

# Race, Class, and Whiteness in Gifted and Talented Identification: A Case Study

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## Abstract

*What began fifteen years ago as a volunteer effort to promote desegregation via a gifted and talented magnet school has become a case study analyzing inequalities in the identification of young children for gifted and talented services. We use Cheryl Harris' (1993) argument that "whiteness" is a form of property that creates and maintains inequalities through the conjoining of race and class. We show how gifted and talented status meets the criteria of white property interests and is defended by recourse to law and policy. Efforts to improve identification of students for gifted services reveal that the implicit operation of these interests is an important reason why identification practices favoring white and middle-class children have been resistant to change. Dismantling underlying white property interests in gifted and talented identification is a necessary, though not sufficient step, toward a more just educational system.*

**Keywords:** Whiteness, Gifted and Talented Identification, Desegregation, Property Rights

*[The] primary aim is to unveil the rhetorical, political, cultural, and social mechanisms through which "whiteness" is both invented and used to mask its own power and privilege.*

Giroux, 1997

Gifted and talented educational programs have been shown to produce substantial long-term educational benefits with related social and economic advantages. These programs are populated mostly by white, middle- to upper-class students. Lack of access to such educational opportunities perpetuates the segregation of nonwhite students growing up in persistent poverty (Orfield & Lee, 2005, p. 5).<sup>3</sup> Although low participation rates by these groups have been well documented on a national level (Borland & Wright, 1994; Delgado & Stefancic, 2000; Shavit, Müller, & Tame, 1998), exactly how these inequalities develop and continue is less well-known (Roscigno, 1998).

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<sup>3</sup> Analysts of race in the U.S. have described it as a binary system of "hypodescent" in which a person is assumed to belong automatically to the "lower" social category if he or she has any component of nonwhite identity. That is, there is "white" and "nonwhite" identity. Harris (1993) and others argue that "whiteness" is the unmarked category that is intrinsically "American." Although the system of attribution is binary, we do not mean to imply that all groups are affected in the same ways or to the same extent, especially where race, ethnicity, gender, and class compound each other in various ways.

We present a case study analyzing inequalities in identification of students for gifted and talented services.<sup>4</sup> Initially we focused on one magnet school in a large Midwestern school district, but when the district began testing all kindergarten and second-grade children in 1997, the locus broadened. The district is one of the largest in a state where the disparities in achievement between whites and nonwhites are as bad as or worse than elsewhere in the nation. Compared to the national average in reading proficiency, Black, Hispanic, and Asian/Pacific Islander fourth-graders in the state are all below the national average (Donahue, Daane, & Grigg, 2003, p. 25, 26). According to an assessment of multiple indicators of academic achievement among African-American, Hispanic, and low-income students, the state was among 13 that had not made progress in closing the achievement gap over a period of 10 years (The Thomas B. Fordham Institute, 2006). Notably this 10-year period roughly corresponds to the period of our case study. Factors that contribute to the opportunity gap in this district occur in gifted and talented programs in other urban schools and districts, making the district a prime location for learning how disparities are created and maintained (Mickelson, 2001, 2003; Orfield, 2001; Orfield & Eaton, 1996).

Our analysis of the processes of identifying gifted and talented students examines how unequal access to educational opportunity is perpetuated through practices that express and protect the advantages of whiteness. Our critique of these practices is based on Cheryl Harris' (1993) argument that in the American legal system, and broadly in the culture, "whiteness" is a form of property that perpetuates inequality. In our view, gifted and talented identification processes, as implemented at the site we studied, express the property rights of whiteness and have been used to defend differential access for whites to gifted and talented programs. In what follows, we (1) present Harris' theoretical framework of property rights and our rationale for using it in our analysis, (2) summarize the main events we observed and experienced during fifteen years of participating in and researching efforts to diversify a gifted and talented magnet school and programs in the district, (3) describe our methodology, based in our respective disciplines of anthropology and sociology, and (4) analyze the events of the case study using the four property rights identified by Harris to demonstrate white property rights at work in limiting access to the gifted and talented programs.

### **Theoretical Framework: Whiteness as Property**

Many scholars have identified the tendency in American culture and law for a favored group to use property rights to claim prerogatives and to subordinate and control others (De Cuir-Gunby, 2006; Harris, 1993; Higginbotham, 1978, 1996; Ladson-Billings & Tate, 2006; Rothman, 1989). Contractual agreements of many kinds grant proprietary rights to persons and their time, skills, talents, and ideas. For example, parents have "ownership" rights in their children, as shown in divorce proceedings, where child

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custody is part of the overall disposition of marital property. Individual ownership of one's body has been contested as the basis for the right to make medical decisions, including a woman's control over her own reproductive capacity (Smith, 1984). Harris (1993) argues that whiteness itself is a kind of property dating back to the ownership of persons as slaves and the usurpation of Native American land rights. These property interests continue into the present and undergird "the settled expectations of relative white privilege as a legitimate and natural baseline" (p. 1714).

We extend Harris' argument to the identification of students for gifted and talented services in contemporary American education and contend that white property interest is one often-overlooked factor contributing to the opportunity gap. We examine how unequal access to educational opportunity is perpetuated through the practice of identifying disproportionate numbers of white children for gifted and talented services at young ages. Each of the exclusionary processes that we observed, whether an active effort or a passive maintenance of the status quo, fits one or more of the property functions outlined by Harris: (1) the right to exclude others, (2) the right to maintain rights of disposition, (3) the right to status and reputation conferred by property, and (4) the right to maintain use and enjoyment. These four white property rights adumbrated below will be developed further as our analysis proceeds. These rights do not function alone, but most often reinforce one another.

#### ***Four White Property Rights***

**(1) The right to exclude.** Harris (1993) argues that because of their "racial and cultural otherness," Native Americans and blacks were unable to assert rights in land and their very selves (p. 1721). In selecting *for* white and middle-class experience and culture, the identification system and programs select *against* difference. The exclusion of nonwhites from gifted and talented programs and services maintains access to educational opportunity for white students at others' expense.

**(2) The right to maintain rights of disposition.** The right of disposition is basically the right to make decisions to dispose of or confer property on others. Identifying a child as gifted and talented confers the property right of access to gifted services. By tolerating biases in the identification system, this property right was and is defended on behalf of white children.

**(3) The right to status and reputation conferred by property.** The idea of property includes expectations that certain kinds of actions, privileges, and rights will be upheld or enforced by society. Harris cites Radin on the connection between expectations and full social personhood:

If an object you now control [such as an aspect of your identity] is bound up in your future plans or in your anticipation of your future self, and it is partly these plans for your own continuity that make you a person, then your personhood depends on the realization of these expectations. (Harris, 1993, p. 1730)

The status of gifted and talented has long-term benefits. More specific to our case study, the gifted designation was successfully used by parents of white students to enforce a claim of racial bias in admission.

