



Curriculum Units by Fellows of the Yale-New Haven Teachers Institute
1996 Volume I: Multiculturalism and the Law

Multicultural Issues and the Law: Gender and Race Based Schooling

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INTRODUCTION

The middle school years are very crucial to an adolescent's sense of self-image and development of critical thinking concerning social issues. Urban schools today are often very racially and culturally diverse. Yet, while students 'live' in a community together, they do not take the time to examine each other beyond the media representation of their respective ethnic groups. Thus, they interact according to learned myths. Hence, it is necessary to discuss images and stereotypes that are perpetuated about race, color, gender and language, with students just to maintain class harmony. Student knowledge of how the law and history effect them and their education is lacking.

Knowledge is power, thus one would assume education is the way (means) to gain power. The educational systems within our country are controlled by those in the majority. Change is needed, but to effect change one must assess the past history to understand how the present system developed. One must ascertain what worked, what failed and the reasons that caused the success or failure. Political and economic factors are extremely important issues in the assessment of history. Although we must remember that history is cyclical, and we can predict some future changes from the past.

Stephan Thernstorm in his book *Poverty and Progress: Social Mobility in Nineteenth century City* describes school as ". . . the chief instrument by which society equipped its citizens with the skills and values necessary to compete effectively." ¹ The idea then was that if you open the doors of knowledge to everyone, every pupil with the capacity and ambition will do the rest for themselves. However schools were not necessarily organized for the students, but for and by the adults who are employed by school systems. Visionaries such as Horace Mann saw schools as the means to produce economic change without disruption and chaos. Schools were to help maintain moral and decent behavior and contribute to economic growth. Each wave of immigrants to America has been told that education is the key to their success at achieving the American dream. Most groups have taken advantage of public educational opportunities and have improved their economic situation. Hence, the notion that public school education has evolved to represent the 'melting pot' that America professes to be proud to embody.

However, has the blending been achieved or is it an illusion? Is the heterogeneous approach the solution or should we educate children in separate environments according to gender, race or language? Do girls have greater self-esteem and learn more when they are educated separately from boys or vice versa? Should

people only attend school with students of the same race or ethnic background? Does learning in one's native language matter? Afro-Americans, Hispanics and women have had a greater struggle and continue to be the topic of educational systematic reform.

UNIT PLAN AND BACK GROUND INFORMATION

The goal of this curricular unit is to have middle school students in a diverse urban setting analyze the issues of gender based and race based schooling. After assessing their prior knowledge of and experience with these topics, the teacher will present readings and other resource materials to enhance their understanding of the history of public school education, the laws that affect its makeup and the differences segregation (gender or race based) can make upon the learning environment. The students will be asked to discuss the advantages and disadvantages of various learning environments. Some of the lessons require student participation in classroom experiments.

The unit is designed to be taught over an extended period, for example a ten week marking period. The activities are geared toward the sixth grade curricular requirement of studying Connecticut History. The textbook presently used is *The People of Connecticut* by Warren J. Halliburton.

It should be noted that, although religiously segregated education has been a factor in United States history, the topic will not be discussed in detail or planned in this unit. If a student is interested in pursuing the subject, they should be encouraged to research it independently.

This unit does propose that students will have been given an overview of the history of education from the initial ideal of Americanization—to make us all one culture—to the prevalent ideas of multiculturalism—embracing and exploring our similarities and differences. The class will discuss the pros and cons of gender segregated schooling and race segregated schooling.

Early colonial life revolved around the family particularly the father. Early education was important, children were taught to read. The Connecticut General Court required most towns to support public education by 1644. In 1690 the General Court made it law that every child attend school. Girls were steered toward a career as a house wife, while boys were taught to farm and/or learn a craft. Women were considered inferior to men and a group of women in the 1820's and 30's set out to change these ideals by starting schools for girls only.

Similarly by the 17th century slave trading had begun, blacks were shipped to this country to perform laborious tasks. However in New England blacks were not numerous, most were house servants and farmers and a few were skilled laborers. Yet none them had political rights and were subject to very strict laws called black codes. Blacks were forbidden to further their education in the same schools as whites. This practice continued legally until *Br own v. Board of Education* in many regions of this country.

