



Black Educology Mixtape “Journal”

ISSN: (Print) (Online) Journal homepage: <https://repository.usfca.edu/be/>

The 10th Amendment: The Preclusion of an Equal Education

Jamez E. Dudley, M.S., M.Ed.

To link to this article: <https://repository.usfca.edu/be/>



The Black Educology Mixtape is an open-access mixtape that moves beyond academic articles to feature various art forms and voices that are typically muted. We feature a collective of Black people working to amplify and empower Black educational voices. Our scope and sequence focus on the past, present, and future of Black education, which has been historically and systemically caught in the underbelly of western education. Our work is grounded in creating mixtapes that are both revolutionary and emancipatory in the name of love, study, struggle, and refusal.

This is an **Open Access** article, which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way. The terms on which this article has been published allow the posting of the Accepted Manuscript in a repository by the author(s) or with their consent.

The 10th Amendment: The Preclusion of an Equal Education

Jamez E. Dudley, M.S., M.Ed.

ABSTRACT

“The 10th Amendment: The Preclusion of an Equal Education,” scrutinizes how the Tenth Amendment impacts the U.S. public education system. The study argues that the decentralized nature of education policy inadvertently perpetuates educational disparities, despite historical milestones like *Brown v. Board of Education*. The study actively explores systemic challenges, including uneven resource allocation, disciplinary practices, and culturally insensitive staffing. It contends that the Tenth Amendment's delegation of educational governance necessitates a fundamental constitutional shift to rectify these issues. Advocating for collective action, the study actively proposes a comprehensive reimagining of public education, emphasizing equity, representation, and resource allocation. The abstract actively serves as a standalone overview, providing readers with a concise understanding of the research objectives, methods, and key findings. The study actively concludes with actionable recommendations, emphasizing the urgency of addressing systemic issues to positively impact future generations.

“Most education policy is decided at the state and local levels”

– U.S. Department of Education, 2023

Education is and should always be a nonpartisan sector of America. Something we can stand proud in unison to sing praise about: the accolades and success of such a system. The sad reality is that we are staring at a system in shambles, eroded by policies that disproportionately “meet” the needs of students. Education policy is nothing new, and the fight for equality in instruction has been one that has further pushed Black children and communities backward. While the 1954 ruling in the *Brown v. Board of Education* case was meant to level the playing field in education, some argue that the desegregation of schools was the worst thing to happen to the Black community and our children.

In a perfect world, “Separate but Equal” school systems would be an ideal situation. However, considering our world and the racial tensions, nationalism, and different religions, such a system is destined to fail.

–Ben A. Watford, 2018

The Department of Education grew from legislation enacted in 1867, which created a body to collect information and statistics about the nation's schools. Today, that mission has evolved to “promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access” (U.S. Department of Education, 2010). But what does this mean? How does a body with no constitutional provision determine that it will ensure educational excellence and equal access? Further, how does “equal access” translate into a system where my Black child can walk into any school and feel she or he is equal to any other student in the room?

While we think education is free and equal, it is not. Public education in these United States is compulsory and biased. The Tenth Amendment states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people” (Congress, 2023). Education is one of those freedoms governed by state and local governments, leaving the education of our children on the table

while politicians play roulette. Because of these politicians, we are left with a further divided system, wherein parents are given the ability to have school choice, but there are no policies in place to ensure students have access to reliable transportation or free and reduced meal options, tuition is required for students to attend private institutions, and families can choose to homeschool. The gamble here is that parents are not practicing educators, tuition may strain finances in a precarious economy, and if the car dies today, the kid will not get to school tomorrow.

Education policy governs schools and their operations, establishing laws, regulations, and policies that are created and followed by local school systems, charter school boards, special statewide school districts, charter school authorizers, state boards of education, private and parochial schools, and state governments. The way in which the federal government establishes and announces its authority in public education is by heavily regulating the funding states and schools receive to retain their influence on what happens in schools. Though the federal government is present, all oversight is left to the state board of education.

Because legislation differs from state to state, schools tend to have mostly the same regulatory practices, with variations, but may operate differently. Think about the Mason-Dixon line; you would automatically acknowledge that education for Black students below the line is greatly diminished because of the Jim Crow laws in the South that continue to suppress how people live today. The water fountains are the same, but the education is not. Throughout W.E.B. DuBois's most important work, *The Souls of Black Folk (1903)*, he uses "the color line" as a motif to describe the ways it symphonically divides us. This powerful work argues a path forward for the Black American. I believe the "Color Line" is and will continue to be an issue in education; until that line is erased, there will never be equality in any sector of education.

