

To conclude, we think that efforts to better understand desegregation and other civil rights policies can benefit from examining the evolution of these policies over time, incorporating entities where these policies have and have not been weakened or abandoned, and striking a balance between local and general explanations as well as racial and non-racial explanations. By doing so, we can better understand what makes such policies vulnerable or resilient in an era where they are challenged by race-blind reforms.

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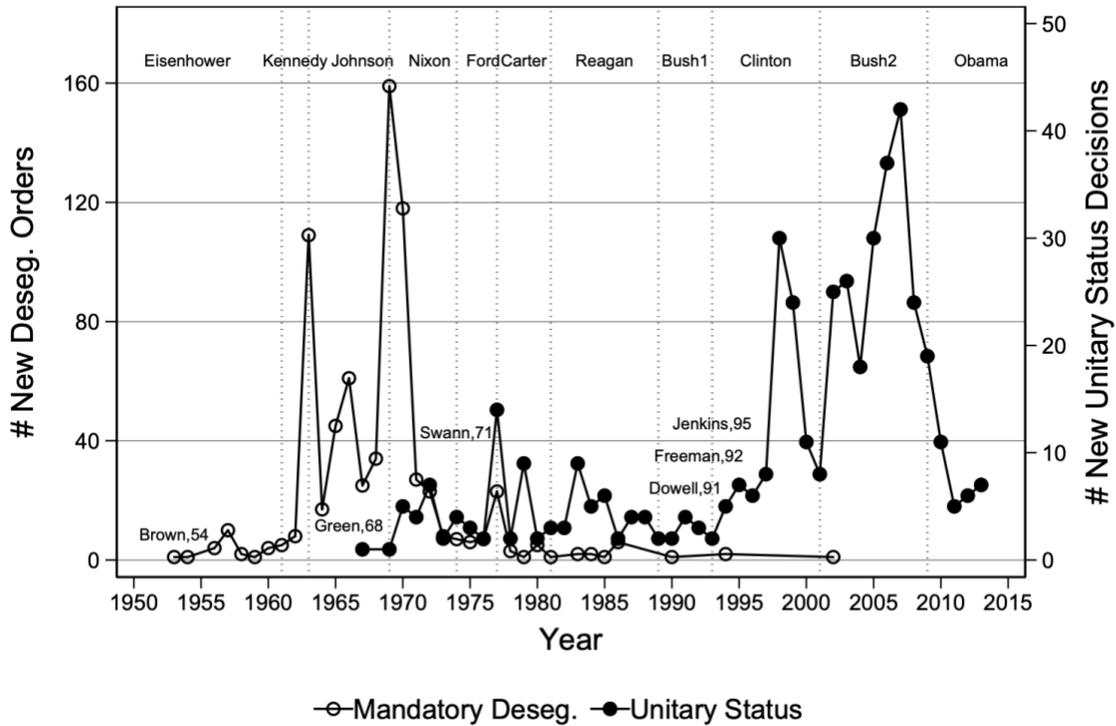
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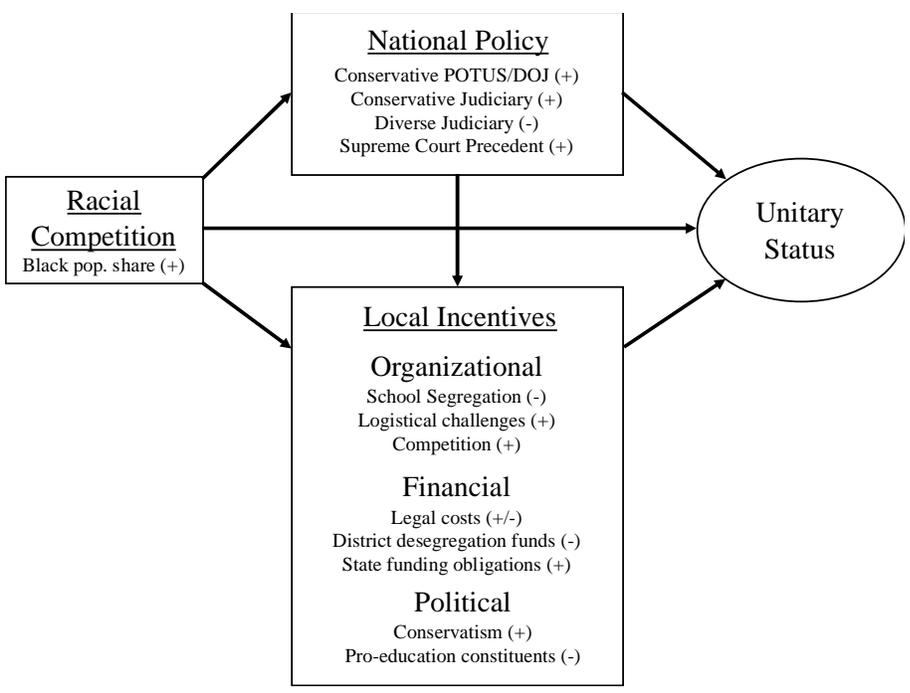
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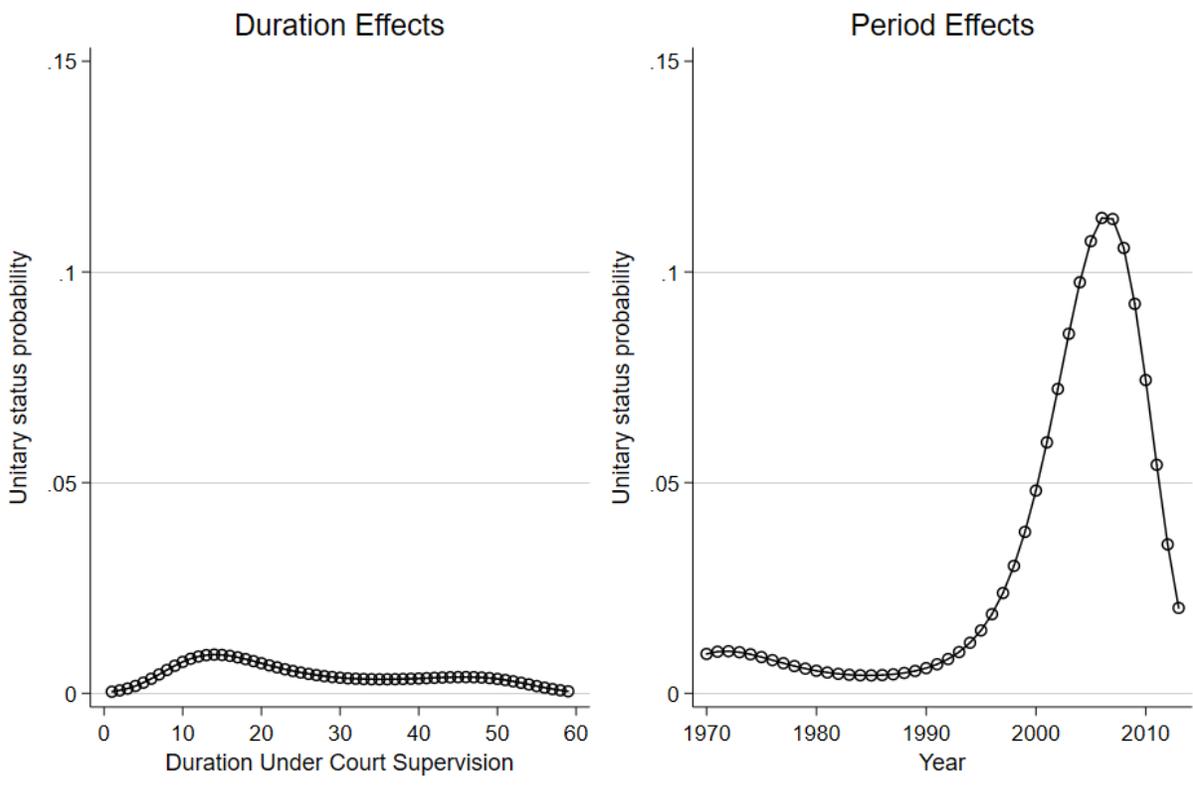
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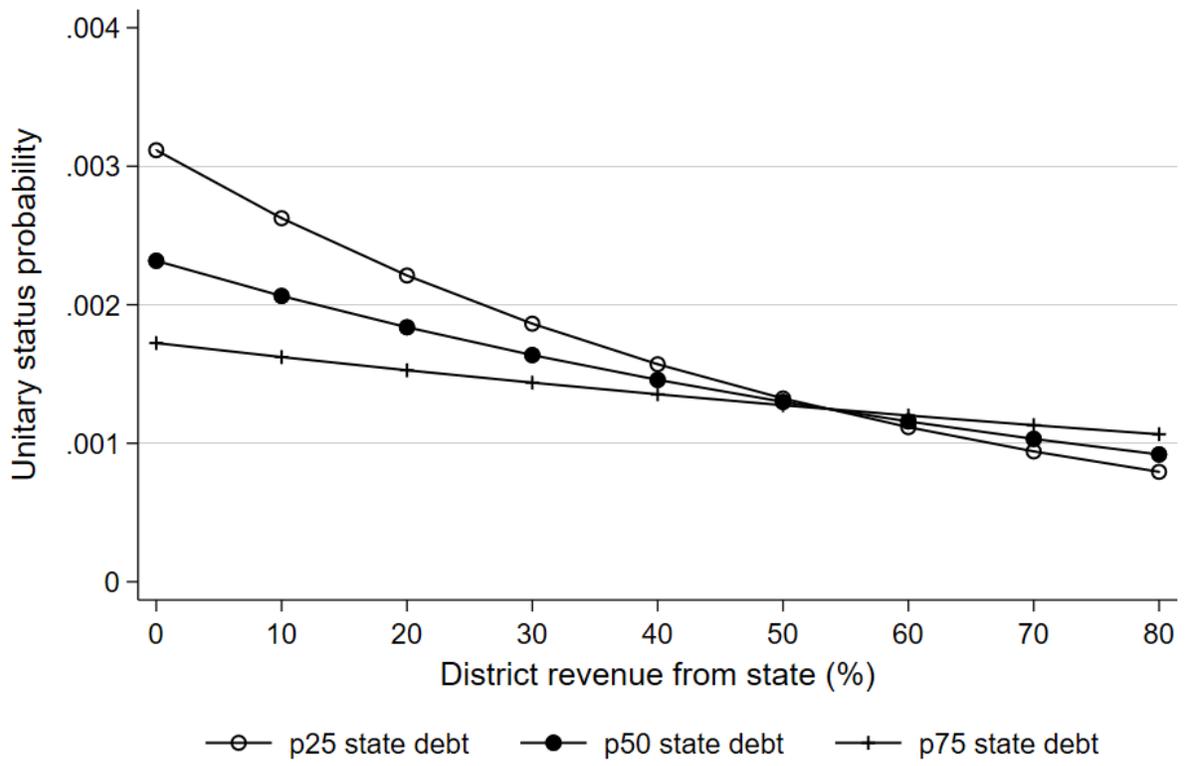
**Figure 1. School Desegregation Court Orders and Dismissals, 1953-2013.** Hollow dots are the number of new court-ordered desegregation plans in each year (left axis); solid dots are the number of dismissals in each year (right axis). Presidential administrations are labeled between dotted vertical lines; influential Supreme Court decisions are labeled in the plot. *Brown*, *Green*, and *Swann* expanded judicial authority over desegregation; *Dowell*, *Freeman*, and *Jenkins* retracted judicial authority.