Upon completion of the introduction, students should have sufficient background to begin to analyze the issues involved with gender segregated schooling. Should there be separate schools for girls and boys? What subjects should be taught? Are there subjects that should be taught separately in coed schools? For example, should only boys be allowed to take shop classes? The discussion will begin with an early Connecticut example *Crandall v. the State of Ct.* The *Crandall* case will be covered in great detail. The issues in this case not only deal with female education but introduce the topic of racial segregation in education.

Prudence Crandall opened a girl's boarding school in 1831 in the center of Canterbury, Connecticut. She enjoyed success until she made the decision to admit a black student Sarah Harris to her school. This action enraged many of the townspeople. A *boycott* was organized and goods such as food were not given to Prudence Crandall's school. The white parents would not allow their daughters to attend. Prudence then turned her student body to all black girls.

Sarah Harris' *enrollment* in Prudence's school changed Crandall's *reputation* in a very significant way. Prudence Crandall was labeled an *abolitionist*. Her name became associated with such leaders of the anti-slavery movement as William Lloyd Garrison, editor of abolitionist newspaper entitled the "Liberator." When she enrolled Sarah, Prudence showed that she believed that blacks should be given the same education as whites.

Less than a year after Sarah Harris began attending Prudence's school, the Connecticut Legislature passed a law which became known as the "Black law." This law stated that it was illegal for a black Connecticut resident to attend a private school in a Connecticut town unless that town approved.

The passing of the "Black Law" made Prudence a criminal, therefore on June 27, 1833, Prudence Crandall was arrested. She pleaded not guilty and after a year long court battle, Prudence's case was dismissed on a *technicality*. However, Prudence's school closed on September 10, 1834. This closing followed a violent attack on the school during the evening of September 9th, at which time windows were smashed, and the students forced to leave.

Shortly before the closing of her school, Prudence married the Reverend Calvin Philleo. Prudence and Calvin eventually moved to Illinois, ending Prudence's efforts to educate blacks equally with whites in Connecticut.

The discussion should then turn from all female institution to all male schools being challenged to admit females.

Shannon Richel Faulkner was initially admitted (conditionally-all cadets are given this status) to begin classes in the fall of 1993. When her female gender was discovered The Citadel withdrew their acceptance citing their 150 year old history as a male only institution. Ms Faulkner sued The Citadel for violation of the Equal Protection Clause of the 14th Amendment, filing in March of 1993,

The District court reviewed the case and issued a preliminary injunction ordering Faulkner be admitted to day classes but not to the school's Corps of Cadets. In May of 1993 the South Carolina General Assembly passed a joint resolution that affirmed a state policy of favoring single-gender educational institutions. The resolution declared that

South Carolina has historically supported and continues to support single gender educational institutions as a matter of public policy based on legitimate state interests where sufficient demand has existed for particular single-gender programs thereby justifying the expenditure of public funds to support such programs. ²

The General Assembly also formed a committee to examine the need for single-gender educational opportunities for women and to submit recommendations for consideration at the beginning of the 1994 session.

On July 8, 1993 Faulkner petitioned to attend day classes pending litigation and on August 12th she was admitted.

The students will be told that the initial case was only the beginning and the two subsequent cases will be discussed. They will be informed that The Citadel proposed a parallel program for the South Carolina Institute of Leadership for Woman (SCIL) at Converse College. The main issues of the case are—is it constitutional for a state to have men-only military school and should such a school receive public funds? The court stated that single-sex education is pedagogically justified and educationally beneficial.

The students will be given background information on the 14th Amendment. It was adopted after the Civil War to provide newly freed blacks with the same protection of the laws as that afforded to other persons. However the clause accommodates the notion that people are created differently, i.e. statutes limiting drivers' licenses to 16 and over, drinking to 21 and over and other gender classifications like men being required to register for the draft but not women.

