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What was America's Legal Response to Brown v. Board and Brown v. Board II?

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Brown v. Board is often described as ending segregation in America and hailed as a landmark Supreme Court decision. The Supreme Court's decision in Brown v. Board of Education was nearly stalled for years because the Court, under Chief Justice Fred Vinson, was deeply divided and reluctant to overturn Plessy v. Ferguson. While Plessy didn't produce a quote as remembered as Roger Taney's "no rights which the white man was bound to respect" in the Dred Scott decision. We did get this from Justice Henry Billings in Plessy:

> *"If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane."*

Chief Justice Vinson favored incrementalism and was openly resistant to sweeping constitutional change, which meant the Court was heading toward a fractured ruling that might have upheld segregation in practice even if it questioned it in theory. When Vinson died suddenly in 1953, President Eisenhower appointed Earl Warren, whose political instincts and moral clarity transformed the Court's internal dynamics. Warren insisted on unanimity, reframed the case around the psychological harms of segregation, and personally brokered consensus among justices who had been prepared to dissent. Without Vinson's death — and Warren's arrival — the Court almost certainly would have delayed a definitive ruling, issued a splintered opinion, or avoided striking down school segregation outright, leaving Jim Crow education intact for years or even decades.

History books frame Brown v. Board as having ended segregation when it can more accurately be said to have kicked off a struggle by saying segregation was unconstitutional while offering no legal framework to implement integration. The reason there even was a Brown v. Board II the following year was to add a little more structure, but not much. That decision gave us the infamous "with all deliberate speed," which states interpreted as permission to delay indefinitely.

Resistance unfolded in four eras:

I. 1954–1959: Massive Resistance Era

States openly defied Brown with new laws designed to nullify, evade, or delay desegregation.

1. Virginia — "Massive Resistance" Laws (1956–1959)

A coordinated legislative package led by the Byrd Organization.

- Stanley Plan (1956):
- Cut off state funds to any school that integrated.
- Authorized the governor to close integrated schools.
- Pupil Placement Board:
- Gave the state power to assign students individually, blocking Black students from white schools.
- Tuition Grant Program:
- Public money for white students to attend private segregation academies. If you think about America's current public funding of Charter Schools, you'd see history repeating itself.

2. Alabama — Constitutional & Statutory Resistance

- 1956 Constitutional Amendment: Removed the requirement for public schooling entirely, allowing closure of integrated schools.
- 1957 Pupil Placement Law: Gave local boards broad discretion to deny transfers by race.
- 1956 Interposition Resolution: Claimed Alabama could "interpose" its sovereignty between citizens and federal law.

3. Georgia — "Freedom of Choice" and Sovereignty Laws

- 1955–1956 Acts:
- Allowed closure of any school ordered to integrate.
- Repealed compulsory education to avoid federal enforcement.

- 1956 State Flag Change: Added the Confederate battle emblem as a symbolic act of resistance.

4. Mississippi — Segregation Preservation Laws

- 1956 Sovereignty Commission: State intelligence agency created to surveil Black activists and civil rights groups.
- 1954–1958 Pupil Placement Acts: Used "individual evaluation" to deny Black students entry into white schools.

5. South Carolina — Administrative Delay

- 1955–1958 Pupil Assignment Laws: Required extensive paperwork and hearings, slowing integration to a crawl.
- Local Option Laws: Allowed districts to close schools rather than integrate.

6. Louisiana — Constitutional Amendments

- 1954 Amendment: Explicitly reaffirmed segregated schools.
- 1956 Acts: Gave the governor power to close integrated schools and redirect funds to private white academies.

7. Arkansas — School Closure Laws

- 1958 Acts 4 & 5: Allowed the governor to close any school facing integration orders. Used during the Little Rock crisis.

8. Florida — "Token Compliance" Laws

- 1956 Pupil Assignment Law: Maintained segregation through “individual assessments.”
- 1957 Sovereignty Resolution: Asserted state authority over education to resist federal mandates.

II. 1960–1970: Covert Resistance & “Race-Neutral” Mechanisms

After federal courts struck down explicit segregation laws, states shifted to coded strategies.

9. “Freedom of Choice” Plans (Nationwide, 1965–1968)

States claimed students could “choose” schools, but white families stayed in white schools and Black families faced retaliation.

Struck down in Green v. County School Board (1968).

10. School District Fragmentation

- Alabama, Georgia, Texas, Tennessee: Created new districts to isolate white suburbs from Black urban centers.

11. Private Segregation Academies

States passed laws enabling tax credits, grants, or easy accreditation for private white schools.

- Mississippi (1964–1970)
- Alabama (1965–1970)
- Georgia (1966–1970)

- Virginia (1959–1970)

12. Attendance Zone Gerrymandering

- North Carolina, South Carolina, Florida: Drew zones to maintain racial separation even after Brown.

13. "Neighborhood School" Laws

- Texas (1969), North Carolina (1965), Florida (1967): Framed as neutral but preserved segregation through housing patterns.

III. 1970–2000: Judicial Resistance & Rollbacks

Federal courts begin limiting desegregation remedies; states respond with new laws reinforcing separation.

14. Anti-Busing Laws

- North Carolina (1974): Prohibited assignment of students for racial balance.
- South Carolina (1972): Restricted transportation for integration.
- Georgia (1973): Barred busing unless required by federal court order.

