Lesson 2

The Road to Brown

Rationale

The purpose of this lesson is to engage students in an examination of the history of segregation in U.S. schools and the pivotal events leading up to the *Brown* v. *Board of Education* decision. Students begin by considering the role of public education in a democracy. They view a brief timeline of examples of school segregation, and discuss the contradictions between these examples and the role of education articulated earlier. In small groups, students then work on a class timeline of key historical events leading up to the Brown decision. Each group researches one topic or event from the "road to Brown," makes a visual representation of the event for the timeline, and reports back to the class on the significance of the topic researched.

Objectives

- Students will articulate their beliefs about the purpose of public education in a democracy.
- Students will learn about historical examples of segregation in U.S. schools and consider the ways in which segregation undermines the purpose of public education in a democracy.
- Students will examine key topics and events in the post-Civil War era that set the stage for *Brown* v. *Board of Education*.

Age Range

Grades 9-12

Time

Three class periods or 2 hours 15 minutes

Requirements

Handouts and Resources:

- Equal Opportunity for All? A Brief Timeline of Segregation in U.S. Public Education (one for each student)
- The Road to Brown Topics and Source Links (for teacher reference only)

Other Material:

- chart paper, markers
- computer and LCD or overhead projector
- access to internet for students (optional)

Advanced Preparation

Reproduce handouts as directed above.

Techniques and Skills

cooperative group work, creating a timeline, critical thinking, historical understanding, large and small group discussion, reading skills, research skills, using the internet

Procedures

1. Pose the following questions to students: "What do you think is the main purpose of public education in a democracy?" Have them discuss this question for about five minutes with a partner or in small groups of 3-4 students.

Key Words

Amendment Black codes Civil rights Conflict Contradiction Democracy Desegregation Discrimination Equal protection Integration Internment Interracial NAACP Public accommodation Segregation Separate but equal Tolerance Unconstitutional

Values

- 2. Reconvene the class and ask each pair or group to share one purpose and chart their responses. Point out that debate over the central purpose of public education goes back to the very beginnings of U.S. history and is still taking place today. While some have always maintained that schools exist solely to teach academics—the "basics" or the "3 R's"—others have looked to schools to teach democratic and civic values, vocational skills, and social tolerance. During the 19th century, for example, Horace Mann (considered by many to be the father of public schools) suggested that public education would strengthen democracy by bringing together children of all social classes. During the early 20th century, schools were called upon to "Americanize" a growing immigrant population through an emphasis on hygiene, civics and English language skills. In the 1960s, schools were seen as a remedy for the problem of poverty, and unprecedented federal legislation was passed that provided increased funding and services to impoverished children and schools.
- 3. Tell students that although schools have always been looked to as a means to promote democracy and address social problems (and have often been successful in these endeavors), public education has not always been available to all citizens in equal ways. Note that the U.S. has a long history of separating and segregating students in schools based on various differences. Ask students if they can cite examples.
- 4. Post or distribute copies of *Equal Opportunity for All?*, which is a brief timeline of examples of segregation in U.S. education. Ask for volunteers to read each example aloud.
- 5. Direct students to consider the list they generated earlier about the purposes of public education in a democracy. Ask them to discuss the conflicts and contradictions between these purposes and the examples of segregation from the timeline. In what ways has segregation undermined the very purpose of public education in our country?
- 6. Tell students that they are going to create a timeline of their own that takes an in-depth look at one of the most important cases in U.S. history related to school segregation. As they develop the timeline of historical events leading up to the famous decision, they will further explore the ways in which segregated schooling conflicts with core democratic values.
- 7. Remind students of the landmark *Brown* v. *Board of Education* decision and the Ruby Bridges story that you discussed in Lesson 1. While most students will know much about *Brown* and the subsequent desegregation efforts of the Civil Rights era, many may be unaware of the pivotal events of the preceding hundred years that set the stage for *Brown*.
- 8. Divide students into groups of 3–5 and assign each group one event on the "Road to Brown" from <u>The Road to Brown</u> <u>Topics and Source Links</u>. Provide each group with readings and/or Web site links to assist them in learning more about the assigned event. Assign groups the following tasks:
 - a. Create a visual representation of the assigned event that can be placed on a class timeline of the "Road to Brown" (e.g., copy of a primary document, symbolic artifact, illustration, imagined letter or journal entry in the voice of a historical figure, etc.).
 - b. Prepare a brief (2–3 minute) oral presentation summarizing the significance of the event on the "Road to Brown."
- 9. Using the <u>Topics and Source Links</u> included in this lesson, allow students ample time to read, research and prepare their presentations. When the students are ready, allow each group about five minutes to present and to help form the class' "Road to Brown" timeline.

