

**INTO THIN AIR: DO CMS POLICIES PUT CHARLOTTE
SCHOOL CHILDREN AT RISK?**

**Dean John Charles Boger
Speech to the Charlotte-Mecklenburg Bar Association
Friday, January 26, 2007**

Thank you for inviting me to this podium, and to this place. Charlotte was, from my earliest days, “the big city.” I remember annual pilgrimages from my native Concord at Christmastime, standing with my mother and twin brother before Belks' and Iveys' windows, decorated for the holidays. I tasted my first pizza at the Open Kitchen on West Morehead Street in 1963, my first Chinese food at the Oriental on Tryon Street. Visits to the old Charlotte Coliseum let me thrill at the Ringling Brothers Barnum & Bailey Circus, hear Sam Cooke sing and Billy Graham preach, and watch Davidson College battle Bill Bradley and the Princeton Tigers in the winter of 1963-64. When I was in high school, my mother started a book review column, *Book Browsing* that ran for years in the *Charlotte Observer*. She eventually wrote a book, *Charlotte 23*, about 23 leading citizens of the Queen City, including Fred Alexander, John Belk, Bonnie Cone, Ben Douglas, Walter Kuralt, and James McMillan.

I also remember taking a Trailway bus, early on successive Saturday mornings when I was in the 11th grade, bouncing over to the Charlotte Public Library to pour over research material for a term paper on Franklin Roosevelt's First 100 Days – the remarkable flurry of legislation and executive action that forever shaped the New Deal. It was, I proudly thought, a term paper “researched in Charlotte.” I got an A.

I'm now a new dean, just as Roosevelt was a new President in 1933. I claim, of course, no achievement for my first 100 days that could match any reform wrought by the New Deal – but Carolina Law is, thankfully, in considerably better shape than was the

United States of America in January of 1933. Former deans Henry Brandis, Dickson Phillips, Bob Byrd, Ken Broun, Judith Wegner, and Gene Nichol, have made Carolina Law a remarkably strong institution. During my first hundred days, therefore, I set out to share the news of Carolina Law School widely, traveling from Boone in the West to Rocky Mount and New Bern east of I-95. Eventually, I hope to visit every corner of the State, talking with lawyers and judges, speaking with ordinary citizens about the state of legal education, my vision for Carolina Law, and the promises of the Constitution. I've appreciated each and every meeting thus far – my gracious hosts, the affection of so many for Carolina (though as a Duke undergraduate reared in a home where Wolfpack basketball was a nighttime radio staple, I know full well that not all of the State's good citizens bleed Carolina blue). Among lawyers and judges from every background, I've been especially touched by the earnest desire that law somehow make a positive difference in our collective lives. Many of you here today, I know, share those aspirations. You are outstanding lawyers and important public citizens of Charlotte, and I'm proud and grateful to be asked to return to this city and address you.

What I plan to share with you this afternoon is a bit different from my now-standard dean's speech. It's a deeply personal and more pointed message, and it may even stir controversy (somewhat of a tradition, I'm told, for Carolina Law deans). I do not court disagreement for its own sake, but I can't shrink from the truth as I see it about an important issue with which we're all concerned. My theme is public education. My specific question, whether the educational policies of the Charlotte-Mecklenburg School Board put Charlotte's school children at risk.

I have followed the path of educational reform in Charlotte from at least the 1960s to the present. For many decades, I've felt quiet pride especially when talking with Northeastern friends and colleagues, sharing the triumphs of *Swann*, celebrating the courageous and far-sighted civic-mindedness of those Charlotte leaders who joined hands to build one of the finest urban systems of public education anywhere in the country. Yet today my mood is more somber. The burden of my talk is that the educational achievements of three decades stand gravely at risk.

