

Understanding Legal History - Applying the Green Factors: Yearbook Analysis

GRADE LEVEL: Grades 9-10;
Adaptable for Grades 6-8

SUBJECT: Desegregation
Qualifications and Demographic
Change in U.S. History; Sociology

TIME REQUIRED: 90 minutes
This lesson explores the nature of
desegregation and the effects of the
Brown and *Green* cases on social and
political life in the American Southeast.

RATIONALE

This lesson supports extended learning about desegregation legal history and the application of the Green Factors from *Green v. Kent* 1968, leveraging historical thinking and sociological perspectives on demographic change over time.

NOTE: While this lesson is intended for a 90-minute class session, it could be paced for more time, or activities could be cut to accommodate a shorter class period.

This lesson plan and materials needed to teach it can be found at the Thurgood Marshall Institute: <https://tminstituteldf.org/>

ESSENTIAL QUESTIONS

1. How do we know if a school is adequately desegregated?
2. How do litigators and civil rights advocates apply the Green Factors?
3. How do demographic changes in communities “show up” in school materials (e.g., yearbooks or school newspapers)?

OUTCOMES AND OBJECTIVES

After the lesson, students will...

1. Explain the relationship between community demography and who is represented in school materials.
2. Apply the Green Factors to analysis of school materials (yearbooks) to assess integration and demographic trends in the school over time.

PREPARING TO TEACH

- Review the materials included and brush up on historical context. The *Green* case and the Green Factors are far less well known than what students typically learn. Check on access to links to make sure they work and are not blocked.
- This lesson works best with student access to two to three yearbooks across three or more decades. For example, two to three yearbooks from the 1960s, another two to three yearbooks from the 1980s, and another two to three yearbooks from the 2000s. Many schools have an archive of past yearbooks either in their library or yearbook room.

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Some communities might also keep an archived collection of these yearbooks in their local or county public library. Prior to teaching this lesson, do confirm and secure access to these materials for your students. If yearbooks are not available, school newspapers, photo albums, bulletins, or even local newspapers that cover school events like athletics and social events could be useful.

SCAFFOLDS AND ACCOMMODATIONS TO SUPPORT LEARNERS

Reading support...

Setting the Purpose for Reading: Students are positioned as litigators or advocates who are reading the yearbooks to find evidence of adequate efforts toward integration or evidence of a need for active integration efforts to desegregate the school/program/district. Litigators typically conduct interviews and look at demographic trends related to the Green Factors to build a case either confirming adequate integration or advocating for a plan for integration in one or more of the Green Factor areas. Using the guiding questions below, students could make notes, create a table, or take pictures using their mobile devices to “build a case” for adequate integration or a need for desegregation efforts.

You might consider developing a chart or graphic organizer for students to record descriptions and bibliographic data for the sources they analyze. Below is an example:

	Student Assignment	Faculty Assignment	Staff Assignment	Transportation	Extracurricular Activities	Facilities
1975 Yearbook						
1985 Yearbook						
1995 Yearbook						
2005 Yearbook						

Guiding questions for analysis of yearbooks might include (these could be copied into a table to keep data organized; they are built around the Green Factors):

In each of the areas below, consider evidence in the images, writing, and who or what is included that reflects an increasingly adequate integrated learning environment:

1. Student Assignment: Does the ethnic and racial makeup of the **student body** reflect the demography of the local community the school serves?
2. Faculty Assignment: Does the ethnic and racial makeup of the **faculty** reflect the demography of the local community the school serves?
3. Staff Assignment: Does the ethnic and racial makeup of the **staff** reflect the demography of the local community the school serves?

4. Transportation: Is school transportation equitably distributed and accessed by students of varied ethnic and racial backgrounds? (This might not be as evident in the materials reviewed for this lesson.)
5. Extracurricular Activities: Do the extracurricular activities include equitable representation of ethnic and racial diversity in the school? Do the kinds of activities reflect the cultural diversity of the school?
6. Facilities: How are facilities represented in the yearbook/materials? Is there an investment in the building and grounds evident in the photos/materials? Is access equitable by ethnically, racially, culturally diverse groups of students?