NOTE: The "Key Court Challenges" topic of *The Road to Brown Topics and Source Links* handout includes five subtopics and should not be assigned entirely to one group. Divide these cases among 2–3 groups or ask one group to choose the 2–3 cases they find most interesting to study further.

Equal Opportunity for All?

A Brief Timeline of Segregation in U.S. Public Education



1779 Thomas Jefferson proposes a two-track educational system, with different tracks, in his words, for "the laboring and the learned." Scholarship would allow a very few of the laboring class to advance, Jefferson says, by "raking a few geniuses from the rubbish."

1830s Most southern states have "slave codes," making it illegal to teach Blacks to read or write. Thus, roughly 5 percent of the slave population is literate at the time of the Civil War.

1840s While Irish Catholic people number over 100,000 in New York City (25% of the total population), the Protestant Bible is a standard teaching tool in public education, as are textbooks and instruction that is anti-Irish and anti-Catholic. Controversy over the use of the Protestant Bible in public schools escalates nationwide. During the "Philadelphia Bible Riots" of 1843, a Catholic church is burned to the ground and thirteen people are killed. In 1850, John Hughes is named archbishop of New York and uses his considerable power to help create a privately funded national system of Catholic schools. It becomes the major alternative school system in the United States.



1859 The Chinese are excluded from San Francisco public schools. In 1885 a family sues the school board to enroll their Chinese daughter in a public school. San Francisco responds by building a new segregated "Oriental School." It is not until 1905 that the U.S. Supreme Court requires California to extend public education to the children of Chinese immigrants.



1864 Congress makes it illegal for Native Americans to be taught in their native languages. Native children as young as four years old are taken from their parents and sent to Bureau of Indian Affairs off-reservation boarding schools, whose goal, as one BIA official put it, is to "kill the Indian to save the man."

1896 In *Plessy* v. *Ferguson*, the U.S. Supreme Court rules that the state of Louisiana has the right to require "separate but equal" railroad cars for Blacks and Whites, thereby officially recognizing segregation as legal. One result is that southern states pass laws requiring racial segregation in public schools, which remain in place for almost 60 years.





1941 Following the attack on Pearl Harbor, President Roosevelt authorizes the internment of 120,000 persons of Japanese ancestry. These Japanese Americans—half of whom are children—are forced to evacuate their homes, jobs, and schools and are incarcerated for up to four years in camps surrounded by barbed wire and armed guards. Schools are not part of the original construction plans in many camps, so classes are held in mess halls and other makeshift structures. It is difficult to recruit outside educators because of the harsh living conditions, so access to adequate teaching staff is limited.

1975 The Individuals with Disabilities Education Act (IDEA) is passed. Prior to its implementation, approximately 1 million children with disabilities were shut out of schools and hundreds of thousands more were denied appropriate services. Ninety percent of children with developmental disabilities were previously housed in state institutions.