Let me not begin with data and facts, however, but with an extended analogy that may harbor a kernel of truth. In March of 1996, *Outside* magazine assigned a talented journalist, Jon Krakauer, to summit Mount Everest, the highest peak on earth. In his subsequent 1997 bestseller, *Into Thin Air*, Krakauer observed that the assignment served both personal and professional needs. He personally had long nourished the desire to summit Everest, mountaineering's ultimate challenge. For *Outside* magazine, Krakauer's odyssey would let him explore the growing commercialization of Everest expeditions. Increasingly in the 1990s, the peak was not reserved just for Sir Edmund Hillary and dedicated successors, but to anyone with \$60,000 who could join a commercial group, buy some gear, place himself in the hands of professional guides, and scale the world's highest peak despite minimal mountaineering skills and experience. Krakauer and his novice climbing party did reach the summit, but things quickly began to go wrong. An unexpected snowstorm blanketed Everest, trapping the climbers on the mountain, and four of the six members of Krakauer's climbing group died on the mountain. The spring of 1996 became the deadliest Everest season on record.

The events of that ill-fated expedition left many troubled by the harrowing events on Everest that spring. Questions swirled about – deep questions with larger moral significance. What can humans realistically expect to accomplish, through sheer determination alone, without adequate preparation for the known and the unknown? Can even the most skilled and accomplished among us overcome extreme environmental conditions in which we place ourselves and over which we wield little control? Is there a point at which incredible will, courage, and determination are simply not enough to carry us to the peaks of success?

I suggest to you that tens of thousand of students now in Charlotte’s public schools find themselves “in thin air” this very afternoon. They possess everything within themselves necessary to reach the summit of academic success *if* environmental conditions are favorable and *if* they receive the preparation and nurturing that only good teachers can provide. Yet because the educational environments in which they have been placed are unacceptably harsh and cruel, their chances for survival are slim. We are failing them wretchedly, despite our best efforts.

The Charlotte-Mecklenburg School District has recently released its strategic plan *Reach Further*, charting the future of CMS to the year 2010. The plan is a well-written summary of new proposals designed to improve student performance, teacher quality, and overall satisfaction with Charlotte’s public schools. It is, in effect, the trail guide to three broad, board-approved goals: “1) To provide all students with the opportunity to perform at their fullest potential; 2) To ensure there is no discernible achievement gap among students based on race, gender or economic level; and 3) To prepare all students to be successful in institutions of higher learning or the workforce without remediation.”

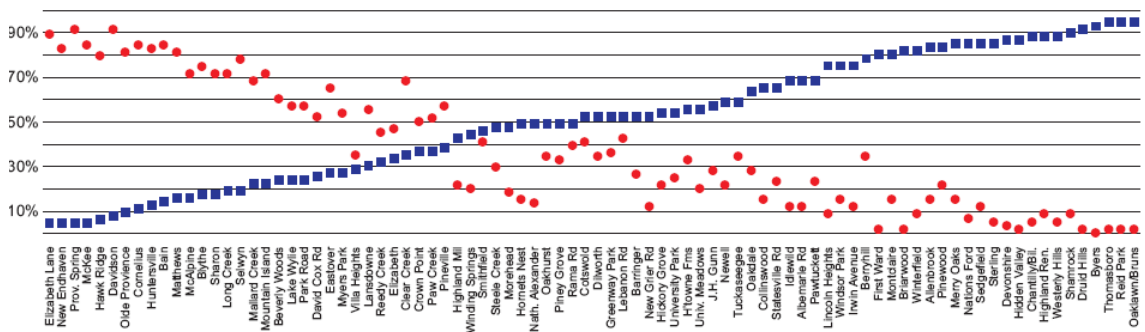
I've taken the opportunity to review the complete 67-page report and noticed that, despite its evident good will, there is one curious omission. No serious consideration is given anywhere to *student assignment* as a means to alter the marked drift, so evident since 2001 in Charlotte, toward the high-poverty, racially isolated schools in Charlotte's center city, where most African American and lower-income students attend school. My own thinking on student assignment and school composition has been formed by what I've come to see as three interrelated realities: (1) that although many non-white families are middle- or upper class, non-whites are, on average, far more likely to be poor; (2) that attendance at schools with *high percentages* of low-income children, "high-poverty schools," makes low-academic performance substantially more likely; and (3) that in Charlotte, as in most American cities, residential neighborhoods foster both racial and socioeconomic separation and isolation. These three factors, then, combine to create high-poverty, low-performing schools in which tens of thousands of young Charlotteans now find themselves trapped, facing educational death in the harsh, violent conditions we have inadvertently created.