Adjusting for middle school grades...

Note: You know your students best, and we encourage you to use these activities and resources in ways that support rigorous and challenging learning. Below are some ideas for adapting these activities to middle grades:

- Explain what yearbooks are and how they are used.
- Review sourcing practices with students. In this case, looking at a yearbook together and discussing what might be good evidence is important.
- Adjust pacing. Some activities could be made longer, and the lesson could span two class sessions.
- Eliminate or revise activities and learning objectives to align better with your grade level goals and standards.
- Extra reading supports:
 - Read with a purpose: Set a clear and explicit goal for what students should learn from reading.
 - Read with a partner: Take turns reading aloud, or read quietly with timed breaks to explain what they read to each other.
 - Share findings with a partner and discuss before turning in or sharing with the whole class.

INSTRUCTIONAL ACTIVITIES SEQUENCE

1. Review *Brown v. Board of Education* 1954 and *Green v. Kent* 1968 (set historical context—see short summary in materials section) – 10 minutes
 - This could be read or distributed to students or be the foundation for a short lecture. You might consider asking students what they already know. If you did this prior to this lesson, a quicker review or possibly no review might be appropriate.
2. Summary/review of *Green* case and the Green Factors – 20 minutes

The focus is on the importance of the case for determining whether further desegregation efforts are needed (see short summary in materials section with options for review activities below).

 - This could be read or distributed to students or be the foundation for a short lecture. You might consider asking students what they already know (KWL Chart).

- Students can review the LDF “Winding Road to *Brown* and Beyond” pamphlet, which offers a comprehensive overview of the events leading up to and beyond the *Brown* decision in the fight for desegregation (see materials below).
 - Excerpts from the court case syllabus are in the materials section. Divide students into groups and respond to the questions:
 - i. What is a “free choice plan” in this case?
 - ii. What did the Court see “wrong” with free choice plans? (multiple answers in the text)
 - iii. What was an important outcome of the case?
 - Green Factors Review (see notes in materials section for details):
 - Students
 - Faculty
 - Staff
 - Transportation
 - Extracurricular Activities
 - Facilities
3. Read demographic data – 20 minutes
- Read data about their community to understand the ethnic and racial demography of their area.
 - U.S. Census Data might be the best resource for this. The maps scaffold for student analysis better than the data tables. <https://data.census.gov/>
4. Yearbook analysis – 30 minutes
- In small groups of two to four, students can analyze a series of yearbooks from three or more decades to build a case for adequate integration or the need for further desegregation efforts in their school. School libraries, administrative offices, or local archives often keep yearbooks and other materials produced by the school over time.
 - Classmates.com also offers a free registration with access to digital versions of thousands of yearbooks: <https://www.classmates.com/siteui/yearbooks>
5. Assessment – 10 minutes
1. Students will produce a case or argument for either adequate integration or a need for further desegregation efforts. This could be verbal or written, as a group or individual.
 2. Students will share (with each other) the reasoning about the quality of evidence and the argument made, assessable through discussion observation or an exit ticket or journaling at the end.
 3. You could develop a basic quiz where you provide an example of evidence and students select the Green Factor category that fits best for that evidence.

MATERIALS NEEDED AND ADDITIONAL RESOURCES FOR ENRICHMENT

Short Summary of *Brown v. Board of Education* 1954

Brown v. Board of Education was a landmark case in the United States that challenged the constitutionality of racial segregation in public schools. The case originated in Topeka, Kansas, where Black children were required to attend separate schools for Black students, which were often inferior in quality to those attended by white students. The plaintiffs argued that this segregation violated the Equal Protection Clause of the 14th Amendment, which guarantees equal rights to all citizens.