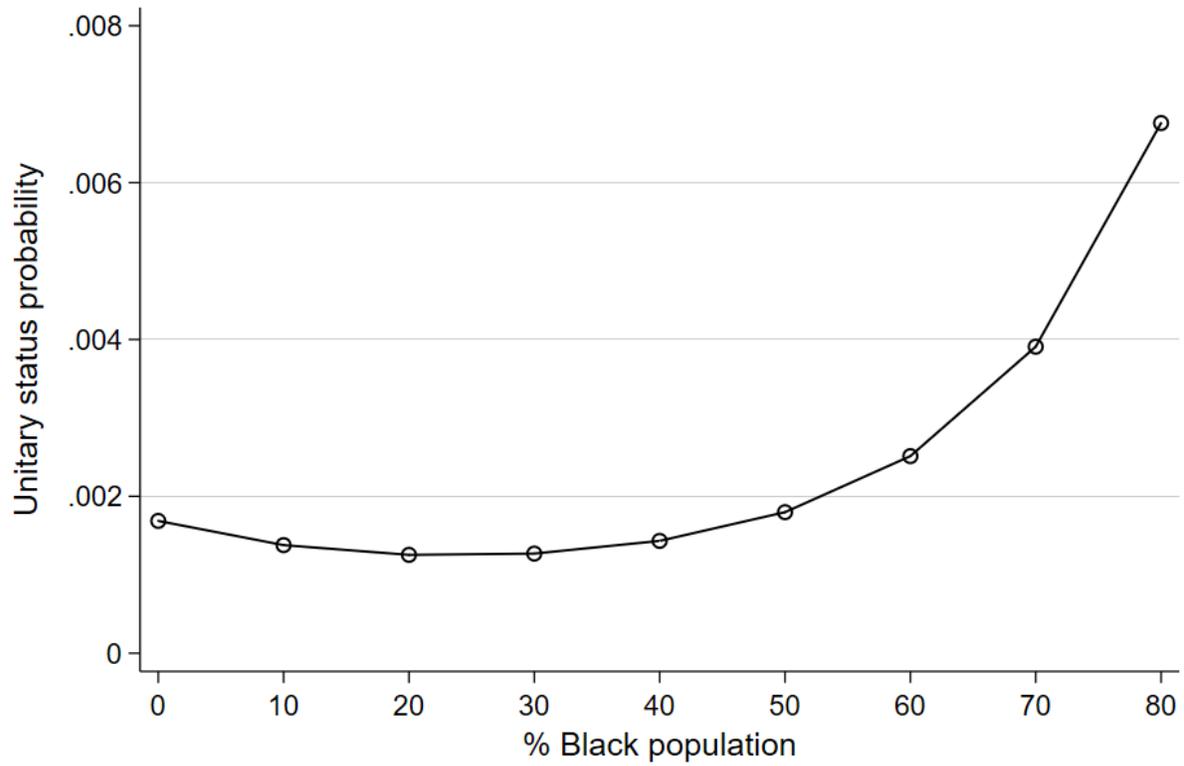
**Figure 2. Conceptual Diagram.** Direction of hypothesized effects on unitary status indicated in parentheses.