My basic claims have substantial support. There is a growing body of evidence that children who attend high-poverty schools face significantly higher risks of poor academic performance, notwithstanding their individual academic potential. *High poverty schools, in short, are "thin air," into which we are deliberately sending many of our least prepared, most fragile children.*

Let me share my evidence on what’s happening here in Charlotte. It appears in four graphs and tables set forth below. The first spreads all of CMS’s 84 elementary schools along a horizontal axis from left to right. Along the vertical axis, two different sets of figures form an irregular cross. Looking at the top left, we see that the red dots indicate the percent of students at each school that are white. Elizabeth Lane at the extreme left has a white student population of 90%. One thing that is clear, looking left to right across the graphs, is that the percentage of white students varies widely in CMS elementary schools. While at least 11 elementary schools have white student populations between 80% and 90%, the red dots on the far right reveal that in at least 16 elementary schools, fewer than 10% of the students are white. The real power of this graph, however, comes when we focus on the blue squares. Each square measures the percentage of students who are eligible for a subsidized lunch, the best available proxy for family poverty. What the squares and circles, read together, reveal is that not a single school with at least a 50% white student population has a majority of students on subsidized lunches. By vivid contrast, in at least 16 schools where non-white student populations exceed 75%, 90% or more of their students are on subsidized lunch.

CMS Elementary Schools by Race and SES Concentration, 2003-4 Choices

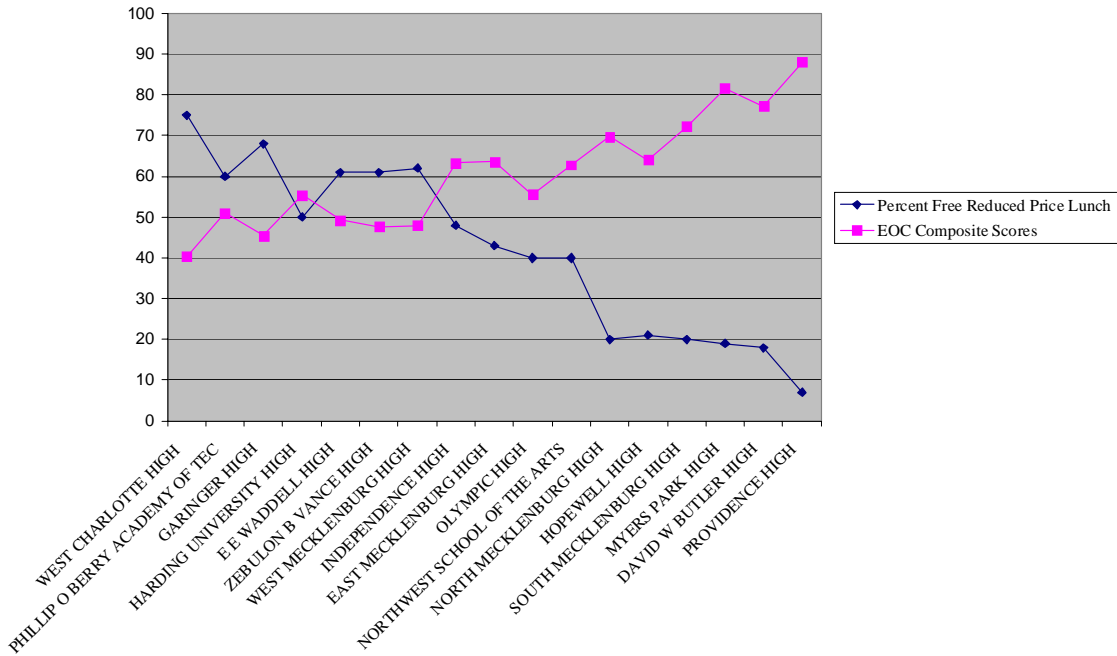
Parent choices for fall 2003, by elementary school: ● = percent white; ■ = percent on subsidized lunch.