The case reached the Supreme Court in 1954, and in a unanimous decision, the Court, led by Chief Justice Earl Warren, declared that state laws establishing separate public schools for Black and white students were inherently unequal and unconstitutional. This decision overturned the precedent set by the 1896 case *Plessy v. Ferguson*, which had upheld the “separate but equal” doctrine.

The *Brown v. Board of Education* decision marked a pivotal moment in the Civil Rights Movement, as it laid the groundwork for desegregation efforts across the country and challenged the legal basis of segregation in other public facilities. It played a crucial role in the ongoing struggle for racial equality in the United States.

Short Summary of *Green v. New Kent County School Board*

Green v. County School Board of New Kent County (1968) was a significant United States Supreme Court case that dealt with the issue of school desegregation. The case involved the New Kent County School Board in Virginia, which had implemented a “freedom-of-choice” plan to supposedly comply with the Supreme Court’s earlier decision in *Brown v. Board of Education* (1954).

In *Brown*, the Court had ruled that racial segregation in public schools was unconstitutional, and it required school boards to take affirmative steps to eliminate segregation “root and branch.” However, the New Kent County School Board’s “freedom-of-choice” plan, which allowed students to choose between an all-white school and an all-Black school, was deemed insufficient by the Court.

In the *Green* case, the Supreme Court, in a unanimous decision, held that the “freedom-of-choice” plan did not constitute adequate desegregation. The Court emphasized that the school board had the affirmative duty to dismantle dual school systems based on race and ensure that the new system was genuinely integrated.

The decision in *Green* established the principle that school boards had to take proactive measures to eliminate segregation, rather than relying on superficial or token efforts. It

contributed to the ongoing legal and social efforts to enforce desegregation in public schools and was part of the broader legal landscape that sought to address the racial inequalities stemming from the era of segregation in the United States.

LDF “The Winding Road to *Brown* and Beyond”

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THE WINDING ROAD TO *BROWN*:
AN LDF CHRONOLOGY

1933 Thurgood Marshall graduates first in his class from Howard University's School of Law. Oliver Hill, also a classmate and one of the *Brown* counsels, graduates second. Marshall and Hill were both mentored by the Law School's vice-dean Charles Hamilton Houston.

1934 Houston joins the National Association for the Advancement of Colored People (NAACP) as part-time counsel.

1935 After having been denied admittance to the University of Maryland Law School, Marshall wins a case in the Maryland Court of Appeals against the Law School, which gains admission for Donald Murray, the first black applicant to a white southern law school.

1936 Marshall joins the NAACP's legal staff.

1938 Marshall succeeds Houston as special counsel. Houston returns to his Washington, D.C. law practice but remains counsel with the NAACP.

1938 *Missouri ex rel. Gaines v. Canada*
The U.S. Supreme Court invalidates state laws that required African-American students to attend out-of-state graduate schools to avoid admitting them to their states' all-white facilities or building separate graduate schools for them.

1940 Marshall writes the NAACP Legal Defense and Educational Fund's corporate charter and becomes its first director and chief counsel.

1940 *Alston v. School Board of City of Norfolk*
A federal appeals court orders that African-American teachers be paid salaries equal to those of white teachers.

1948 *Sipuel v. Oklahoma State Regents*
The Supreme Court rules that a state cannot bar an African-American student from its all-white law school on the ground that she had not

requested the state to provide a separate law school for black students.

1949 Jack Greenberg graduates from Columbia Law School and joins LDF as a staff attorney.

1950 Charles Hamilton Houston dies. He was the chief architect of the NAACP LDF legal strategy for racial equality, Thurgood Marshall's teacher and mentor, and Dean of Howard University's Law School.

1950 *McLaurin v. Oklahoma State Regents*

The Supreme Court holds that an African-American student admitted to a formerly all-white graduate school could not be subjected to practices of segregation that interfered with meaningful classroom instruction and interaction with other students, such as making a student sit in the classroom doorway, isolated from the professor and other students.