**(4) The right to maintain use and enjoyment.** Returning to the origin of white property rights, Harris (1993) points out that whites profited from the labor of slaves and the use of land that was not theirs. Similarly, a disproportionate number of white students

identified as “gifted” claim educational opportunities mandated by law and paid for by state funds.

### ***Race and Class***

Harris uses the concept of white property to demonstrate how in American culture and law racial differences have been and currently are expressed as barriers to ownership of property for nonwhites (Harris, 1993). Originally being black was equated with being someone’s property, as noted by Baldwin (1985): “Our first sight of America was this marketplace and our legal existence, here, begins with the signature on the bill of sale” (p. 29). Race remains an important factor in maintaining the status quo, as Leonardo (2009) explains: “subsuming racial oppression under the general framework of class exploitation proves unconvincing to many people of color who experience the racial nature of white supremacy” (p.134).

Although education is thought to break the bonds of race and class, biases in the culture of schooling itself often run counter to these efforts. Many have argued that schooling is a white, middle-class phenomenon (e.g., Lewis, 2003; Rogoff, 2003), and that whiteness is an implicit norm of school culture, constituted and maintained through assumptions and practices in the everyday life of schools—an *habitus* of whiteness (Bourdieu, 1977). We interrogate our fifteen-year case study in terms of white property interests that conjoin race and class and find that access to gifted and talented programs is based on proximity to this norm and epitomizes these biases.

### **The Case Study: From Desegregation to Resegregation**

Our case study took place from 1993 to 2008. As advocates of creating educational opportunity for all students, we and others we worked with faced recurrent challenges to changing the status quo. Despite assertions that the goals were equal opportunity and the best interests of all children, the school remains today a predominately white school, and other gifted and talented programs in elementary schools throughout the district are predominantly white. These disparities in access to gifted and talented programs have grown even as the district’s population has become increasingly diverse.

### ***Main Events***

We use the pseudonyms Greenville and Rockwood Magnet School to identify the urban school district and its gifted and talented magnet school.<sup>5</sup> Rockwood Magnet School for gifted and talented students was part of an effort to voluntarily desegregate inner-city schools in the mid-1980s when state law and district policy required each school’s enrollment to mirror the racial demographics of the district. For over 15 years, challenges outweighed successes as much effort was put into addressing low pass rates on admission tests for minority students and low enrollment by those who did qualify. Ultimately a lawsuit against the district put an end to affirmative action-oriented identification and admissions. We highlight the changes in identification that occurred during this period and describe some of the challenges members of the Rockwood

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<sup>5</sup> We use pseudonyms to protect the identity of individuals who expressed their views candidly with assurance of confidentiality. We have also changed features of individual identity, except where we have asked and received permission to quote or paraphrase and to use gender, race, or ethnicity to identify the speaker.

Magnet School recruitment committee faced while working to increase opportunity for all district children. We include brief vignettes of experiences we had or were told about.

**1985: Rockwood Magnet School took over a neighborhood school in the heart of the city's oldest African-American community.** Students had to score above a certain level on a paper and pencil test to be considered for admission. Although the principal was committed to bringing in a diverse population, most neighborhood children did not score well enough on the test. It was not long before the school developed a reputation for high-quality education and a long waiting list of white students. There was constant pressure from white parents to increase minority admissions in order to admit more white students at a 2:1 ratio of whites: nonwhites.

**1993: District administrators convened a large committee of parents, teachers, and gifted and talented experts to evaluate the screening process for equity.** This committee recommended adopting the McGraw Hill Primary Test of Cognitive Skills (PTCS) and adding student portfolios and written recommendations from teachers and others. The district director of testing rejected portfolios and letters on the grounds that they were too subjective and could lead to lawsuits.

**1995 (a): Enrollment of in-district minority and low-income children, as measured by free and reduced lunch status, decreased.** The school and district relied increasingly on recruiting ethnic minority students from mainly white and middle-class suburbs to maintain percentages required by state desegregation guidelines under a recent state policy encouraging open enrollment across districts for the purpose of desegregation.

**1995 (b): In spite, and possibly because of, a hostile environment for themselves and their children, individuals from diverse backgrounds tried to overcome white property interests at the school.** An African-American psychologist volunteered time and expertise to train volunteers to administer practice tests every year and worked in other ways to promote equity in the identification of students. When his son was suspended from school for a minor incident on the school bus and a white student who had done the same thing had received a lesser punishment, the father did not dispute the incident but thought his son's punishment was too severe and asked to meet with the principal to discuss reducing the suspension.<sup>6</sup> The principal who was relatively new to the school responded to the request by having a uniformed and armed police officer present during the meeting with the father and son. When the father asked whether a police officer was present for every readmission meeting, the principal explained that the police officer was there to help explain safety issues. The father challenged her, saying, "I believe you have a police officer here to control me as a black man." According to the father, "the police officer seemed really embarrassed as though he had been expecting 'some violent criminal kind of guy' and started apologizing." After getting his son readmitted, the father complained to district administrators that the principal had "risked his life. If [I] would have gotten upset, the police officer had a gun. I said all of these things; it was probably an exaggeration at the time. I was just really upset" (Interview, Feb. 18, 2002). The principal used authority to control the situation. The parent had real concerns about his safety and that of his son.

**1996 (a): For the third year, the recruitment committee organized practice tests.** Soon after the school year started, 26 parents and 8 teachers administered 400 practice

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<sup>6</sup> Described with permission. See section on ethics below.

tests to prepare students for the admission test; this effort was supported financially by the parent and teacher association (PTA) and coordinated by its recruitment committee.

**1996 (b): Tension mounted between yet another principal and parents of students attending the school who wanted to maintain the status quo on the one hand, and the parents of students attending the school who wanted a more diverse school population representative of the city on the other.** By the spring, the leadership of the recruitment/steering committee expanded to a coalition of parents from Hmong American, Chinese American, Hispanic, African-American, and white communities. Among them were a lawyer, psychologist, chemist, pastor, community activist, and the two of us. On a Friday afternoon, the principal notified the steering committee, all parent volunteers, to be at her office at 10:30 Monday morning to discuss concerns. All of us left work to attend and were met by the principal, the chair of the PTA, teachers, and several district administrators. The principal read a prepared statement listing problematic incidents for which the committee was responsible that had “tarnished the image of the school” (Memorandum, no author, November 4, 1996). The list included (1) frankly discussing diversity challenges and opportunities with a state senator who had helped us with outreach to underrepresented communities; (2) distributing the applications for the annual practice tests for the admission process (as we had done before); and (3) giving an interview about the school on a Hmong television channel (Ibid., 1996). Committee members were told that their actions had caused “confusion and embarrassment” and (ironically) did not represent the school’s mission: “Challenging academically gifted and talented students in a diverse school community” (Ibid. 1996).<sup>7</sup> The principal gave the steering committee members the “opportunity” to resign and said that if they did not, their actions would be taken before the PTA for further rebuke. According to Barlow’s field notes, throughout the meeting one district administrator (African American) shook his head and repeated several times, “This never should have happened.” The next day a vote by the mainly white PTA to abolish the recruitment committee was narrowly defeated. The principal’s message, unchallenged by the district administration, lingered: those working to identify more racial and ethnic minorities or encouraging low-income and racial minority parents to send their children to the school were unwelcome.