During the discussion of the Citadel case the students will be directed to another case that was cited to help explain the reasons why women should not be allowed to an all-male school. The United States sued the Commonwealth of Virginia in 1991, challenging Virginia's maintenance of a military institute exclusively for males. The initial case judgment was entered for Virginia, the United States appealed.

Virginia Military Institute (VMI) was established in 1839 by the Virginia legislature as a four year military college and is still financially supported by the Commonwealth of Virginia. The military training program is based upon a methodology that reduced the cadets in training to an as-equal-as possible status by a detailed system. The cadets are subjected to varying amounts of physical and mental adversity, stress, denial of all privacy, regulated behavior and a strict code of conduct. ³

The second court vacated the judgment and remanded the case to the district court: (1) to require the defendants to formulate, adopt and implement a plan that conforms with the Equal Protection Clause of the 14th Amendment, (2) to establish appropriate timetables, and (3) to oversee the implementation of the plan. ⁴

The case eventually was decided by the Supreme Court in July of 1996. The Court's decision was that gender based education is discriminatory and violated the 14th Amendment Equal Protection Clause. Therefore, VMI must admit women or stop taking public funds. VMI decided to postpone their decision to go private until September of 1996. The students should be given the articles related to VMI's final decision.

1991 was also a big year for single gender race based schooling. The Detroit Board of Education authorized the creation of the Male Academy in February of 1991. The school opened in coed form that September. The City of Milwaukee opened the African-American Immersion School also in September 1991.

These programs seek to address the needs of African-American males by emphasizing African-American culture, rigorous discipline, high achievement, individual counseling and community involvement. ⁵

Most cities when planning schools for boys wanted to avoid the Equal Protection Clause of the 14th Amendment, so they designed the programs to admit girls. Detroit did not do this and they were taken to court. The court found that confronting " the black male crisis is an important objective recognized by the Equal Protection Clause, but the exclusion of girls does not further the achievement of that objective." ⁶ If someone had pursued the racial segregation aspect of these schools it would have been more difficult to justify in constitutional terms.

The Milwaukee system avoided both issues by planning for girls and starting the Immersion School in an existing school attended by almost all black students anyway. Enrollment in the schools was voluntary rather

than forced which also would lessen any potential racial segregation case.

The interrelated concepts used to justify the schools—group empowerment, cultural identify and cultural victimization—are also used to criticize the existence of such schools. In other words, separating students because of these differences promotes the stereotypes and stigmatizes these individuals by asserting that they have characteristics determined solely by their race. ⁷ While others feel by creating schools that affirm group bonds and empower the community, and everyone within the community who has experienced cultural victimization may choose to enroll in the schools, then separate is not inherently equal, it may instead be a means to challenge dominant groups and become equal.

The schools have geared their curricula toward black males in crisis, but they must also recognize that black girls in urban environments are also facing crisis. They must be careful not to pit males against females or diminish the needs of either group.

The review of this topic with students in the classroom should be make for interesting discussion of both gender and race issues and why race takes priority over gender in the court determination of cases involving the Equal Protection Clause of the 14th Amendment.

Regulations that classify by gender are not subject to the same scrutiny under equal protection as is a regulation that classifies on the basis of race or national origin. Two cases can be presented to show how classification can be treated differently- *Loving v. Virginia* and *Mississippi University for Women v. Hogan* .

The culminating activity would have the students plan a debate to argue both sides of the Citadel or VMI case. The debate will held possibly for another class. After the debate the class will discuss the final outcome of the Citadel case and the June 1996 decision and the VMI final decision.

Lesson One: Prudence Crandall

Objectives

To identify the gender and race issues presented in the case.

To discuss and determine which of the two dominant issues seemed more important—an all girls' school or the girls' race.

To assess the student's comprehension of the written lesson.

To introduce legal terms.

Students will be given the information previously stated in this paper about Prudence Crandall in a written format, the underlined words will be vocabulary for discussion and matching on a brief quiz given to assess their comprehension.