In other words, *all* of CMS’s highest-poverty elementary schools in 2003-2004 were heavily non-white; where at least 50% of the students were white, by contrast, not a single one had a majority of poor students in attendance.

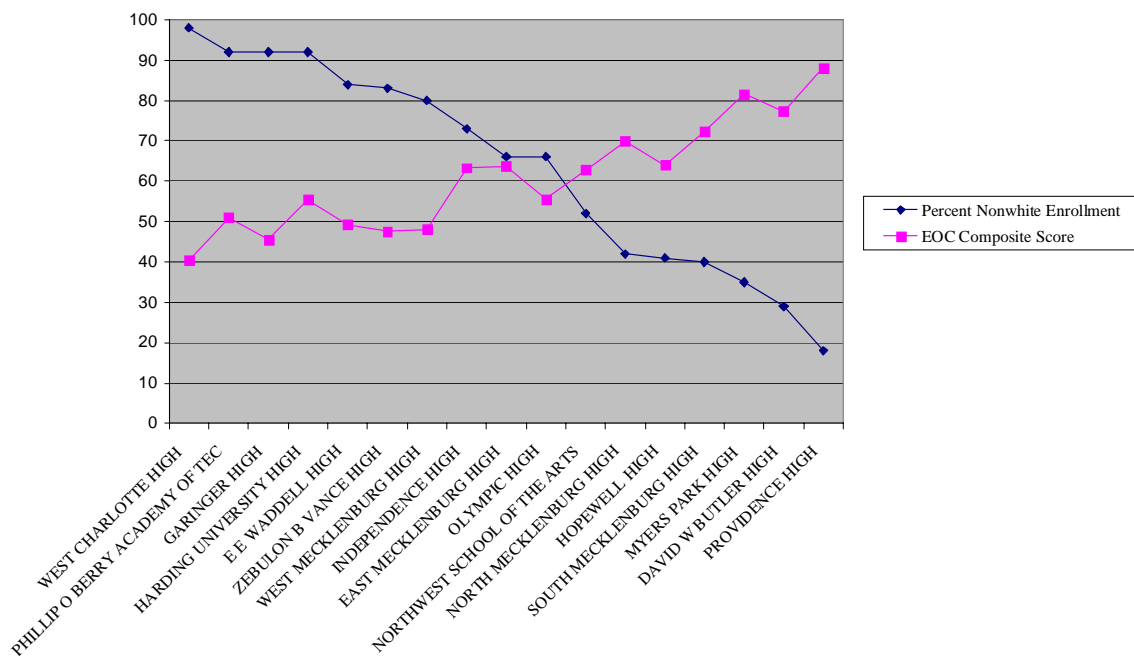
When we turn to the question of whether poverty rates affect student achievement, the data on CMS’s high schools in the academic year 2005-2006 are most revealing. The blue points, connected by a blue line, demonstrate that as the percentage of students on subsidized lunches fall, from 75% at West Charlotte High on the left to fewer than 10% in Providence High on the right, student scores on North Carolina’s statewide EOC (end-of-course) tests rise inverse. In other words, the higher the percentage of low-income students, the lower the statewide EOC scores. The lower the percentage of low-income students, the higher the scores. High poverty schools in CMS are “thin air:” schools where failure is widespread.

CMS High Schools: By Poverty and EOC Composite Scores, 2005-2006
 UNC Center for Civil Rights, January 2007



Moreover, we know that these high poverty schools are also heavily non-white schools. It is our African American and Latino children who are being sent to schools where failure rates are unacceptably high, as the graph below shows. Racial isolation and socioeconomic isolation have come, in only a matter of years, to dominate the picture of Charlotte's once-proud, once relatively equally strong high schools.