**1998: For over four years PTCS, adopted in 1993, produced disparate results in identification.** The district again convened a committee to explore other screening instruments and evaluate the identification process. DISCOVER (“Discovering Strengths and Capabilities through Observation While Allowing for Varied Ethnic Responses”) was adopted (Maker, 2005). At this time, the district went from voluntary screening to testing all students in kindergarten and second grade. The district no longer admitted out-of-district students to Rockwood Magnet School.

**1999: A few spaces in first-grade classes were not filled in order to have room at third grade for more minority students, who tended to qualify then in higher numbers.** Attorneys sued on behalf of parents and a conservative citizens’ organization, claiming that the district’s selection process discriminated against white students on the basis of race. The district, expecting to lose, settled out of court. The settlement stipulated that (1) the white children named in the lawsuit would be admitted, and (2) race would no longer be a factor in determining student placement anywhere in the district.

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<sup>7</sup> The recruitment steering committee was the only group in the school with such a broad coalition across race and ethnicity.

**2001: The Naglieri Nonverbal Abilities Test (NNAT) replaced DISCOVER for testing kindergarten and second-grade students.** Despite strong indications that identifying young students, especially kindergarteners, is inconsistent and unreliable. Disparities in pass rates continued with this test as well.

**2004: National experts were paid to evaluate the identification process.** The authors of the evaluation recommended continuing kindergarten identification in the district and downplayed changes that might have improved the identification of nonwhite and racial and ethnic minority children.

**2007: Identification continued to rely heavily on standardized tests, despite recommendations to the contrary.** According to district reports, only 8.9% percent of students were identified on the basis of a combined test score and portfolio assessment; 91.1% were identified *solely* on the basis of their NNAT score.

As noted above, we and (especially) others we worked with faced formidable barriers in desegregating gifted and talented services in the district. Although we began as parent volunteers, we were quickly drawn in as social scientists with a growing awareness that what we were observing and experiencing had relevance beyond the boundaries of a particular school and district. In the next section, we explain our methodology and dual role as participants and researchers.

### Methodology

From 1992 through 2006, we participated in many initiatives to inform diverse communities about the school and develop a fair identification process. We began with the optimistic intent that in order for our children to be prepared for life in a diverse society, the school should serve a broad spectrum of students. We joined a large group of parents working to recruit students from throughout the district and soon became involved in a variety of ways. In 1993, knowing that Barlow had an interest in child development and was a former elementary teacher, the principal of the school asked her to serve on a district task force charged with recommending a better identification procedure for admitting students to the school. When the director of testing rejected the use of student portfolios, Dunbar focused on monitoring the outcome of this decision—eligibility rates as well as resulting changes in the composition of the student body at the school. In 1998-1999 Dunbar chaired the school's parent-teacher organization and served on the district task force that recommended another identification process to be used throughout the district. Each of us organized and supported efforts to provide practice tests from 1994 until 1998 when district-wide identification was implemented. From 1999 to 2006 we attended meetings of the district advisory council charged with reporting gifted and talented issues and concerns directly to the school board.

Barlow is a white anthropologist specializing in child development, culture and learning, and psychological anthropology. Dunbar is a white sociologist who studied racial "(in)justice and the sociology of law" with A. Leon Higginbotham Jr., author, jurist, and civil rights advocate, and briefly worked in legal services. In a recent response to a report by the National Science Foundation, Becker (2009) reminds us that social scientists often enter the field not knowing the questions that will later form the basis of their research:

Successful researchers recognize that they begin their work knowing very little about their object of study, and use what they learn from day to day to guide their subsequent decisions about what to observe, who to interview, what to look for,

what to ask about. They interpret data as they get it, over periods of months or years, not waiting (in the fashion of a survey analysis, for instance) until they have it all in to start seeing what it means. They make preliminary interpretations, raise the questions those interpretations suggest as crucial tests of those ideas, and return to the field to gather the data that will make those tests possible. (n.p.)

As challenges arose, we became more and more active as social scientists, keeping detailed records and analyzing the difficulties we encountered. We also became convinced that the disadvantages in qualifying for gifted and talented programs facing racial and ethnic minority, and low-income students in this district exemplified many of the larger issues of unequal educational opportunity and the white culture of schooling (e.g., Leonardo, 2009; Lewis, 2003). Barlow applied for and received a grant from the University of Minnesota to conduct interviews with recruitment committee members, members of the school board, and former students at the magnet school who by then were adults.<sup>8</sup>

### ***Ethics***

The ethics of the American Anthropological Association and the American Sociological Association require researchers to protect the confidentiality of information and identity of individuals.<sup>9</sup> To comply with the requirements of human subjects review and requests from people we interviewed, we disguise identities and use pseudonyms for individuals and the location of the case study. For the same reason we do not include citations to materials in the text that would identify the school or school district; citations and associated references will be provided upon request.<sup>10</sup>

We were reminded of the sensitive nature of our subject during an interview with a school board member who was African American. We began the interview asking permission to record the session. He gave permission and explained that in his capacity as a public official his interviews were often recorded. The interview had the form of a conversation between friends—which it was—when the board member surprised us by pointing to the tape recorder and saying, in a stern voice, “Turn *that* off.” Although caught by surprise, we immediately complied. Describing the problems with gifted and talented services, problems that were greater than just identification, he said that for many parents the accomplishments of their white children would not mean as much if black children living in poverty could achieve at the same level. Following this explanation, he gave us permission to paraphrase. We now understand that he was describing the essence of white property interests in gifted identification.

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<sup>8</sup> These interviews were conducted under IRB Human Subjects Review at the University of Minnesota.

<sup>9</sup> The AAA Code of ethics requires researchers to ensure that “they do not harm the safety, dignity, or privacy of the people with whom they work, conduct research, or perform other professional activities, or who might reasonably be thought to be affected by their research” (AAA, 2009) [http://www.aaanet.org/\\_cs\\_upload/issues/policy\\_advocacy/27668\\_1.pdf](http://www.aaanet.org/_cs_upload/issues/policy_advocacy/27668_1.pdf)). From the ASA ethics statement: “Sociologists have an obligation to ensure that confidential information is protected. They do so to ensure the integrity of research and the open communication with research participants and to protect sensitive information obtained in research, teaching, practice, and service.” <http://www.asanet.org/about/ethics.cfm>

<sup>10</sup> To request this information please contact Kathleen Barlow at Central Washington University.