The Road to Brown Topics and Source Links

1. Black Codes & Jim Crow

The Black Codes (eventually known as Jim Crow) refers to the laws passed by southern state governments after the Civil War. These laws—a recreation of the old "slave codes" that pretended to protect the rights of African Americans—imposed severe restrictions on freed slaves, such as prohibiting their right to vote, forbidding them to sit on juries, limiting their right to testify against white men, and preventing them from carrying weapons in public places and working in certain occupations. These laws mark the beginning of segregation, including in educational settings.

Sources:

- Black Codes (Spartacus Educational, <u>www.spartacus.schoolnet.co.uk/USASblackcodes.htm</u>)
- Black Codes and Jim Crow Laws (South Carolina Information Highway Web site, www.sciway.net/afam/reconstruction/blackcodes.html)
- Freedom: A History of US (PBS, www.pbs.org/wnet/historyofus/web07/segment2b.html)
- The Southern "Black Codes" of 1865–66 (Constitutional Rights Foundation, <u>www.crf-usa.org/bill-of-rights-in-action/bria-15-2-c-the-southern-black-codes-of-1865-66</u>)

2. The Fourteenth Amendment

In 1866, Congress ratified The Fourteenth Amendment to the Constitution, which granted citizenship to freed slaves, prohibited the States from denying or abridging the fundamental rights of every citizen, and required the States to grant all persons equal protection and due process. The Fourteenth Amendment was later used as an argument against segregation and played an important role in *Brown* v. *Board of Education*.

Sources:

- Actual Text of Amendment Fourteen (LawForKids.org LawDocs, www.lawforkids.org/Law-Docs/amendment-14)
- The Fourteenth Amendment Ratified (*The Rise and Fall of Jim Crow*, PBS, www.pbs.org/wnet/jimcrow/stories events 14th.html)
- The Fourteenth Amendment (Spartacus Educational, <u>www.spartacus.schoolnet.co.uk/USAS14.htm</u>)
- The Fourteenth Amendment to the U.S. Constitution (Our Documents, www.ourdocuments.gov/doc.php?flash=true&doc=43)
- The Fourteenth Amendment to the U.S. Constitution (Library of Congress, www.loc.gov/rr/program/bib/ourdocs/14thamendment.html)

3. Civil Rights Acts of 1866 and 1875

Between the years of 1866 and 1875, the U.S. government passed a series of civil rights laws in order to enforce the thirteenth, fourteenth and fifteenth amendments to the Constitution. The Civil Rights Act of 1866 granted black citizens equal rights to contract, to sue and be sued, to marry, travel, and own property. It made all citizens subject to "like punishment, pains and penalties." The Civil Rights Act of 1875 prohibited discrimination in public accommodations, such as hotels, transportation and theaters. It granted African Americans the right to sue for personal damages, and allowed any qualified person to serve as a juror. The prohibition against discrimination in public accommodations and the right to seek legal redress in the courts are important precursors to the battle over school desegregation.

- 1866 Civil Rights Act (Spartacus Educational, www.spartacus.schoolnet.co.uk/USAcivil1866.htm)
- The 1866 Civil Rights Act (Reconstruction: The Second Civil War, PBS, www.pbs.org/wgbh/amex/reconstruction/activism/ps_1866.html)

- The 1875 Civil Rights Act (Reconstruction: The Second Civil War, PBS, www.pbs.org/wgbh/amex/reconstruction/activism/ps 1875.html)
- Civil Rights Act through exhibitions (National Civil Rights Museum, www.civilrightsmuseum.org/gallery/civilrights.asp)
- Civil Rights Act 1875 (Spartacus Educational, www.spartacus.schoolnet.co.uk/USAcivil1875.htm)
- Civil Rights Act 1875 (The Rise and Fall of Jim Crow, PBS, www.pbs.org/wnet/jimcrow/stories events civil.html)
- Civil Rights Act Bill of 1866 (United States House of Representatives: History, Art & Archives, http://history.house.gov/Historical-Highlights/1851-1900/The-Civil-Rights-Bill-of-1866/)