**Figure 3. Dismissal Duration and Period Effects, 1970-2013.** Predicted hazard rates of unitary status from specification with fourth-order polynomials for duration and year.



**Figure 4. Dismissal Hazard by District Revenue from State, by State Debt.** Predicted hazards of unitary status plotted against the share of district’s revenue from the state, separately at the 25<sup>th</sup>, 50<sup>th</sup>, and 75<sup>th</sup> percentiles of state debt.



**Figure 5. Dismissal Hazard by Black Population Share.** Predicted hazards of unitary status by county-level black population share.

**Table 1. Court Orders by U.S. Appeals Court (Circuit), 1970-2013**

Circuit	State	Circuit # of Orders	Circuit % of Total	Unitary Status	% Unitary in Circuit
1st	Massachusetts (3)	3	0.41	2	66.67
2nd	Connecticut (1), New York (5)	6	0.82	2	33.33
3rd	Delaware (4), New Jersey (3), Pennsylvania (4)	11	1.51	7	63.63
4th	North Carolina (33), South Carolina (33), Virginia (20)	86	11.81	55	63.95
5th	Louisiana (59), Mississippi (96), Texas (53)	208	28.57	102	49.04
6th	Kentucky (3), Michigan (7), Ohio (6), Tennessee (21)	37	5.08	27	72.97
7th	Illinois (5), Indiana (29), Wisconsin (1)	35	4.81	29	82.86
8th	Arkansas (26), Maryland (1), Minnesota (1), Missouri (27), Nebraska (1)	56	7.69	41	73.21
9th	Arizona (2), California (10), Nevada (1)	13	1.79	8	61.54
10th	Colorado (1), Kansas (2), Oklahoma (2), Utah (1)	6	0.82	5	83.33
11th	Alabama (125), Florida (34), Georgia (108)	267	36.68	174	65.17
Total		728	100	452	62.09

**Table 2. Summary Statistics, Selected Years**

Variable	1970-2013		1970		1990		2010	
	Mean	SD	Mean	SD	Mean	SD	Mean	SD
Supreme Court conservatism (MQ Score)	0.59	0.27	0.40	0.00	0.93	0.00	0.58	0.00
Supreme Court: white (%)	89.77	2.23	91.67	0.00	91.67	0.00	84.62	0.00
Supreme Court: Democrat appointees (%)	27.98	10.29	50.00	0.00	16.67	0.00	30.77	0.00
Appeals Court: white (%)	93.69	6.13	99.67	1.51	95.56	2.77	86.31	7.34
Appeals Court: Democrat appointees (%)	47.45	10.63	49.57	5.66	42.53	6.41	35.15	11.15
District Court: white (%)	92.96	9.36	99.82	1.44	92.64	9.02	87.91	12.14
District Court: Democrat appointees (%)	47.93	22.33	64.82	25.89	41.63	15.99	37.97	17.18
School segregation, district (0-100)	33.28	25.77	64.15	37.38	31.07	22.81	28.24	21.61
Metro area	0.41	--	0.38	--	0.44	--	0.34	--
Residential segregation, metro/county (0-100)	45.18	23.57	63.41	18.96	46.44	21.57	40.89	16.77
Log # schools, w/in district	1.83	1.21	2.16	1.55	1.76	1.18	1.63	1.09
Log # districts, w/in county	0.85	1.01	0.71	0.86	0.92	1.06	0.79	0.97
Private school enrollment, county (%)	8.23	5.89	4.24	5.36	8.14	6.07	9.89	5.57
Log debt, state	6.32	0.81	5.74	0.57	6.42	0.75	7.21	0.77
State education expenditures (%)	13.80	9.63	0.50	0.59	21.70	3.24	17.02	3.09
Log debt, district	4.68	3.02	0.80	1.20	4.82	3.11	6.55	2.70
District revenue from state (%)	52.68	13.08	45.21	16.00	56.11	13.86	47.37	12.35
Democratic governor	0.63	--	0.83	--	0.57	--	0.15	--
Democratic presidential vote (%)	44.06	12.53	27.03	12.21	43.15	9.67	43.37	14.42
Age 5-17, county (%)	21.42	3.61	27.87	2.99	19.87	2.47	17.94	1.83
Age 55+, county (%)	21.99	4.38	19.95	4.78	22.13	4.12	25.61	3.84
Less than high school, county (%)	30.34	9.99	40.29	10.33	34.71	10.11	21.29	6.48
Bachelor's degree or more, county (%)	11.28	6.44	7.24	3.77	14.34	7.13	18.29	8.93
Black population share, county (%)	28.58	17.19	30.61	17.19	27.71	17.01	29.82	18.10
N	24,063		602		633		305	

Note: statistics calculated on dataset after imputation and interpolation.