### **Data Collection**

We used a combination of ethnographic research based on interviews and participant observation, analysis of demographic and other statistical data, and legal analysis. Our records include school, district, and state documents as well as field notes taken at monthly recruitment committee meetings, parent-teacher organization meetings, school board meetings, meetings with district officials including superintendents, and many other events and conversations from 1992 to 2009. The ethnographic context established by our long-term participant observation provided direct experience of race, class, and white property interests at work; this experience in turn shed new light on data we received from institutional sources.

Staiger (2004) reported difficulties in obtaining school district documents related to gifted and talented education. We too experienced difficulty gathering basic information and learned to adjust our tactics to get the information we needed. For example, at one point Dunbar had to make multiple requests by email, letter, and phone to obtain aggregate data on ethnicity and economic status of students that should have been available as public information. After delays spanning nearly a year, she asked the state department of administration for an opinion on whether the district had satisfied the requirements of the data practices act. The opinion rendered stated that Dunbar had been refused the information on the grounds that she had initially requested it on behalf of the school's recruitment committee, and her "work assignment"—apparently defined by the school and the district—did not provide grounds for needing the data; hence the district had complied with the law (Fisher, 2000). By labeling Dunbar an "agent" of the district even while acknowledging her volunteer status, the state skirted the question of whether the district had an obligation to provide the data based on a citizen's right to public information. Dunbar did not appeal the decision because in the year's time that it took to ask for the data and receive the opinion, she had obtained the information through a direct appeal to a school board member.

Some of the school district reports and documents we refer to were generated in response to requests from the gifted and talented advisory council, requests we helped shape. For a couple of years the district's report on identification for gifted services contained an addendum providing "tables in response to questions from Elaine Dunbar regarding the identification of [district gifted and talented] students," questions the advisory council voted to forward to the Director of Research, Evaluation and Assessment.

Much of our most telling information came from people we interviewed from 2001 to 2004, including six long-term members of the recruitment committee for the gifted and talented school and six of the seven school board members. We talked frequently and at length with district administrators about identification and diversity at the school, including the six principals who served from 1985-2009, and the district directors of testing, gifted and talented education, and diversity. Although many of these individuals have read versions of the paper and given us valuable insights, the analysis is our own, and where it is flawed or incomplete is our responsibility alone.

Over time we have come to see gifted and talented identification in this school district as an instrument of resegregation based in racial and ethnic biases, economic inequalities, and policies and institutions whose deep structure preserves the advantages of whiteness. Harris' work in critical legal theory has enabled us to identify the assumptions and institutional structures that explain this longstanding practice.

### **Analysis: Whiteness, Property, and Gifted and Talented Identification**

While the effects of poverty, race, and ethnicity on educational opportunity are well documented (Donovan & Cross, 2002; Ford, 1993; Ford & Harris, 1999; Ross 1993; Staiger, 2004, 2006), much less attention has been paid to the long-term advantages in the education system and beyond that accompany identification for gifted services. The disproportionate identification of white and middle-class children for placement in Rockwood Magnet School and in gifted programs throughout the district helps to create and maintain the opportunity gap. In Greenville, the moves and countermoves in long-term efforts to identify and recruit a diverse population of gifted and talented students from within the district show how the four property rights identified by Harris were mobilized to protect white property interests.

#### ***Property Right 1: The Absolute Right to Exclude***

Harris (1993) describes the right to exclude those deemed to be “not white” as one property function of whiteness (see also Ladson-Billings & Tate, 2006). Those who qualify “bec[o]me an exclusive club whose membership [is] closely and grudgingly guarded” (Harris, 1993, p. 1736). Identification procedures over 25 years have facilitated the inclusion of white middle-class students and the exclusion of nonwhite and lower-class students by (1) using selective criteria for admission to a public school and to gifted programs throughout the district; (2) screening only students recommended by parents and teachers (through 1997); (3) maintaining a complicated and inconvenient admission process; (4) restricting access to information about testing and test results; and (5) admitting out-of-district students to satisfy state desegregation requirements.

***Admission criteria for opportunities in public schools.*** For 25 years students have had to meet some kind of admission criterion to be admitted to the district’s only gifted elementary school. Until 1997 parents had to apply for their students to be tested for eligibility. Since then all students in kindergarten and second grade have been assessed by means of a group-administered test: DISCOVER (1999-2001) and NNAT from (2001-09). Figure 1 below shows the disparity in kindergarten identification rates from 1999 through 2009.

The assessment procedure acts as a sorting mechanism that over time has effectively excluded the growing nonwhite population: in 1992-1993 the district student population was 53% white and 47% all other groups; in 2007-2008 the district student population was 25% white and 75% all other groups. Today whites, Asian/Pacific Islanders, and African Americans comprise nearly equal portions of the district’s student population.

When information on race and ethnicity is combined with information on student eligibility for free and reduced lunch—the only available and very rough approximation of socioeconomic status—the considerable impact of both race and class is evident. The kindergarten NNAT identification rate for the years 2005 and 2007 for white students from middle- to upper-income families (45%) is more than double that of African-American students from families with similar incomes (20%). The identification rate for African-American students from middle- to upper-income families (20%) is similar to that of white students from lower-income families (14%). The identification rate for white students from lower-income families (14%) far exceeds that of African-American students from low-income families (4%). The differences in group size, 2005 and 2007 combined, at kindergarten are also notable: white middle- to upper-income families, 1,137 students; African-American upper- to middle-income families, 180 students; white