1950 *Swann v. Painter*

The Supreme Court rules that a separate law school hastily established for black students to prevent their having to be admitted to the previously all-white University of Texas School of Law could not provide a legal education "equal" to that available to white students. The Court orders the admission of Heman Marion Sweatt to the University of Texas Law School.

1954 *Brown v. Board of Education*

The Supreme Court rules that racial segregation in public schools violates the Fourteenth Amendment, which guarantees equal protection, and the Fifth Amendment, which guarantees due process. This landmark case overturned the "separate but equal" doctrine that underpinned legal segregation.

Attorneys for the plaintiffs in the five cases that comprised the Supreme Court case were: Thurgood Marshall, Director-Counsel, NAACP Legal Defense and Educational Fund, Inc.; Harold Boulware - *Briggs v. Elliott* (South Carolina); Jack Greenberg, Louis L. Redding - *Gebhart v. Belton* (Delaware); Robert L. Carter, Charles S. Scott - *Brown v. Board of Education of Topeka* (Kansas); Oliver M. Hill, Spotswood W.

Robinson III - *Davis v. County School Board of Prince Edward County* (Virginia); James M. Nabrit, Jr., George E. C. Hayes - *Bolling v. Sharpe* (District of Columbia).

Attorneys Of Counsel: Charles L. Black, Jr., Elwood H. Chisolm, William T. Coleman, Jr., Charles T. Duncan, William R. Ming, Jr., Constance Baker Motley, David E. Pinsky, Frank D. Reeves, John Scott, and Jack B. Weinstein.

1955 *Brown v. Board of Education (II)*

Court orders desegregation to proceed with "all deliberate speed."

1955 *Lucy v. Adams*

A federal district court orders the admission of Autherine Lucy to the University of Alabama, and the Supreme Court quickly affirms the decision.

1957 President Eisenhower orders National Guard to Little Rock, Arkansas, to escort nine black students to Central High School to enforce *Brown*.

1958 *Cooper v. Aaron*

LDF wins a Supreme Court ruling that barred Arkansas Governor Orval Faubus from interfering with the desegregation of Little Rock's Central High School. The decision affirms *Brown* as the law of the land nationwide.

1959 Prince Edward County, Virginia, closes all of its public schools rather than desegregate them.

1961 President John F. Kennedy appoints Thurgood Marshall to the United States Court of Appeals for the Second Circuit. Jack Greenberg is selected as LDF's Director-Counsel.

1961 *Holmes v. Danner*

LDF wins admission to the University of Georgia for two African Americans: Charlayne Hunter and Hamilton Holmes.

1962 *Meredith v. Fair*

James Meredith finally succeeds in becoming the first African-American student to be admitted to the University of Mississippi (Ole Miss) through

the efforts of a legal team led by LDF attorney Constance Baker Motley.

1967 Thurgood Marshall is appointed to the U.S. Supreme Court, becoming the first African-American to sit on the bench.

1968 *Green v. County School Board of New Kent County (Virginia)*

The Supreme Court holds that "freedom of choice" plans were ineffective at producing actual school desegregation and had to be replaced with more effective strategies.

1970 *Turner v. Fouche*

The Supreme Court holds unconstitutional Talafero County's (Georgia) requirement of real property ownership for grand jurors and school board members.

1971 *Swann v. Charlotte-Mecklenburg Board of Education*

The Supreme Court upholds the use of busing as a means of desegregating public schools. Julius Chambers, LDF's first intern and later its Director-Counsel, argues *Swann* before the Supreme Court.

1973 *Norwood v. Harrison*

The Supreme Court rules that states could not provide free textbooks to segregated private schools established to allow whites to avoid public school desegregation.

1973 *Keys v. School District No. 1, Denver*

The Supreme Court establishes legal rules for governing school desegregation cases outside of the South, holding that where deliberate segregation was shown to have affected a substantial part of a school system, the entire district must ordinarily be desegregated.