There is no way to ensure an equal education without altering the Constitution. Further, there is no level of diversity, equity, and inclusion or cultural competency training that can solve the problems in public education—they're systemic. These programs are helpful tools in bringing awareness, but overall, they will never change the undertones of hate and oppression that are deeply rooted in the policies in the system's foundation. We will continue to see the disproportionate allocation of public resources, unequal disciplinary practices with an overrepresentation of minority students in special categorizations, staff that doesn't reflect local student populations and rife with personal prejudices, and limited access to up-to-date educational resources, core curricula, and assessments.

Disproportionate Allocation of Public Resources

Public education funding is directly tied to the local tax base, with some state and appropriated federal funding. In areas with more apartments, townhomes, and rentals, minimal property taxes support the local school system. While perhaps not the case in some school systems, this is typical for most. The quality of education our children receive is influenced by the value of local properties. An area with high-density, low-income housing generates less education funding because lower property values generate less property tax, which is the main source of educational funding. Typically, the schools in these areas have problems with staffing; access to quality, up-to-date resources; and their ability to provide a complete scope of services to meet the needs of students and support academic achievement. You will see that states and communities with higher property values with higher property taxes have better funding for education, which yields better educational outcomes.

As stated in an article published by the Albert Shanker Institute: "There are several states in which educational resources are comparatively adequate and distributed equitably. In general, however, resources in most states tend to be allocated non-progressively or even regressively, that is, higher-poverty districts do not receive more funds—and in some cases receive substantially less..." (Baker et al., 2019, p. 1). Some states weigh student populations: for example, a student who is classified as "pupils in poverty" in South Carolina is weighted at 0.50. Weights are used to deliver extra funding to support students in particular situations, such as special education, gifted and talented, charter school enrollment, and limited English proficiency. According to the Reason Foundation, the most frequently used weights are for low-income students, English language learners, and special education students (Smith, 2022). However, this varies by state, Alaska, for instance, provides no weighting for low-income students, and low-income students in North Dakota are weighted at 0.025.

Additional Funding for Low-Income Students Across Three States

State	Base Pupil Funding	Low-Income Weighting	Additional Funding
SC	\$6,393.00	0.50	\$3,196.50
AK	\$9,753.00	0.0	\$0.00
ND	\$8,616.00	0.025	\$215.40

Note. Based on 2020 data from the Reason Foundation (Smith & Campbell, 2022)

In envisioning scenarios, it becomes evident that states with greater size and larger populations exhibit varying metrics. This underscores the idea that educational expenditures are far from uniform, frequently leaving resources beyond reach for students with the most significant needs. The imperative of meeting basic operational costs and personnel salaries often takes precedence for local education authorities, potentially leaving students in need with insufficient support.

This outcome arises due to the predominant influence of education funding decisions at the state and local levels, where political considerations may shape decision-making that affects the well-being of students. The funding controlled by the U.S. Department of Education is the stake the federal government maintains in education. States, districts, and schools must follow national mandates and guidelines to receive federal funding and are otherwise made to pay it back (in worse cases). Schools receive highly variable funding from their local contexts based on property taxes (special schools and state-authorized charter schools notwithstanding), lack adequate funding from the states, and are provided with supplemental funding for federal programs from the U.S. Department of Education. If I am a school with a high low-income population, I need Title I funding to provide the student population with proper support. A Title I student needs the school to provide a robust health clinic, perhaps a backpack, a meal bag for the weekend, and school supplies because these are items we deem necessary and basic, they are items these students will likely not otherwise have access to. Schools receive federal funding in the following categorizations:

Funding Name	Purpose	Use
Title I, Part A	Designed to provide financial assistance to schools with a high percentage of children from low-income families. The goal is to ensure that all students, regardless of their economic status, have a fair, equal, and significant opportunity to obtain a high-quality education.	Funds can be used for additional teachers, professional development, supplemental materials, and other resources to improve educational opportunities for disadvantaged students.
Title II, Part A	Aims to improve teacher and principal quality.	Funds can be used for professional development, recruitment and retention of high-quality teachers, and initiatives to enhance the skills of educators.
Title III	Provides support for English Language Learners (ELL) and immigrant students.	Funds are used for ESL programs, bilingual education, and professional development for educators working with ELL students.