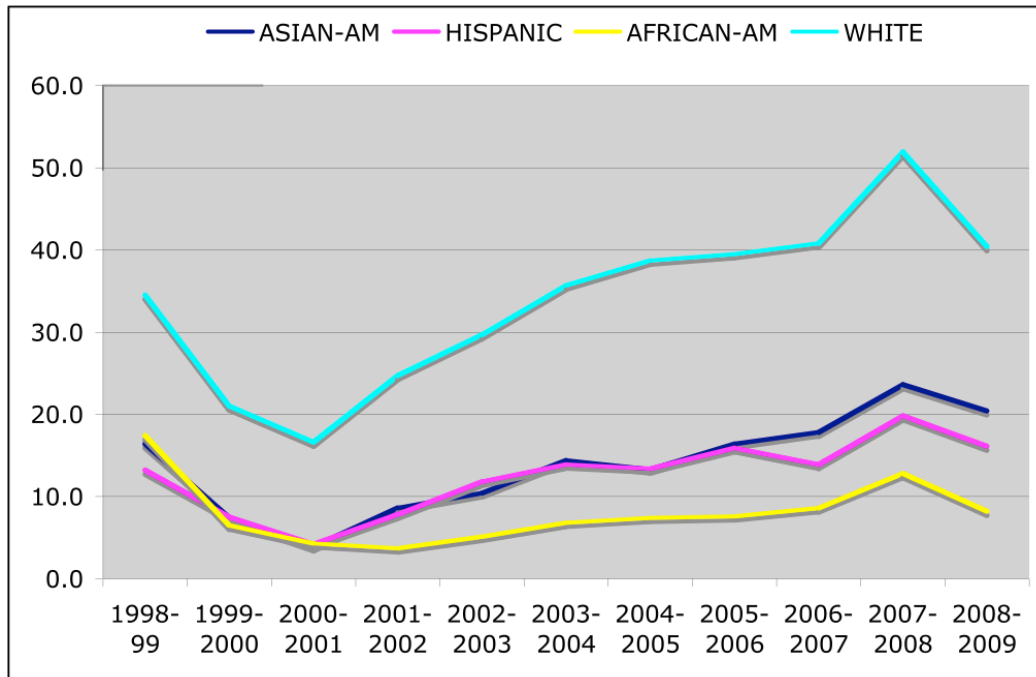


Figure 1. Percentages of Kindergartners Identified as Gifted, by Race and Ethnicity (Greenville School District Reports, 1999-2009)

lower-income families, 327 students; African-American lower-income families 1,074 students. Students come to school in groups stratified by race and income and the identification process reinforces these differences.

**Selection based on normative white criteria.** Prior to 1997, the only children to attend the gifted and talented magnet were those whose parents wanted to enroll them at the school. Some parents knew about the school for various reasons—siblings attended, or they heard of the school from other parents, or a teacher had suggested that the school might be a good fit for their child. As noted by Ford and others, teachers more often identify as gifted “well-behaved” or “model” students who are socialized to white behavior norms, thus excluding potentially eligible students with culturally different behaviors (Ford, 1996; Ford & Harris, 1999; Rist, 1970; Sternberg, 2007).

Few parents of color and/or low-income applied for the program.<sup>11</sup> Many of them knew little or nothing about Rockwood Magnet School; others did not see a benefit in having their young child compete against children with far more advantages. One Hmong parent, recognizing both cultural differences and economic disparities, commented:

I think it's not really fair, too, because [our] kids just come from a community where there is not strong [financial] support for the kids. On the other hand, there

<sup>11</sup> The term “children of color” is used in the district and school documents to indicate (mainly self-identified) racial and ethnic minority children. It obscures the compounding of socioeconomic class and racial/ethnic status in the case of many children, as well as being a misnomer for cultural and subcultural difference from white, middle-class society.

are middle-class white parents whose children have everything. You can't compare. My child could be top of students in a school, just in a class, but when he comes to the gifted and talented school where top students of white people come in, he will be down to last or something. (Interview, March, 11, 2002)

His observations apply not just to identification and admission. He recognizes that children are likely to encounter these biases in the educational program itself.

**Logistical barriers.** The logistics of the admission process were daunting. From 1978 until 1997, parents of kindergarten students had to complete an application by mid-December. On a Saturday morning in mid-January they had to take their five-year-old children to one of two test sites that were not directly accessible by public transportation. In March when parents received notice that their children were accepted, they had a little over a week to decide whether to enroll the following September. Overall the process favored middle-class and white parents who knew about the school in advance and could negotiate the complex and detailed process.

Although all students are now being assessed in kindergarten and second grade, the application process remains burdensome. Now many more children qualify for admission, but they are not enrolled. For example, in 2005, 63 African-American kindergarteners qualified, but only 6 (all female) attended the gifted and talented magnet the next year; by comparison 320 whites qualified as kindergarteners, and 63 attended (State Department of Education, 2005). Among the reasons that minority parents gave for not enrolling their children were their concerns that their children would feel marginalized at a predominately white, middle-class school.

**Secrecy about the test.** Prior to 1993, the director of testing would not tell parents the name of the test, claiming he was protecting its integrity. Today district officials identify the test, NNAT/NNAT2, but a few years ago in order to get information about the test's reliability and validity from the publisher, we had to prove we had an advanced degree and pay a fee.

**Admission of out-of-district "students of color."** Harris (1993) says the law is "color-blind"—that is, unresponsive to inequalities based in "color"—when the letter of the law promotes a "form of race subordination . . . that . . . denies the historical context of white domination and Black subordination" (p. 1768). Leonardo (2009) asserts that color-blindness "would have us forget history (both in the sense of a past and its continuity with the present), psychologize racism without the benefit of sociological understanding, and displace racial stratification with competing explanations, such as class analysis" (p.134).

As the result of the confluence of a state policy that encouraged open enrollment across district lines for the purpose of desegregation and the color-blind admission practices of Greenville School District, racial and ethnic minority children who lived in Greenville were, in effect, excluded from the magnet school. In 1996 just over 2,400 racial and ethnic minority children attended first grade in the district. The same year Greenville admitted 25 minority first-graders from out-of-district to Rockwood Magnet School under the auspices of the state's open enrollment policy. The 25 first-graders comprised about half of all of the racial and ethnic minority children admitted to first grade at Rockwood Magnet. These exclusionary workings of white property interests were commented on by the editor of a newspaper read by African-American and Hmong communities near the school. He noted with irony the substitution of out-of-district minorities for in-district minorities: "[This year a]nother 25 students of color were

*imported* [emphasis added] from outside the city to bring the school closer to reflecting the district's racial make-up" (Schmitz, 1996). The superintendent of schools, himself an African American, was aware of the situation and justified enrolling suburban minority students in a letter to the PTA: "To date we have been pleased with the [testing] results as we have achieved the underlying goal (i.e., racial balance). . . . [W]e currently meet our desegregation requirements with *broadly defined* minority/majority counts" (personal communication, 1995). As his letter indicates, the district chose to "balance" the school population by admitting minority students from surrounding affluent suburbs.

Harris (1993) cites Toni Morrison's suggestion that many immigrants identify with white Americans because to them 'American' means white and middle-class (p. 1742). There is evidence that some parents of out-of-district minority children were themselves 'color-blind'—that is, unaware of the racial and ethnic minority implications of inter-district transfers. This perspective is found in an account by a second-generation Chinese American member of the recruitment committee who had grown up in Greenville:

One [Asian immigrant] parent said: "Well, this school is a metropolitan school," to which I replied, "*No, it's not*. It's for desegregation purposes and that's why it's a magnet." But [she] didn't really understand what racism or what desegregation was all about. She thought it was just an effort to have a good school. (Interview, November 28, 2001)

He was frustrated that the issue of race was virtually invisible to this immigrant parent as well as others. Either these parents did not understand the history of race in America, and/or they understood too well that being 'American' meant being white and middle-class. This is the essence of "color-blind" and illustrates one way that class functions as a proxy for (white) race.