1973 *Adams v. Richardson*

A federal appeals court approves a district court order requiring federal education officials to enforce Title VI of the 1964 Civil Rights Act (which bans discrimination by recipients of federal funds) against state universities, public schools, and other institutions that receive federal money.

1974 *Milkien v. Bradley*

The Supreme Court rules that, in almost all cases, a federal court cannot impose an inter-district remedy between a city and its surrounding suburbs in order to integrate city schools.

1978 *Bakke v. Regents of the University of California*

The Supreme Court rules that schools can take race into account in admissions, but cannot use quotas.

1982 *Bob Jones University v. U.S.; Goldboro Christian Schools v. U.S.*

The Supreme Court appoints LDF Board Chair William T. Coleman, Jr. as "friend of the court" and upholds his argument against granting tax exemptions to religious schools that discriminate.

1984 *Geier v. Alexander*

As part of a settlement of a case requiring desegregation of its public higher education system, Tennessee agrees to identify 75 promising black sophomores each year and prepare them for later admission to the state's graduate and professional schools. A federal court of appeals approves this settlement in 1986 despite opposition from the Reagan Administration.

1984 Julius L. Chambers is named LDF's Director-Counsel.

1993 Elaine R. Jones is named LDF's first female Director-Counsel.

1995 *Missouri v. Jenkins*

The Supreme Court rules that some disparities, such as poor achievement among African-American students, are beyond the authority of the federal courts to address. This decision reaffirms the Supreme Court's desire to end federal court supervision and return control of schools to local authorities.

1996 *Sheff v. O'Neill*

In this LDF case, the Supreme Court of Connecticut finds the State liable for maintaining racial and ethnic isolation, and orders the legislative and executive branches to propose a remedy. LDF would have to return to the Court in 2003

to force the legislative body to fulfill the Court's mandate.

1996 *Hopwood v. Texas*

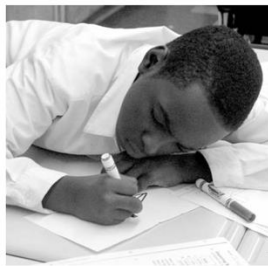
U.S. Court of Appeals for the Fifth Circuit rules that the affirmative action plans used by Texas universities are unconstitutional; the Supreme Court refuses to review the case.

1999 Thirty years of court-supervised desegregation ends in Charlotte-Mecklenburg school district.

2003 *Gratz v. Bollinger; Grutter v. Bollinger*

The Supreme Court considers challenges to the University of Michigan's affirmative action program for its undergraduate and law schools, respectively. LDF represents African-American and Latino student intervenors in the *Gratz* undergraduate school case; LDF Associate Director-Counsel Theodore M. Shaw is lead counsel. In *Grutter*, the Court preserved the core principle of affirmative action, finding that the consideration of race in pursuit of a diverse student body is a compelling state interest.

2004 Theodore M. Shaw becomes LDF's fifth Director-Counsel.



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ABOUT THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. (LDF)
LDF was founded in 1940 under the leadership of Thurgood Marshall, who led the legal team that won *Brown v. Board of Education*. LDF's mission is to transform the promise of equality into reality for African Americans and, ultimately, all individuals in the areas of education, political participation, economic justice and criminal justice.

Although LDF works primarily through the courts, its strategies include advocacy, educational outreach, monitoring of activity in the executive and legislative branches, coalition building and policy research.
Fifty years after *Brown*, education is still LDF's main program area. LDF continues to play a major role in the decades-long struggle to win equal access to primary, secondary and higher education for all of our nation's youth. Additionally, through its scholarship and fellowship programs, LDF has helped over 4,000 exceptional African-American students to graduate from many of the nation's best colleges, universities and law schools.

LDF is based in New York City with offices in Washington, DC and Los Angeles.