Title IV, Part A	Focuses on providing well-rounded education, improving school safety, and promoting the effective use of technology.	Funds can be used for a variety of purposes, including STEM education, mental health services, school safety initiatives, and the integration of technology into the curriculum.
Title V	Supports innovative approaches to improve the quality of education.	Funds can be used for a range of innovative programs, including those that enhance educational technology, provide school counseling services, and support education in rural areas.
Title VI	Addresses the unique cultural, language, and educational needs of Native American students.	Funds support programs that aim to improve educational outcomes and opportunities for Native American students.
Title VII	Aids schools affected by the presence of federally owned land or facilities, such as military bases.	Funds can compensate for the loss of local tax revenue in areas with federal properties and support the education of children in military families.
Title IX	Addresses sex-based discrimination in education.	Funds can be used to support efforts to provide equitable opportunities for male and female students.
IDEA	Provides funding to support the education of students with disabilities.	Funds are used for special education services, professional development for teachers, and resources to ensure students with disabilities receive a free and appropriate public education
McKinney Vento Homeless Assistance Act	Addresses the educational needs of homeless children and youth.	Funds can be used to provide services such as transportation, academic support, and school supplies for homeless students.

Without these programs, the needs of some students, typically Black and minority students, will never be met since states gamble on allowing local taxes to support an allocation set by the general legislature, but in most cases, it truly is the supplement to the supplemental tax revenue. Because education is left to the states, the players who can afford private school will continue to disregard the minds and future of Black and Brown children.

Unequal Disciplinary Practices with Overrepresentation in Special Categorizations

Members of the system claim that third-grade literacy data determines the number of beds that will be allocated by private prisons, while *Education Week* reports that the Chicago Police has a list that was generated through AI of the most likely to kill or be killed in street violence—the cops call the program “Hug A Thug,” and while they may find it comical, I find it degrading that the system is so positioned to place labels on people to continually suppress the trajectory of their lives (Rhames, 2014).

I have been in the classroom, where I received all the Black boys who were “cuttin’ up” in the other folks’ classes. There were days when I left so angry that I was in a building with so many people who couldn’t handle “DeQwon” but would coddle “Jaxon.” In one school, I was the only Black male and one of two Black educators with a faculty of seventy. On average, I would see three Black boys in trouble per day, and at one point, as many as twelve at one point. This anecdote highlights the cultural insensitivity of the system. It also highlights a problem we will never address, and that’s cultural competence.

While in this building, I was treated the same as those strong Black boys in the back who had endured the oppression and been ejected by the system solely based on looks. The system knew from looking at him that he was not wanted and needed to be dealt with by someone who looked like him. This is further noted in school discipline data where Black and Brown boys are disproportionately present in the data examples, whereas their white counterparts are not – and typically exhibit the same behaviors. A 2023 study out of Yale University determined that Black boys are more likely to be disciplined than their white classmates. Dr. Jayanti Owens at Yale University conducted a study where teachers were assessed to measure their perception of routine misbehavior between Black and Latino boys and White students in the class. These behavioral infractions as indicated by the discipline data included mainly defiance, noncompliance, and disrespect. In an WSHU Public Radio interview between Dr. Owens and Molly Ingram, the two discussed the study and Dr. Owens’s resulting paper, “Double Jeopardy,” while noting that the research found “Black boys are perceived as being more blameworthy for identical misbehavior as white boys. And they’re more likely to be referred to an administrator’s office, even if they have that same perception of blameworthiness” (Ingram, 2023).

Until schools shift from traditional white leaning and racially biased efforts, there will be no change. These injustices align with state laws and ordinances that are systemically unjust, and in the south, many are remnants from pre-segregation. Schools and districts must align with the children they teach. We know that each student learns differently; we need to have the same mindset with disciplinary practices. Black students will continue to experience dramatic discipline measures while we wait for change that will never come. The United Negro College Fund provides disparity facts about public education and outline the following (U.N.C.F., n.d.):

- Black students spend less time in the classroom due to discipline, which further hinders their access to a quality education.
- Black students are nearly twice as likely to be suspended without educational services as white students.
- Black students are also 3.8 times as likely to receive one or more out-of-school suspensions as white students.
- Black children represent 19% of the nation’s pre-school population, yet 47% of those receiving more than one out-of-school suspension.
- Black students are 2.3 times as likely to receive a referral to law enforcement or be subject to a school-related arrest as white students.