CMS High Schools: By Race and EOC Composite Scores, 2005-2006
 UNC Center for Civil Rights, January 2007



For years, many educators and advocates of good will have argued that the answer to this crisis lies *not* in an adjustment of student assignments to guarantee racially and socioeconomically diverse schools, but instead in indulging the assumption that students can learn wherever they are, provided they are given access to good teachers and other educational resources. Yet these arguments have an uncomfortable similarity to arguments made over one hundred years ago in *Plessy v. Ferguson*, the Supreme Court decision that upheld the “separate but equal” doctrine. *Plessy* sanctioned a full half-

century of cruel educational inequities until it was overturned by *Brown v. Board of Education* in 1954. The modern version of the argument has been adjusted slightly to make it more palatable for contemporary audiences. It's sometimes called the "separate but more" doctrine. The theory goes like this – as long as schools with high concentrations of poor students or students of color receive greater and more targeted resources, extra remedial educational programs, and bonuses to attract "better" teachers, then the assignment of students, even to racially isolated schools, doesn't really matter.

The essence of the new CMS plan is to accept and normalize this controversial claim; the new CMS plan has abandoned any commitment to diverse public schooling that made Charlotte, in the 1980s and 1990s, the watchword for excellent public education and that brought waves of new industry and commerce to Charlotte from the Northeast and Midwest. Instead, the plan simply accepts Charlotte's growing racial and socioeconomic divide among its schools and promises to provide good teachers to students in every school, including those with high levels of poverty.

Promising good teachers to all of our students, though laudable in principle, is highly unlikely to be honored in practice, either now or in some future to which CMS has committed its children. A quick thought experiment should satisfy us about CMS's present promises: would anyone in this room, especially those with school-aged children, agree to an immediate, one-for-one switch under which all teachers in Charlotte's suburban, majority white schools would be transported to Charlotte's central city schools, to be replaced by CMS's urban teacher corps? If not, why not? I suspect it's because we all realize that Charlotte's suburban schools have regularly attracted and retained far higher percentages of certified, high quality teachers.

Professors Helen Ladd and Charles Clotfelter of Duke's Sanford Institute of Public Policy recently released the results of a careful study designed to address this very question. Reviewing statewide data, the researchers determined that in every grade, African American students in North Carolina were far more likely to be taught by novice teachers than were white students. For example, a typical African American seventh grader is 54% more likely to have a novice teacher in mathematics than is a white seventh grader, and 38 percent more likely to have a novice English teacher.

Why do these disparities exist? Because there is a market in teachers, as in anything else, and the current market for teachers tilts strongly to the teachers' advantage. North Carolina schools require approximately 11,000 new public school teachers every year, and yet our schools of education produce no more than 3,500. CMS alone expects to hire 1,600 new teachers each year for the foreseeable future. The result of this imbalance in supply and demand is that teachers, as scarce commodities, can readily select the schools in which they choose to teach, and many understandably choose "easier to teach" settings – middle class schools with greater resources, stronger parental support, and high-achieving students. By contrast, Charlotte *Observer* reporter Ann Doss Helms recently reported on the inability of CMS to attract and retain strong teachers at West Charlotte High School, one of the city's lowest-performing, center city schools. "If substandard teachers are fired [from West Charlotte]" she asked, "can [Superintendent] Gorman find replacements willing and able to work in Charlotte-Mecklenburg's most troubled high school?" The implicit answer was, 'we don't see how.' This is not just a challenge for Charlotte; it's a problem nationwide, one that no racially and socioeconomically isolated school system has yet to solve.

Even apart from the educational injuries inflicted by the “thin air” of high poverty schools, I feel compelled to address racial resegregation directly. As a child who came of age in the 1950s and 1960s, I’ve long been gripped by the centuries-long tragedy of America’s racial inequality and heartened by the moral progress represented by *Brown* in 1954, and later by *Swann* in 1971 (that latter case argued in the Supreme Court by my indefatigable mentor, colleague, and friend, Julius Chambers). In 1971, Chambers, who spent his early years of practice in a cold water law office within blocks of this gathering, convinced a unanimous Supreme Court that the Judge James McMillan’s orders requiring CMS to disestablish its “racially identifiable” public schools were constitutionally appropriate. Chambers led the Court to see that in 1971, seventeen years after the path-breaking *Brown* decision, schools in Charlotte had made little progress toward desegregation, and that remedial changes were necessary.