4. Plessy v. Ferguson

In 1892, a shoemaker named Homer Plessy (who was one-eighth black and seven-eighths white) was jailed for sitting in the white car of the East Louisiana Railroad. The arrest was part of a planned challenge to the 1890 Louisiana Separate Car Act by the "Citizens' Committee to Test the Constitutionality of the Separate Car Law," a small group of black professionals in New Orleans. In 1896, the U.S. Supreme Court ruled that the Louisiana law mandating "separate but equal" accommodations for Blacks and Whites on intrastate railroads was constitutional. The defense argued that Plessy was denied his equal protection rights under the Fourteenth Amendment, and that his arrest violated the Thirteenth Amendment by perpetuating the essential features of slavery. The Court upheld the "separate but equal" principle, thereby providing legal justification for racial segregation until the *Brown v. Board of Education* decision in 1954.

Sources:

- Plessy v. Ferguson (Encyclopedia Britannica, www.britannica.com/EBchecked/topic/464679/Plessy-v-Ferguson)
- Plessy v. Ferguson 1896 (Street Law's Landmark Cases of the U.S. Supreme Court, www.streetlaw.org/en/landmark/cases/plessy v ferguson)
- Plessy v. Ferguson 1896 (The Rise and Fall of Jim Crow, PBS, www.pbs.org/wnet/jimcrow/stories events plessy.html)
- Plessy v. Ferguson 1896 (Our Documents, www.ourdocuments.gov/doc.php?flash=true&doc=52)
- Plessy v. Ferguson (History Channel, www.history.com/topics/black-history/plessy-v-ferguson)

5. The National Association for the Advancement of Colored People (NAACP)

The National Association for the Advancement of Colored People (NAACP) was founded in 1909 in response to a devastating race riot that had taken place the year before in Springfield, Illinois. A group of multiracial activists issued a call for a meeting on racial justice and the formation of an organization that would defend the thirteenth, fourteenth and fifteenth amendments to the Constitution. The original founders of the NAACP (originally called the National Negro Committee) included Ida Wells-Barnett, W.E.B. DuBois, Henry Moscowitz, Mary White Ovington, Oswald Garrison Villiard, and William English Walling. Later members of the NAACP included the attorneys Hamilton Houston and Thurgood Marshall, who devised legal strategies that helped to end racial segregation in the U.S.

Sources:

- NAACP Founded 1909 (The Rise and Fall of Jim Crow, PBS, www.pbs.org/wnet/jimcrow/stories_events_naacp.html)
- NAACP History (NAACP, www.naacp.org/pages/naacp-legal-history)
- NAACP Interactive Timeline (NAACP, <u>www.naacphistory.org</u>)
- NAACP Legal Defense and Educational Fund (<u>www.naacpldf.org</u>)

6. Thurgood Marshall

Thurgood Marshall, the great-grandson of a slave, was the first African American Supreme Court justice. As a young man, he was denied admission to the University of Maryland's all-white law school (an institution he later challenged and defeated). He attended law school at Howard University, where he met Charles H. Houston, the school's Vice Dean, who became the NAACP's first chief counsel and the first African American to win a case before the U.S. Supreme Court. After law school, Marshall went to work for Houston at the NAACP, where he was a key force in eradicating racial segregation in

education, housing, transportation, electoral politics and criminal justice. Marshall represented Linda Brown in the *Brown* v. *Board of Education* case, in which he argued that racial segregation itself—and not just unequal "accommodation"—was inherently unconstitutional.