In summary the right to exclude others has informed multiple aspects of the identification and admission process. Efforts to admit a diverse group of students in the 1990s were supported in part because white students could be admitted only if enough minority students qualified to maintain the required ratios. These efforts were thwarted when the district opted to allow out-of-district students to take the place of in-district racial and ethnic minorities. Local support for further diversifying the school waned.

### ***Property Right 2: Rights of Disposition***

Property rights include the right to transfer ownership. Harris (1993) evaluates the right of disposition with respect to whiteness. Although whiteness is not transferable (alienable) in an economic or legal sense, in Harris' view this does not invalidate whiteness as property. Legal decisions recognize a property interest in things that cannot be separated from their owners:

In the context of divorce, courts have held that professional degrees or licenses held by one party and financed by the labor of the other is marital property whose value is subject to allocation by the court. A medical or law degree is not alienable either in the market or by voluntary transfer. Nevertheless, it is included as property when dissolving a legal relationship. (Harris, 1993, p. 1733)

In other words, whiteness may function as property even though it is not a commodity that can be bought or sold directly.

The right of disposition as it applies to certification of gifted students, particularly kindergarten-age students, is transferable in some instances (a gift), namely from parents to children, and inalienable in others, that is, subsequent to certification. Kindergarten children identified for the gifted and talented school are discovered to ‘have’ a gift of ‘natural’ intelligence that presumably is inherited, at least in part. On the other hand, by passing the test at a certain level, they ‘receive’ the gift of access to gifted education programs for the rest of their school careers. Whiteness as property is claimed through identifying very young children (five years old) based on the outcome of group tests. Challenges to the validity of such identification practices arise from looking at (1) numerical measures of intellectual potential for a comprehensive educational program, (2) anecdotal testing experiences, (3) differences in test instruments across grade levels, and (4) comparative data about retesting.

***Intellectual ability as a number.*** In 2008 93% of kindergarten students identified as gifted were identified solely on the basis of their NNAT score, a score assumed to express ‘overall intelligence’ but actually heavily weighted toward a single ability, pattern completion. Harris (1993) clarifies some of the fallacies of “biological determinism” that rely on such measures:

The idea, that potential performance . . . can be quantified as a single number on a test that can then be rank ordered, embraces two central fallacies of biological determinism: the reification of the abstract concept of intelligence—a “complex and multifaceted set of human capabilities”—into a unitary thing (the performance on a test), and the ranking of “complex variation [as] a gradual ascending scale” (pp. 1771-1772; Harris quoting Gould [1993]).

Use of a single nonverbal ability score in kindergarten to determine whether a student is placed in a gifted program is neither ‘best practices’ according to the National Association for Gifted Children (“Identifying gifted children from diverse populations.” n.p.) nor endorsed by Jack Naglieri, who developed the test. Still the practice continues with the result—disproportionate identification of white and middle-income children—driving the practice and perpetuating the status quo of white dominance.

***Anecdotal testing experiences.*** Using a single test score to assign gifted and talented status to kindergarten students is suspect for the reason that very young children have little experience with testing. This situation is exacerbated when very young children are tested in groups, a practice not generally recommended. Anecdotes about group testing of kindergartners are rife with idiosyncratic events that reveal problems with no simple solutions, but suggest that the solution is to discontinue the practice. From 1994-1997 about a fourth of the students taking the PTCS were not eligible for the gifted school because of low scores on the memory subtest. Children were required to look at different figures for fifteen seconds, then resume work in the test booklet. Later they were asked to recall the figures they had seen and answer questions. One white parent described her young son’s performance on this portion of the test:

We reviewed the first year’s test and there wasn’t anything we could tell from his answer sheet about why he didn’t do well on the memory subtest. We just let it go and decided to test him again [the next year] and see what happened. When he came out of the test, he said, “This time I looked at the figure. This time I didn’t look at the clock.” He had misunderstood the instructions. . . . When the person

giving the test said they had fifteen seconds to do this, he was looking at the clock so he would know when the time was up. Or he was looking back and forth and thinking, “I’ve got to watch because I’ve got to stop looking in fifteen seconds.” He didn’t realize she was going to tell him when the time was up. Just a simple mistake and it shows the problems with testing kids that young. (Interview, October 25, 2001)

Having recently learned to tell time, on the initial test the child had focused on the clock instead of the figure. During a practice test session, Dunbar noticed a young Hispanic girl associating the circle displaying pictures of “things to remember” with a clock face—the student had drawn hands on the circle. The children were doing what they knew how to do, but it had little relation to the test. Examples such as these reveal some of the difficulty of group testing for kindergarten-age children (Roedell, Jackson, & Robinson, 1980).

**Grade-level differences in test instruments.** The National Association for Gifted Children recommends that a range of abilities should be assessed using multiple strategies to accurately gauge giftedness (“Identifying gifted children from diverse populations,” n. p.). The NNAT is actually a series of tests based on grade level. At higher grade levels, the test evaluates development in *four* areas: pattern completion, reasoning by analogy, serial reasoning, and spatial visualization. In contrast, the test administered to students in kindergarten evaluates development in only *two* areas: pattern completion and reasoning by analogy, with 80% weighted to pattern completion (NNAT® Naglieri nonverbal ability Test®—Multilevel technical manual, 1997).

**Comparative data about retesting.** The durability of gifted status based on tests given at very young ages has not been supported by the results of subsequent testing. This finding raises questions about the long-term reliability of early identification and the possibility of change over time (Lohman & Korb, 2006). In two instances the same cohort of students was assessed in kindergarten and again in second grade, enabling the district’s director of research to make this comparison:

[Only] 29.3% of those who were identified as gifted in kindergarten and who took the assessment again in second grade were identified again as gifted in second grade [emphasis in original]. These results provide at best weak evidence for the test-retest reliability of the DISCOVER assessment. While it is possible that giftedness is a dynamic trait, not expected to remain constant from kindergarten to second grade, *the degree of inconsistency in the identification of the same pool of students is puzzling and should be examined in future years* [emphasis added]. (Assessing Giftedness, 2001, p. 8)

NNAT has now been used in the district for nine years. In 2001, approximately 60% of students first identified in kindergarten were identified again in second grade. The test-retest reliability of each assessment method appears weak. The disposition of gifted status for long-term advantage is being supported by practices fraught with instability.

**Misidentification of kindergarteners or false positives and false negatives.** For the past 10 years, whether students were assessed using DISCOVER or NNAT, generally the overall eligibility rate of white students has *decreased* from kindergarten to second grade, and the eligibility rate of students of color has *increased*. It might be that more minority

students are identified in second grade because of what they have learned, including increased familiarity with school culture and school tasks.