Yet in 2007 in Charlotte, some 36 years after the *Swann* decision and 53 years after the *Brown* decision, similar patterns of racial isolation are once again reemerging. *Plessy* is silently reclaiming Charlotte public schools. And today, unlike in 1971, few can pin hopes on the federal courts that were so bold in the 1960s and 1970s. Indeed, today’s Supreme Court seems poised to strike down, as unconstitutional, two *voluntary* school integration plans, one in Seattle and the other in Louisville, that were adopted by locally elected school boards with the express aim to further racial integration. The perverse argument reportedly receiving a favorable judicial reception in recent Supreme Court arguments is that the Equal Protection Clause of the Fourteenth Amendment somehow forbids voluntary plans designed in good faith to assure the very racial diversity toward which *Brown* and generations of subsequent cases aimed.

In 1974, Justice Thurgood Marshall warned his fellow justices that failing to address the widespread racial desegregation of the Detroit metropolitan region was a tragic mistake:

“In the short run, it may seem to be the easier course to allow our great metropolitan areas to be divided up, each into two cities – one white, the other black – but it is a course, I predict, our people will ultimately regret.”

No Thurgood Marshalls remain to caution the new Roberts Court as it flirts with a decision that would turn *Brown v. Board* on its head.

What is at stake practically are not only the educational rights and futures of individual children but the collective need of Charlotte, and the nation, for a workforce sufficiently well-educated to meet the growing challenge of the global marketplace. Apart from this world economic challenge, Charlotte and the nation face the enormous domestic challenge posed by the inevitable transformation of America into a majority non-white country later in this 21st century. Our politics, and our civil society, desperately need students of all races who have been educated to work, play and live comfortably across racial and ethnic lines. Scholars like Jomills Braddock at the University of Miami have argued for years that the greatest benefits of school desegregation have come less through immediate improvement in students’ educational performance but in their socialization of our youth for comfortable membership in our increasingly multi-racial society. Schools have an unparalleled capacity to offer daily experiences in racial and socioeconomic cooperation. Educational reforms that accept racial and economic isolation in public schools do absolutely nothing to advance those crucial ends. They

accept the risks of an educationally impoverished workforce and a political and socially dysfunctional society.

At a personal level, my own upbringing was filled with missed opportunities, simply lost forever, to experience connection with the African American children my age, so separate were our divided worlds. And I'm deeply grieved that the walls that demarked and delimited those worlds are now reappearing in our schools, despite the extraordinary courage and effort by brave souls who fought to break them down.

The opening chapter of Krakauer's book includes a quotation from an earlier, 1938 work, *Upon That Mountain*, in which author Eric Shipton wrote: ". . . [N]othing but the most perfect conditions of weather and snow offers the slightest chance of success, and on that last lap of the climb no party is in a position to choose its day . . . the mountain still holds the master card." It's not perfectly clear, at least from Krakauer's account, just why things went so horribly wrong on Mount Everest that day in 1996. What is clear is that the thin air of the mountain proved impossible to overcome.

Our best chance to succeed comes when all conditions are favorable. What is true in mountaineering is true in public education as well. If we place our students in racially and socioeconomically isolated schools, where the air is thin and the deck stacked against them, where many teachers won't even come and others quickly leave, no small cohort of heroic principals and teachers is likely to protect them from the harsh, unsparring elements, even if they fight hard together against the prevailing educational storm. Why, as a matter of policy, would we support conditions that we know increase the likelihood that many earnest students will not survive?

I'll close by repeating what I said earlier. There are thousands of children in Charlotte's public schools, and in all the schools of North Carolina, who possess everything within themselves – intelligence, heart, good will – to reach the summit of academic and life success *if* we can place them in environments in which they and their peers can flourish. This is your community. They are your children. They attend schools to which you have assigned them. I'll soon get in a car and return to Chapel Hill. CMS schools are your responsibility. Their graduates, and their dropouts, will determine your community's future. Let me encourage you, leaders of Charlotte, to recall your proud years of progress. Ask yourselves honestly what the future requires. May you forswear any course, as Justice Marshall warned, that you'll ultimately come to regret.

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