

Educationally relevant factors in *Brown II*

Submit questions to Christopher Lohse, Legislative Research Analyst, (406) 444-5367
clohse@state.mt.us

History and origin

The term “educationally relevant factors” may first appear in briefs submitted to the Supreme Court in October of 1954 in the so-called *Brown II* decision (349 US 294). *Brown II*'s predecessor, *Brown v. Board of Education of Topeka, Kansas* (347 US 483, often cited as *Brown I*), which famously excluded the application of the “separate but equal” doctrine of *Plessy v. Ferguson* (163 US 537) in the realm of public education, rolled together several similar disputes from Kansas, South Carolina, Virginia, and Delaware regarding separate educational facilities. The various cases were premised on different local facts and conditions, though a common legal question regarding the constitutionality of separate educational facilities for Black and White students was used to justify their consideration in a consolidated opinion.

Brown I was issued on May 17, 1954 in broad language stating that segregation in public education was a denial of the equal protection of the law, guaranteed by the Fourteenth Amendment. On the issue of remedies, however, the court remained deliberately vague, leaving the formulation of desegregation policy to districts, or at least seeking their comment. The court, in oral arguments in *Brown I*, propounded a series of questions to litigants, questions 4 and 5 of which were related specifically to remedies. From the opinion delivered by Chief Justice Warren:

In order that we have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument on Questions 4 and 5 previously propounded by the Court for reargument this term.

Question 5, the response to which is of particular importance in defining “educationally relevant factors,” asked:

[sic] If This Court Should Decide to Permit an “Effective Gradual Adjustment” from Segregated School Systems to Systems Not Based on Color Distinctions, It Should Not Formulate Detailed Decrees but Should Remand These Cases to the Courts of First Instance with Specific Directions to Complete Desegregation by a Day Certain.

Appellants responded to the court’s question.

Appellants assume that “the great variety of local conditions”, to which the Court referred in its May 17th opinion, embraces only such educationally relevant factors as variations in administrative organization, physical facilities, school population and pupil redistribution, and does not include such judicially non-cognizable factors as need for community preparation, *Ex Parte Endo*, 323 US 283, and threats of racial hostility and violence, *Buchanan v. Warley*, 245 US 60;

Monk v. City of Birmingham, 185 F. 2d 859 (C. A. 5th 1950), *cert. denied*, 341 US 940.

In the appellant brief, it appears clear that the term "educationally relevant factors" was used to represent those factors under the control of the school. Community factors and factors beyond the reasonable control of the school district were not viewed as educationally relevant factors. It is unclear whether the examples presented are to be viewed as exhaustive.