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the winding road to **BROWN** and beyond

AN LDF CHRONOLOGY OF THE STRUGGLE FOR EDUCATIONAL EQUITY: THE LEGACY OF **BROWN V. BOARD OF EDUCATION**

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NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

Notes on the Green Factors

Student Assignment

- Where Black students and white students are assigned to attend.
- When you have a school district that's 90% white and 10% Black, if one of the high schools is 30% Black, then that school would be considered a one-race school.
- We look to determine whether racial comp/percentage of Black students falls within 10-15% of total district percentages.
- There is a desire in Black communities to maintain their schools. While the best way to approach desegregation normally seems like leveling out schools, we sometimes try to preserve predominantly Black institutions. But when we do desegregate, we do it in a couple of ways: 1) adjusting attendance boundaries or advocating by establishment of a magnet program; 2) through consolidating schools, which requires closing schools and bringing students together, sometimes to a neutral location or other times in one school while closing the other (controversial in terms of which community has to travel, where a school will be built, etc.).
- There are also majority-to-minority transfers.
 - o Especially if a school district is putting more resources into predominantly Black schools (which happens through consent orders) and a white student in a majority-white school wants to transfer, they can.
 - o Within-school student assignment: We want integration in the numerical sense but also within school programs. In the context of within-school student assignment, look into access to AP programs, dual enrollment, career and tech programs, and the context of special education.

Faculty and Staff Assignment

- Like student assignment, if there is a school where the faculty and staff ratios are balanced but one school where teachers are nearly all white or all Black, that particular school and district would be considered noncompliant.
- Refers to whether Black students have equal access to certified schoolteachers in comparison to white students.
- This applies to all district employees and is related to the hiring, retention, and promotion of faculty and staff.
 - o Includes any advisors to extracurricular activities, central office employees, and the like.

Transportation

- Students have lived in an area where there are separate buses for white and Black students. Buses themselves need to be integrated to the extent practicable.
- Make sure busing times are reasonable—making sure Black students are not spending more time on buses than white students are.
 - o Pick-up and drop-off times of Black students compared to white students.
 - o There are cases of Black students being dropped off at home at night versus other students being dropped off during the daylight.
- This also includes the condition of buses: some cases where the buses dispatched to Black neighborhoods have no air conditioning, but white buses do.

Extracurricular Activities

- This is a question of whether all clubs or extracurriculars are equally open to students across the district, requiring racial balance amongst opportunities. Look at enrollment and participation.
 - o Includes sports, homecoming, prom, student government, and honor societies.
- If we do find that racial disparities exist, we advocate for recommendations through experts, which may include eliminating subjective criteria or eliminating financial or cultural barriers.
 - o Example of participation in beta club requiring teacher recommendation: The remedy was to remove the teacher recommendation requirement and keep just requisite 3.0 GPA.
 - o There was a case where there existed a \$100 fee for cheerleading, and the style of cheerleading was not reflective of Black culture. Lawyers obtained a consent decree removing the fee and requiring the squad to be more reflective of the population.

Facilities

- Investigating whether schools have equalized their facilities—particularly important when you have predominantly white and Black schools within a district.
- Predominantly Black schools typically have inferior facilities. Analyze whether facilities of racially identifiable schools present with these racial disparities.
- In-school facilities are also something to look for. In an Alabama example, ISS rooms in trailers were segregated from the main campus, and students in ISS trailers were predominantly Black.

Quality of Education

- This is an ancillary, catch-all category: discipline, climate and culture, graduation pathways, graduation rates, in-grade retention, and student achievement data.
- Courts will consider this when determining whether the school district is unitary. Many times, issues overlap and intersect categories.

- Discipline cuts across factors because ISS is a student assignment issue, for example. This means lawyers do a lot of work with school districts on updating discipline policies to reflect best practices.
- Tends to be a big place for impact on a school's policies and course offerings.
- Climate and culture issues: In a desegregation case at a predominantly white high school, Black students and parents had repeated complaints about the lack of culturally relevant pedagogy. You can investigate climate questions under this prong.
- This did not come from the *Green* case, which is why you'll often hear "Green and ancillary factors."