15. State Constitutional Amendments Limiting Remedies

- Colorado (1974): Amendment restricting busing unless ordered by courts.
- Washington State (1978): Initiative 350 banned mandatory busing for integration.

16. Milliken v. Bradley (1974) — Metropolitan Segregation Shield

Not a state law, but a judicial decision that enabled state resistance.

Impact: States used Milliken to block cross-district desegregation, protecting white suburbs.

17. Creation of "Optional Zones"

- Texas, Florida, Tennessee (1980s): Allowed white families to avoid integrated schools by transferring to "optional" zones.

18. State Funding Formulas Reinforcing Segregation

- Alabama (1995), Mississippi (1997), Georgia (1993): Weighted funding toward property taxes, entrenching racial disparities.

IV. 2000–Present: Modern Resistance & De-Integration

States adopt "race-neutral" laws that dismantle Brown's legacy without mentioning race.

19. Anti-Affirmative Action Laws

- Florida (2000): Governor's One Florida Initiative ended race-conscious admissions.
- Michigan (2006): Proposal 2 banned affirmative action in public institutions.
- Washington (1998): Initiative 200 banned race-based preferences.

20. Charter School Expansion as Segregation Mechanism

- North Carolina (2013): Lifted cap on charters; many became racially homogeneous.
- Florida (2010–2024): Charter growth correlates with re-segregation of districts.

21. “Neighborhood Schools” Revival

- Tennessee (2011), North Carolina (2017): Laws requiring assignment based on proximity, reversing integration gains.

22. State Takeovers of Urban Districts

Often used to dismantle desegregation orders.

- Michigan (Detroit, 2009)
- Tennessee (Memphis, 2013)
- Louisiana (New Orleans, 2005)

23. Voucher Programs

- Florida (1999–2024)
- Arizona (2011–2022)
- North Carolina (2013–2024). Vouchers accelerate racial sorting by subsidizing private schools.

24. Elimination of Court Oversight

States petitioned courts to end desegregation orders.

- Alabama (2007–2018).

- Georgia (1999–2015)
- Most consent decrees are federal court orders, and not administrative agreements. The executive branch cannot unilaterally dissolve them, but the two Trump administrations did:

A. Stop pursuing new desegregation cases

The Department of Justice's Civil Rights Division filed no new school-integration lawsuits, a break from every administration since the 1960s.

B. Attempt to end existing decrees where possible

In districts still under supervision — especially in the South — DOJ attorneys supported motions to declare districts "unitary" (meaning no longer segregated), even when evidence of re-segregation existed.

Examples documented by civil rights groups and court filings:

- Cleveland, Mississippi
- Jefferson County, Alabama
- St. Martin Parish, Louisiana
- Indianola, Mississippi

C. Shift policy toward "local control"

The administration repeatedly emphasized that school assignment should be left to states and districts, echoing the post-Brown resistance language of the 1950s–1970s.

D. Withdraw guidance supporting voluntary integration

In 2018, the administration rescinded Obama-era guidance that helped districts use race-conscious strategies to maintain integration. This didn't end decrees, but it removed federal support for districts trying to comply.

E. Support Supreme Court interpretations that limited integration tools

While not directly about consent decrees, the administration's legal positions aligned with:

- Parents Involved (2007) limits on race-based assignment
- Milliken (1974) restrictions on cross-district remedies. These precedents make ending decrees easier and maintaining integration harder.

25. Modern Gerrymandering of School Zones

- Texas (2010–2024)
- North Carolina (2018–2024) Used to re-segregate districts after federal oversight ended.

By now, you should have gotten the message that segregation didn't end with the 1954 Brown v. Board decision. Those battles never stopped being fought to this day. The Trump administration has supported school segregation by reinstating explicit Jim Crow laws and by adopting policies and legal positions that made segregation easier, more likely, and harder to remedy.

One highly visible step towards more segregation is the end of DEI programs. The elimination of DEI quietly clears the legal and institutional pathways that allow segregation to re-emerge. DEI was never a magic

solution; it was a set of tools that helped schools recognize and measure racial disparities, and intervene before they hardened into separate educational tracks. When those tools are removed, districts lose the mechanisms that once forced them to notice who is being excluded, who is being tracked downward, and who is being pushed out of advanced coursework or high-resource campuses.

In that vacuum, long-standing housing patterns, funding formulas, and political pressures resume their natural course — and that course has always been toward racial separation. Ending DEI doesn't create segregation; it simply stops interrupting it. And in a country where segregation is the default outcome unless someone is actively preventing it, the disappearance of DEI becomes an accelerant, ensuring that the old patterns return not with fanfare, but with quiet inevitability. I'd suggest the need for a Brown v. Board III, but after seeing how this Supreme Court is made up. I don't see a positive outcome. The struggle isn't over.

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Responses (5)

Tom Mitchell

What are your thoughts?

Diedra Carlson, PhD she/her
6 days ago

William, this is careful legislative history, and the chronology across four eras does real work in showing that resistance to Brown never actually stopped. It shifted vocabulary and mechanism, but the throughline held.

What I want to name is the... more

55 1 reply Reply

Carol Lennox. LPC, M.Ed.
5 days ago

Isn't it interesting that the states who fought integration the hardest and longest have the poorest record of academic performance in the country.

2 Reply

Carol Lennox. LPC, M.Ed.
5 days ago

> The struggle isn't over.

The struggle is real.

2 Reply

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