**Table 3. Hazard Model Estimates of Unitary Status, 1970-2013**

Variable	Hyp (+/-)	$\beta$ (Logit)	SE	AME (Pct. Pt.)
<i>National Policy</i>				
President (ref.=Nixon [Rep])				
Ford (Rep)		0.93	0.80	0.28
Carter (Dem)		3.49**	1.21	4.89
Reagan (Rep)		3.41*	1.48	4.53†
Bush 1 (Rep)		2.99†	1.65	3.10†
Clinton (Dem)		3.09†	1.68	3.39†
Bush 2 (Rep)		2.56	1.76	2.04
Obama (Dem)		2.39	1.79	1.73
Supreme Court conservatism (MQ score)	+	0.59	0.42	1.04
Supreme Court white (10%)	+	0.30	0.47	0.53
Supreme Court Democrat appt. (10%)	-	-0.12	0.21	-0.21
Appeals Court Circuit (ref.=5 <sup>th</sup> Circ.)				
1 <sup>st</sup> Circ.		-0.12	1.02	-0.17
2 <sup>nd</sup> Circ.		-0.18	0.79	-0.25
3 <sup>rd</sup> Circ.		0.10	0.47	0.16
4 <sup>th</sup> Circ.		0.30	0.25	0.53
6 <sup>th</sup> Circ.		0.52†	0.28	1.02†
7 <sup>th</sup> Circ.		0.24	0.34	0.42
8 <sup>th</sup> Circ.		0.04	0.32	0.07
9 <sup>th</sup> Circ.		-0.10	0.51	-0.15
10 <sup>th</sup> Circ.		0.80†	0.42	1.80
11 <sup>th</sup> Circ.		0.17	0.27	0.29
Appeals Court white (10%)	+	0.35*	0.16	0.61*
Appeals Court Democrat appt. (10%)	-	-0.15	0.10	-0.25
District Court white (10%)	+	-0.06	0.06	-0.10
District Court Democrat appt. (10%)	-	0.02	0.03	0.04
<i>Local Organizational Incentives</i>				
School segregation (10%)	-	-0.11**	0.03	-0.18**
Metro area	+	0.21	0.15	0.37
Residential segregation (10%)	+	0.00	0.05	0.01
Log # schools in district	+	0.28***	0.08	0.50***
Log # districts in county	+	0.17*	0.07	0.30*
Private school enrollment (10%)	+	0.18†	0.11	0.32†
<i>Local Financial Incentives</i>				
Log debt, school district	+/-	-0.01	0.02	0.03
Log debt, state	+/-	-0.59*	0.27	-0.05
State educ expenditures (10%)	+/-	1.54***	0.40	0.51
District revenue from state (10%)	-	-0.47	0.35	-0.27**
× Log debt, state (10%)	+	0.11*	0.05	--
× State educ expenditures (10%)	-	-0.25***	0.07	--
<i>Local Political Incentives</i>				
Democratic governor	-	0.08	0.11	0.13
Democratic presidential vote (10%)	-	-0.14†	0.07	-0.24†
Age 5-17 (10%)	-	-1.01**	0.34	-1.76**
Age 55+ (10%)	+	-0.44**	0.17	-0.77**
Less than high school (10%)	+	-0.18	0.12	-0.31

Bachelor's degree or more (10%)	-	-0.59***	0.16	-1.03***
<i>Local Racial Competition</i>				
Black population (10%)	+/-	-0.26*	0.10	0.06
Black population (10%) <sup>2</sup>	+	0.05***	0.01	--
Constant		-8.92†	5.24	--

Note: N = 24,063 district-years. Coefficients are on the logit scale. Standard errors are adjusted for clustering by school district. AMEs are multiplied by 100 to rescale in percentage point units. Ref. = reference group. Hyp = hypothesized direction. Covariates originally on a proportion/percentage metric are rescaled in 10 percentage point units. Fourth-order polynomials for year and duration are included but not shown. \*\*\*p<.001, \*\*p<.01, \*p<.05, †p<.10.