Sources:

- Thurgood Marshall Biography (Street Law's Landmark Cases of the U.S. Supreme Court, www.streetlaw.org/en/Page/524/Thurgood_Marshall_biography)
- Thurgood Marshall (History Channel, www.history.com/topics/black-history/thurgood-marshall)
- Thurgood Marshall (speeches, articles, interviews, and photos, www.thurgoodmarshall.com/home.htm)
- Thurgood Marshall, Supreme Court Justice (Center for History and New Media, George Mason University, http://chnm.gmu.edu/courses/122/hill/marshall.htm)

7. Key Court Challenges

From Dred Scott in 1857 to *Brown* v. *Board of Education* in 1954, numerous judicial battles shaped public attitude and policy regarding segregation and the status of non-Whites in U.S. society. Below are just a few of the many cases that directly addressed segregation in education, and set the stage for the *Brown* decision and ultimate collapse of legal segregation in the U.S.

a. Berea College v. Commonwealth of Kentucky (1908)

Berea College was founded in 1855 specifically to educate black and white students together. In 1904, the Kentucky state legislature passed the "Day Law," mandating segregation in every "college, school or institution." Berea College challenged the law, but the Supreme Court upheld the Kentucky regulation forbidding interracial instruction.

Sources:

- Berea College v. Commonwealth of Kentucky (History of Education: Selected Moments of the 20th Century by Daniel Schugurensky, The Ontario Institute for Studies in Education of the University of Toronto, http://fcis.oise.utoronto.ca/~daniel_schugurensky/assignment1/1908deangelo.html)
- Lincoln Hall, Berea College (*We Shall Overcome:* Historic Places of the Civil Rights Movement, National Parks Services, www.cr.nps.gov/nr/travel/civilrights/ky1.htm)

b. *Gong Lum* v. *Rice* (1927)

In this case, a Chinese grocer claimed that his daughter was illegally classified as "colored" after she was barred from a Whites-only public school. The Supreme Court held that the state's classification was within its right in regulating the education of its youth at public expense. The Court extended the "separate but equal" doctrine of *Plessy* v. *Ferguson* to the public schools, and upheld Mississippi's longstanding policy "to preserve the white schools for members of the Caucasian race alone."

- Gong and Martha Lum Case-Chinese Discrimination (Chickenbones: A Journal for Literary and Artistic African American Themes, ChickenBones Education, Arts, and Literary Society, Inc., www.nathanielturner.com/educationhistorynegro29.htm)
- Gong Lum v. Rice (Augustana College, www.augustana.edu/Users/Podehnel/cases/GONGLUM.htm)
- Gong Lunn v. Rice (FindLaw, http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=275&invol=78)

c. Missouri ex rel. Gaines v. Canada (1938)

The University of Missouri refused to admit a black student, Lloyd Gaines, to its law school and offered instead to pay his expenses for law school outside the state. The U.S. Supreme Court ruled that Gaines should either be admitted to the Law School of the University of Missouri, or the state of Missouri should build a law school for Blacks equal to that of Whites. By making "separate but equal" schooling a more difficult and expensive proposition, the *Gaines* case helped to weaken the foundation of segregation.

Sources:

- Lloyd Gaines v. Canada, a Step Toward Desegregation in Education History of Education: Selected Moments of the 20th Century by Daniel Schugurensky, The Ontario Institute for Studies in Education of the University of Toronto, http://fcis.oise.utoronto.ca/~daniel_schugurensky/assignment1/1938gaines.html)
- The Supreme Court (*The Rise and Fall of Jim Crow*, PBS, <u>www.pbs.org/wnet/jimcrow/struggle_court2.html</u>)
- Missouri ex rel. Gaines v. Canada (Cornell University Law School, www.law.cornell.edu/supremecourt/text/305/337)

d. Mendez v. Westminster (1946)

In 1944, Gonzalo Mendez moved to an asparagus farm he agreed to manage while its Japanese owners were interned. When the Mendez children were refused admission to the local school, Gonzalo and four other parents sued. The families won the case and Governor Earl Warren later signed legislation prohibiting segregation in the state. The Mendez case sent ripple effects across the nation and had important connections to *Brown* v. *Board of Education*. Thurgood Marshall, the prosecuting attorney in *Brown*, filed briefs in *Mendez* v. *Westminster* for the NAACP; Governor Earl Warren of California would later become Chief Justice of the U.S. Supreme Court and preside over *Brown*.

