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### Can Race-Neutral Remedies Achieve Racial Desegregation? Introduction to the ACLU Amicus Brief Submitted to the U.S. Supreme Court

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## ARTICLE

### **Can Race-Neutral Remedies Achieve Racial Desegregation? Introduction to the ACLU Amicus Brief Submitted to the U.S. Supreme Court**

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The American Civil Liberties Union supports the Seattle School District's policy to consider race as one of several tie-breaking factors in assigning students to high schools. We believe the district has a compelling interest in preventing the racial segregation of its schools, and it has narrowly focused its policy to achieve this goal, in accordance with United States Supreme Court decisions. We believe that desegregation furthers equality of opportunity, and that racial diversity strengthens the educational experience for all students in public schools.

Seattle, like all major cities in the United States, developed many of its neighborhoods along ethnic or racial lines, with people of color often confined to specific areas of the city. This segregation was reflected in neighborhood public schools: 84 percent of African American students live south of downtown, but a majority of white students live in the north.

Since the 1960s, the Seattle School District has worked to make its schools more diverse. The district has tried voluntary racial transfers, magnet school programs, school clusters, and other measures. None significantly achieved the goal of increasing diversity in public high schools.

In 1998, Seattle Schools adopted a new diversity plan. According to this plan, students could register at the high school of their choice, unless there were more applications than available seats. When this happened at a popular school, administrators considered three factors to give preference to students: 1) whether the student had a sibling in the school; 2) whether the student's race helped balance the racial makeup of the school; and 3) student proximity to the school. This system allowed students from minority neighborhoods to attend popular schools in majority areas, and vice versa.

The ACLU supports this program because it meets the strict criteria set by the U.S. Supreme Court. The court has ruled that any program that considered race must have a compelling interest in a racially diverse student body, and a narrowly defined focus to avoid quotas or mathematic formulas.

Seattle's program has a compelling goal (ending segregation) and a narrow focus (considering race only in ties for admission to schools with racial imbalances). In October 2005, the U.S. Court of Appeals for the 9th Circuit agreed that Seattle's plan meets the Supreme Court's criteria.

The ACLU has submitted a friend-of-the-court brief in support of the program to the United States Supreme Court. We not only argue that it is legal, but that it is an effective system because it has achieved better results in addressing school segregation than previous programs. In Seattle, for example, with the tie-breaker system, 54.2 percent of students at Ballard High School in north Seattle were people of color. Without the program, that percentage dropped to 33.

In our friend-of-the-court brief, we respond to the argument that racial diversity can be achieved solely through race-neutral measures, such as assigning students to schools based on socioeconomic factors. Through a review of the federal government's own data, the ACLU has concluded that neither magnet schools nor socioeconomic criteria have proved sufficient, by themselves, to address the re-segregation that plagues so many school districts across the country.

Further, we support Seattle's tie-breaker system because it is good for students. It addresses historical

injustices that restrict access to equal opportunity, offering more students a better chance at a good education. It also rightly fosters diversity as part of the education experience. Having a racially diverse student body makes school a richer learning environment. It challenges prejudice, encourages students to think more creatively and better prepares them to live in a multicultural society.

*Editor: Readers will find the brief amicus curiae of the American Civil Liberties Union, the ACLU of Kentucky, and the ACLU of Washington in support of respondents [here](#).*