In summary the right of disposition of white property rights is at the heart of any identification process and leads to the inescapable conclusion that identification of giftedness at kindergarten contributes to the ‘birthright’ of white students. Test results indicate that in this district nonwhite and low-income students do better in second grade than in kindergarten, demonstrating the importance of their exposure to the culture of classroom learning. Yet the practice remains of assigning kindergarten-age students to gifted services on the basis of a single test score. Determining eligibility for gifted services in kindergarten values early certification as a means of disposition of white property. Unfortunately, nationwide more and more districts appear to be moving to early identification, including New York City (Saulny, 2005).

***Property Right 3: Reputation and Status Property—the White Racial Bias Lawsuit***

Reputation and status conferred by property have become intrinsic to property rights to such an extent that legal precedent allows compensation when such rights are not recognized (Harris, 1993). Commenting on cases involving whites’ claims under the Equal Protection clause of the Constitution, Harris (1993) exposes the inherent inequality of such claims:

Treating white identity as no different from any other group identity when, at its core, whiteness is based on racial subordination ratifies existing white privilege by making it the referential base line. . . . To assert that whites have an equivalent right to a level of review designed to protect groups and peoples subordinated by white supremacy is to seek to legitimate a usurpation. (p. 1775)

Rockwood Magnet School parents sued Greenville School District claiming violation of their rights. In 1999, David Herr, R. Lawrence Purdy, and Kirk Kolbo relied on an equal protection argument to assert that white identity was equivalent to black identity on behalf of The Center for Individual Rights and Greenville district parents. In 2003, Kolbo made a similar claim that “race is impermissible because of the constitutional command of equality” when arguing what some consider to be the two most important affirmative action cases to be heard by the Supreme Court in a generation: *Gratz v. Bollinger*, 539 U.S. 244 (2003) and *Grutter v. Bollinger*, 539 U.S. 306 (2003).

Greenville white parents sued the district because their kindergarten children had been identified as gifted after taking the NNAT and then put on a waiting list for Rockwood Magnet School. That year the district limited first-grade enrollment so that by third grade more places would be available for nonwhite and/or low-income students. White parents claimed their children suffered a loss of opportunity and status and sought relief by filing a temporary restraining order professing their children were in danger of “immediate and irreparable harm and injury” because they could not attend Rockwood Magnet School (Herr, Purdy, & Kolbo, 1999, n.p.). Some of the ‘facts’ to support their case follow:

12. Plaintiffs, who are white or caucasian, are not entitled to compete for spaces in the class at [Rockwood Magnet School] that are set aside for members of another race or ethnicity.

21. Plaintiffs have suffered damages and injury in the deprivation of their constitutional rights to equal protection of the laws. *They have also suffered humiliation and emotional distress as a consequence of the denial of their applications* [emphasis added]. (p. 3)

In support of this claim, one parent wrote:

I believe that [name] has suffered injury in the School Board's refusal to admit her to [Rockwood Magnet School] on account of her race/ethnicity. [Name] *suffers harm each day that she is denied an educational benefit on account of her race* [emphasis added]. . . . Money damages are not a sufficient or adequate remedy for the injury that [name] has sustained and that she will continue to sustain as a result of the School Board's refusal to admit her. (Cochran, 1999, p. 4)

We view the parents' claim that harm would come to their children to be primarily about reclaiming property rights conferred by whiteness. The children could have participated in other gifted programs at other schools.<sup>12</sup> The language of the temporary restraining order and supporting document speaks to the status claim of white students. In the settlement the district admitted the white students to the school, agreed not to use race in school assignment for five years, and paid the plaintiffs \$33,000 for attorneys' fees.

In summary, the white students reclaimed their status as gifted and their entitlement to a place at the magnet school based on the claim that not being admitted would damage their status and reputation. The lawsuit was viable for two reasons: (1) Not enough of the racial and ethnic minority students who had been identified in kindergarten had enrolled, so there were empty spaces in the first-grade class. From administrators we heard criticism that the principal had failed to recruit identified children from racial and ethnic minorities. (2) The modified desegregation state law of 1999 was too weak to support Greenville School District. A school board member told us that the case had not been "won" by the plaintiffs, but the district's position had been undermined by the changes in the law, so the lawsuit was settled out of court. Paradoxically, race could no longer be considered when admitting students to a magnet school created to provide integrated education and primarily financed with state and federal desegregation money. There was general acknowledgement that desegregation efforts had failed (Paper, 2003; Integration Report, 2005).

#### ***Property Right 4: Right to Use and Enjoyment***

Educational opportunity in the form of gifted education is reserved, in large part, for whites, often of a certain socioeconomic status. In this section we provide examples of the right to use and enjoyment conferred by white property in the area of gifted and talented identification through (1) enjoyment of high-quality education at a public school; (2) access to a predominately white but not "segregated" school; (3) an evaluation of

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<sup>12</sup> District policy requires each school to have a gifted and talented educational program. Almost all schools use the Schoolwide Enrichment Model, a nationally acclaimed educational program developed by Dr. Joseph Renzulli. This model provides for the needs of a broad range of gifted students and has a proven record of providing excellent education.

district identification practices that recommended no change; and (4) increased funding for identification and services.

*A 'private' education for the few.* Some parents celebrated both the school's excellence and its exclusivity. In an article encouraging parents to consider sending their children to the school, written for a local newspaper serving a predominantly white and middle class neighborhood, one parent wrote, "for some lucky students and their families, Rockwood Magnet is a true educational find, a chance to get a private school education at public school prices" (Neighborhood newsletter, 1997). Comparing the school to a private school not only highlighted the different expectations and reputation at the school but also provided a subtext that the school, like the private schools, was predominantly white. In this context, the lucky ones were those whose private school education was financed with public monies.

*Mostly white but 'not segregated.'* Commenting on desegregation policy, the diversity director for the district, who is African American, pointedly stated that in this district often "the solution to pollution equals dilution," where "pollution" was the concentration of black students and "dilution" was the addition of white students. This perspective informed the definition of a segregated (viz. polluted) school found in the state desegregation law. Written in response to dramatically increasing "protected student" populations in the state's largest school districts, the law requires districts with a "racially identifiable school" to modify that school's racial composition:

"Racially identifiable school within a district" means a school where the enrollment of *protected students* [emphasis added] at the school within a district is *more than* [emphasis added] 20 percentage points *above* the enrollment of protected students in the entire district for the grade levels served by that school. (State Rule, revised 1999)

Notably, a school with a very high enrollment of white students is *not* classified as "racially identifiable." By 2006-07, the enrollment at Rockwood Magnet School grades 1 through 6 was heavily skewed toward white students—64% compared to 27% district wide—but state law does not require the district to alter the racial composition of the school because it does not meet the definition of "racially identifiable school within a district." Thus, a mostly white school (compared to district standards) is exempt from the state's desegregation regulations. The school would have been considered segregated by the district's own standards 10 or 15 years ago. Today this school with a predominantly white student body violates no law or policy. The white property right to use and enjoyment is secure.