Sources:

- *Mendez* v. *Westminster School District of Orange County* (The State Bar of Texas' Law-Related Education Department, www.texasbar.com/civics/High%20School%20cases/mendez-v-westminster.html)
- Mendez v. Westminster History at http://sylviamendezinthemendezvswestminster.com/aboutus.html
- American Latino Heritage (National Parks Services, <u>www.nps.gov/history/nr/travel/american latino heritage/Los Angeles US Court House and Post Office.html</u>)
- Mendez v. Westminster Background (United States Courts, <u>www.uscourts.gov/educational-resources/get-involved/federal-court-activities/mendez-westminster-re-enactment/mendez-westminster-background.aspx</u>)

e. Sweatt v. Painter (1950)

In 1946, Herman Marion Sweatt applied for admission to the University of Texas Law School, but was rejected because he was Black. When Sweatt and the NAACP sued, the state continued the case to give the state an opportunity to establish a "separate but equal" law school for African American students, and a temporary facility for "Negroes" was created. The case eventually went to the U.S. Supreme Court, which held that the Equal Protection Clause required that Sweatt be admitted to the university. The Court argued that the separate school would be inferior in a number of areas, and found that the mere separation from the majority of law students harmed students' abilities to compete in the legal arena.

- Archival and Textual Sources (University of Denver College of Law, www.law.du.edu/russell/lh/sweatt)
- Sweatt v. Painter (Handbook of Texas Online, the University of Texas at Austin, www.tshaonline.org/handbook/online/articles/jrs01)
- Desegregation: Sweatt v. Painter 1950 (<u>University of Texas School of Law, Tarlton Law Library, http://tarlton.law.utexas.edu/clark/sweatt_long.html</u>)
- Sweatt v. Painter (Cornell University Law School, www.law.cornell.edu/supremecourt/text/339/629)

8. Brown v. Board of Education

In Topeka, Kansas, an African American third-grader named Linda Brown had to walk one mile through a railroad switchyard to get to her black elementary school. After Linda was denied entry to a white elementary school only seven blocks away, her father joined with the NAACP to challenge segregation in the Topeka public schools. The court ruled in favor of the Board of Education, and the NAACP appealed to the U.S. Supreme Court. The *Brown* case was combined with four other cases that challenged school segregation in Washington, DC, Delaware, Virginia and South Carolina. On May 17, 1954, Chief Justice Earl Warren delivered the now famous decision: "...We conclude that in the field of public education the doctrine of 'separate but equal' has no place..." Though the ruling abolished segregation in U.S. public schools, it did not address segregation in other public venues or provide a timeline or process for the integration of schools.

- *Brown* v. *Board of Education* (Freedom: A History of US, PBS at www.pbs.org/wnet/historyofus/web13/segment8 p.html)
- Brown v. Board of Education 1954 (Street Law's Landmark Cases of the U.S. Supreme Court, www.landmarkcases.org/brown/home.html)
- Brown v. Board of Education 1954 (The Rise and Fall of Jim Crow, PBS, www.pbs.org/wnet/jimcrow/stories events brown.html)
- Brown Foundation (history, cases, resources, articles, <u>www.brownyboard.org</u>)
- Brown v. Board of Education Issue: Racial Segregation in Public Schools (PBS, www.pbs.org/jefferson/enlight/brown.htm)
- Brown v. Board of Education (Our Documents, www.ourdocuments.gov/doc.php?flash=true&doc=87)
- Dialogue on *Brown* v. *Board of Education* (American Bar Association Division for Public Education, www.americanbar.org/content/dam/aba/migrated/brown/brownvboard.authcheckdam.pdf)
- History of *Brown* v. *Board of Education* (United States Courts, <u>www.uscourts.gov/educational-resources/get-involved/federal-court-activities/brown-board-education-re-enactment/history.aspx)</u>