QUIZ

Check the correct answer:

1. This passage is mainly about:
Prudence Crandall's marriage to Calvin Philleo.
Prudence Crandall's school.
Prudence Crandall's life in Illinois.
2. In the third paragraph, the word "anti-slavery" means:
Slave-holding
For slavery
Against slavery
3. Given the facts presented in this passage, one could say that :
Prudence always enjoyed fantastic success.
Prudence followed her conscience and did what she thought was right.
Sarah loved her father very much.

Fill in the blanks.

4. Prudence's school was in the center of _____, Connecticut.
5. The trial took one year and was dismissed on a _____.
6. Number the following in the order in which they occurred in time:
The Connecticut Legislature passed the "Black Law".
Prudence opened a boarding school in Canterbury.
Prudence's school was violently attacked.
Sarah Harris enrolled in Prudence's school.

Vocabulary Match—Put the letter from the second column in front of the number of its meaning.

- | | |
|--|-----------------|
| ___ 1. What people think of someone | A. Boycott |
| ___ 2. To stop buying from or selling to | B. Enrollment |
| ___ 3. A detail; a very specific point or fact | C. Reputation |
| ___ 4. Person who is against slavery | D. Technicality |
| ___ 5. To be signed up in a school | E. Abolitionist |

Homework Written Assignment—You are Prudence Crandall, Write a letter to persuade the judge you are not guilty.

Lesson Two: Movie

Objective To enhance the student's understanding of the previous lesson.

The students will be shown the movie 'The Prudence Crandall Story' and asked to discuss their views about the case after seeing the dramatization.

Lesson Three: Gender Circle

Objectives

To have students write a list of words to prompts given to produce gender bias answers.

To compare their responses in small groups and graph the information.

To review and discuss their gender bias (or lack of)

Each student will be given a 5x7 index card and asked to write the first word or words that come to mind when a list of words is given orally. The list of words could include any or all of the following:

blue	pink	nurse	doctor
principal	dishes	pretty	sports
shop	military class clown honor student		
teacher	solider	president	smartest
handsome	math	scientist	home ec
criminal	police	judge	lawyer

The list can be lengthen or shorten to suit the class and time constraints.

The students will then be divided into even number groups to discuss and graph their information. The graphs will be hung for the group discussion.

Homework Write a newspaper article telling why you think boys and girls should have equal chances to be what they want to be.

Lesson Four: Faulkner v. Jones (The Citadel Case)—estimated time 1Ð2 weeks

Objectives:

To identify the gender issues raised by the case.

To discuss the 14th Amendment Equal Protection Clause

To introduce vocabulary:

gender bias	prejudice
discrimination	injunction
civil rights	separate but equal

To analyze the time involved to pursue major legal issues.

The students will examine the Equal Protection Clause of the 14 Amendment. the vocabulary will be introduced through a series of role plays. Students will be given mini scripts to act out samples of the vocabulary words.

Lesson Five: Separate but Equal

Objectives:

To introduce the idea of separate but equal.

To have students write their own plans of how such an idea can be instituted within their classroom.

The students will come into the room and discover that all the desks have been moved. The girls will be on one side and the boys on the other. The class will then be given the task of dividing everything equally between the two groups. We will engage a group discussion after each group has been given at least one-half hour to draft their plans. They will be asked to explore their feelings about being separated and if they really think equality could be achieved in separate environments.

Homework Draw your own seating charts to show 1. separate but equal and 2. together and equal. Be prepared to explain the major differences in the two plans.

Then a brief review of the Prudence Crandall case will be used as an introduction to next topic and the issues it raises- *Racially segregated schooling*— Should there be separate schools for African-Americans, Caucasians, Hispanics, Asians and every racial group? What happens to persons of mixed ethnicity? Should the faculties be equally representative of the student population?

Lesson Six: Introduction of Vocabulary

Objective To introduce and discuss the meaning of prejudice, discrimination, gender bias and civil rights. Prejudice is the pre-judgment, positive or negative, of another person on the basis of that person's appearance, sex, race, ethnic background or any particular belief. The other definitions are the student activities section.

In the 1896 case of Plessy v. Ferguson, the Supreme Court ruled that a state could use discriminatory seating practices on public transportation. It upheld the transportation law that called for separate but equal transportation accommodations for blacks and whites. The Supreme Court subsequently ruled to authorize racially segregated schools.