*An evaluation.* When the school board adopted the NNAT in 2001, it directed that "implementation be evaluated with a *timely* report back to the Board" (Board of Education Meeting Minutes, 2001.) The school board had been influenced by Naglieri's claims of similar identification rates for different groups, but the use of NNAT in Greenville School District was not meeting expectations. The district office of testing compared district test results in 2004 and 2005 with the results Naglieri had reported based on a national sample.

Nonverbal Ability Index Cut Score		Ethnicity		
		White	Black	Hispanic
110	<i>Naglieri*</i>	26.0%	21.2%	20.0%
	G KG	51.6%	13.65%	23.2%
	G 2nd grade	52.0%	22.8%	29.3%
120	<i>Naglieri*</i>	10.3%	8.6%	8.1%
	G KG	39.7%	7.5%	15.1%
	G 2nd grade	32.4%	10.0%	12.3%
130	<i>Naglieri*</i>	2.5%	2.4%	1.8%
	GKG	20.6%	2.4%	5.6%
	G 2nd grade	15.6%	4.1%	4.7%
140	<i>Naglieri*</i>	0.6%	0.5%	0.3%
	G KG	9.2%	0.7%	3.1%
	G 2nd grade	3.8%	0.5%	0.9%

Table 1. NNAT at Four Standard Score Cutoffs for Greenville (G), 2004-2005, compared with National Results Reported by Naglieri.

In stark contrast to Naglieri's results showing that gifted and talented ability is identified in similar proportions across groups at all cut off scores, the identification rates of white district kindergarteners are double the rate of the national standard at the score of 110: the higher the score, the greater the difference.

The school board directed the gifted and talented advisory council to guide the evaluation of the identification process. In a discussion of the purpose of the evaluation, one member of the council, whose children did not attend Rockwood Magnet School, asked,

Since NNAT seems to be more problematic at the Kindergarten level, and many have said it is needed in order to identify who is eligible for [Rockwood Magnet School], that leads to the obvious question: Should we scrap NNAT for kindergarteners? Is there a different and better way to identify kindergarteners for eligibility to attend [Rockwood Magnet School]? (personal communication, March 6, 2005)

The answer to this question is contained in the evaluation. Excerpts from the recommendations support diversity in principle but the authors neglect to make recommendations that translate the commitment into practice: "The district should continue to screen kindergarten students to allow identified children to apply for enrollment at [Rockwood] Magnet School [emphasis added]. . . . We recommend the continued use of the NNAT as the primary screening measure" (Westberg & Leppien, 2005, p. 57). These evaluators offer no explanation for the discrepancies shown in the table and recommend maintaining current practices.

**Funding.** Recent state legislation increased funding to districts for gifted and talented services, underwriting yet again the right to use and enjoyment of white property. Each

district in the state now receives \$12 on a per-pupil basis to (1) identify students, (2) provide direct services to identified students, or (3) provide indirect services to students through teacher training. The amount of money a district receives is calculated by the total number of students in the district times \$12. Greenville School District has nearly 40,000 students, and receives about \$500,000 for gifted identification and services. A large portion of the money that the district receives is spent to identify (white) kindergarten students and serves to perpetuate the system of white property.

In summary, the right to use and enjoyment is secure. Following a pattern, Westberg and Leppien (2005) missed an opportunity to direct the district to commit the expertise and resources needed to dislodge the popular Rockwood Magnet School as a place of white privilege and significantly change identification practices. The right to use and enjoyment of gifted and talented services continued to be reserved for a disproportionate number of whites. After the evaluation, a gifted services specialist for the district underscored the practice of identifying mainly white students. She explained “*Our conception of giftedness is basically a white, middle-class construct*” (Belden, 2006).

### Conclusion

*Not everything that is faced can be changed. But nothing can be changed until it is faced.*<sup>13</sup>

James Baldwin

Through our case study we have explored the legacy of white property interests manifest in the identification of students for gifted and talented education. Baldwin’s statement resonates with us because facing white property interests is a challenging task of uncovering implicit social and cultural processes. Creating the possibility of quality education for all children requires removing the barriers to educational opportunities inherent in legal and institutional structures that encode, naturalize, and perpetuate whiteness as property.

In Greenville School District, *the right to exclude* resided with those who established admission criteria, initially for the public magnet school, and following that, for all gifted and talented programs within the district. Desegregation laws and policies developed to comply with those laws normalized and masked racial inequality through their power to define and interpret. When Greenville District administrators interpreted state law to allow open enrollment across districts for the purpose of achieving integration, their policy relied on a language of sameness. By glossing urban and suburban students as “children of color,” they excluded children for whom low socioeconomic *and* minority status were factors.

Kindergarten identification supports *the transfer of white property interest* from one generation to the next. Early identification as gifted and talented and entry into gifted and talented programs at first grade continues despite strong evidence that kindergarten testing is not a reliable indicator of capabilities or potential. Kindergarten identification especially favors children who are white and middle- to upper-class.

In this case study, white parents sued to protect *gifted and talented reputation and status* for their children. The language of the temporary restraining order and supporting document speaks to the status claim of white students. The white parents who filed a

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<sup>13</sup> “Un sourced” but commonly attributed to Baldwin.

lawsuit claiming racial bias in admission policies benefited from the failure of the desegregation law to address a white school as segregated. The results of the lawsuit illustrate Harris' point that law, policy, and the structure of institutions in American society inherently underwrite white middle-class status and privilege.

*The right to use and enjoyment* is supported by the other three functions of white property. This claim is obscure at times, as illustrated by the desegregation law that creates racial and ethnic minorities as a "protected class" but does not address a school that is mostly white in a district that is mostly nonwhite. This 'omission' in the law protects the white property interests of students at Rockwood Magnet School. The de facto segregated (white) school is not de jure segregated in terms of state desegregation law. The evaluation of district identification practices did little to create more equity in the identification rates and is another example of how intrinsic biases favor white children. Recent state legislation appreciated the value of giftedness from \$4 for every student in a district to \$12, with a value that accrues mainly to white students. Greenville District now receives more money to help fund the NNAT, which continues to identify nearly half of the white students in Greenville School District, giving them access to an educational fast track.

Our work began with the intent of increasing racial and economic diversity in the school our children attended, but we soon discovered a system of white property interest underlying gifted and talented identification. Efforts to maintain privilege find refuge in policy and law because of the underlying biases in these institutions and processes. Seeing how white property functions to maintain unequal educational opportunity is a necessary first step toward change. Continued acceptance of this disparity communicates lowered expectations to the racial and ethnic minority and low-income students who are excluded from these opportunities.

Combining critical legal theory and critical white studies in education illuminates and ultimately challenges how power is used to define, interpret, and set policy and restrict access. This critique can guide the appropriate use of power to undo the biases of white property and enable all children to receive the educational opportunities that best serve their interests, talents, and needs.

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