The students will discuss the impact of this case on black life during that time. Information will given as to what occurred between that time period and the 1954 Brown v. Board of Education decision. In this famous case the Supreme Court declared segregated schools unequal and therefore unconstitutional. Discussions and cases will be presented to show the affects of the South exhibiting massive resistance to the desegregation of schools.

Brown I allowed schools to ignore the law if they could show 'good faith' in their intent to obey. Even Brown II

(1955) allowed schools the option to devise a plan to desegregate with “all deliberate speed.” The speed was at the discretion of the local school districts. This option mixed with white flight and redistricting have many districts still dealing with the desegregation issue forty years later. The ‘busing ‘ solution is now being replaced with magnet, regional, charter and choice school jargon as ways to solve the so-called problem.

The discussions will be based upon readings of varying views and legal cases that justify what exists presently. The students will be asked to explore their own “comfort” levels for learning. The culminating activities will have the students predict the future trends in American education and the laws that govern educational institutions.

Notes

1. Stephan Thernstrom, *Poverty & Progress: Social Mobility in a Nineteenth Century City* . p. 77.
2. *Faulkner v. Jones* 10 F. 3d. 232 (1993)
3. *United States v. Commonwealth of Virginia* 976 F. 2d. 890Ð893 (1992)
4. Ibid.
5. Christopher Steskal, *Creating Space for Racial Difference: The Case for African-American Schools* . 27 Har. C.R.C.L.L. Rev. 187 (1992)
6. *Garrett v. The Board of Education* . 775 F. Supp. 1004, 1007 (E.D. Mich. 1991)
7. Michael Meyers, MacNeil/Lehrer News Hour: Separate Equals Better? (Educ. Broadcast Serv., May 1, 1991)

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Gross, Beatrice & Ronald Ed *The Great School Debate: Which Way for American Education*

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Innerst, Carol, *ACLU, NOW Sue over Idea of Schools for Black males Only*, Wash. times, Aug. 7, 1991 at A1

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Discrimination : n. unequal treatment of persons, for a reason which has nothing to do with legal rights or ability. Federal and state laws prohibit discrimination in employment, availability of housing, rates of pay, right to promotion, educational opportunity, civil rights, and use of facilities based on race, nationality, creed, color, age, sex or sexual orientation. The rights to protest discrimination or enforce one's rights to equal treatment are provided in various federal and state laws, which allow for private lawsuits with the right to damages. There are also federal and state commissions to investigate and enforce equal rights. p. 142

gender bias : n unequal treatment in employment opportunity (such as promotion, pay, benefits and privileges), and expectations due to attitudes based on sex of an employee or group of employees. Gender bias can be a legitimate basis for a lawsuit under anti-discrimination statutes. p. 184

civil rights : n. those rights guaranteed by the Bill of Rights , the 13th and 14th Amendments to the Constitution, including the right to due process, equal treatment under the law of all people regarding enjoyment of life, liberty, property, and protection. Positive civil rights include the right to vote, the

opportunity to enjoy the benefits of a democratic society, such as equal access to public schools, recreation, transportation, public facilities, and housing, and equal and fair treatment by law enforcement and the courts.
p. 87

Plessy v. Ferguson (1896): Despite a vigorous dissent by Justice John Harlan, the court ruled that “separate but equal” facilities for blacks were constitutional, which remained the rule until *Brown v. Board of Education* (1954).

Brown v. Board of Education of Topeka (1954) : Chief Justice Earl Warren ruled for a unanimous court that separate educational facilities for blacks and whites are inherently unequal and equal conditions for all races must be provided with “all deliberate speed,” overturning *Plessy v. Ferguson*.

Regents of the University of California v. Bakke (1978) : The “reverse discrimination case” which found that a white applicant for a medical school which received federal funding could not be excluded due to his race (a limited quota for whites under the school’s plan) due to the non-discrimination provisions of the non-discrimination provisions of the 1964 Civil Rights Act.

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