The problem is not the child, it is the system’s unwillingness to meet the needs of that child, and the educator’s lack of accountability in effectively assessing the student to understand that their classroom is an inadequate learning environment for the child.

Staffing That Poorly Reflects Local Student Populations and Holds Personal Prejudices

The U.S. Department of Education’s Office of Civil Rights reported that Black students are often located in schools with “less qualified teachers, teachers with lower salaries, and novice teachers.” The White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Black Americans in their launch of the #BlackMenTeach Campaign hammers the fact Black men represent only about 2% of educators, and a 2023 Zippia study found educator demographics were as follows:

Ethnicity/Race	Percentage
White	69.1%
Hispanic/Latino	12.8%
Black or African American	10.0%
Unknown	3.9%
Asian	3.7%

Indigenous Americans	0.5%
----------------------	------

The turnover in schools with high populations of Black students is due to educators needing a springboard into their career, inadequate cultural training so that the students can be understood, low respect for the people being served, and funding disparities all create the perfect storm for high educator turnover. Research has shown evidence of systematic bias in teacher expectations for Black students, and non-Black teachers were found to have lower expectations of Black students than Black teachers did (Gershenson et al., 2015). If a student cannot understand the teacher and the teacher cannot understand the student, it serves to foster an atmosphere where respect is void and both the educator and student show up in survival mode. The main mechanism in survival mode is defense, creating a tainted air disrupting the flow of the classroom erupting in major behavior infractions or an exit from the ethical standards set for educators.

For students to learn, their basic needs must be met, those basic needs cannot and will not be met in an environment where there is no love. “Exposure to a same-race teacher is more beneficial if it occurs earlier in a student’s education” (Penny, 2017, as cited in Egalite, 2023). There is not enough exposure to people who reflect U.S. demographics in our schools. If purpose filled educators cannot commit to being in a building where some days it’s a battle ground and tough love is the love those babies need, then that person should not be in the building. Teaching is based on relationships where trust and love are present with the nurturing of a parent mixed all in it. Students can and will learn better with staffing that looks like them and understand the culture of where they come from. “Students with below-average academic performance experience the largest boost when assigned to a race-matched teacher” (Penny, 2023, as cited in Egalite, 2023). Imagine a system where all students can see a Black educator more than once throughout their K–12 education.

How Do We Correct It?

Through the implementation of laws, policies, and established systems, there exist diverse avenues for supporting communities that have been disproportionately underserved. We are in a position where we can develop charter schools, open private academies, run for offices in school systems to help spark change, and teach our kids at home. The education entrepreneur should be taking advantage to benefit underserved and marginally identified communities.

In a time where we are lost and misguided by the media, social media, internet, and the voices of the angry in online comment sections of daily postings, there is a silver lining to it all. We have the right and ability to look up the laws, attend public sessions, utilize the Freedom of Information Act, and so many other items at our disposal; we are able to win for the first time ever. There are public and private grants to fund projects that initiate change in communities and many ways to fundraise for the purpose of meeting the needs of your mission.

It will take us—not one of us, not a few of us. We must collectively advocate for change within the system, vocalizing our vision for improvement, and then actively showcase our expertise as educators and businesspeople to bring that vision to life. Yes, we will be looked at funny, but that’s when you know it’s good. We must take public education into our own hands and make it equitable, with programming and staffing that look like the kids we serve. We must ensure allocated funding aligns with the needs and programming of individual school buildings and the child in each seat. It is our duty to do it correctly because without our leadership, the system will continue to treat us as human capital and political pawns.

Separate but equal, but not really. The Tenth Amendment’s exclusion of public education will leave the Black community at a disadvantage in this country until there is an effort to amend the Constitution.

Disclosure Statement

No potential conflict of interest was reported by the author(s).

Notes on Contributor

Jamez E. Dudley, M.S., M.Ed., founder of Fine Arts Preparatory School in Spartanburg, South Carolina, is a versatile educator with a Bachelor's in Music (Vocal Performance), a Master's in Entertainment Business, and a Master of Education in Educational Leadership. His international performances and choral conducting achievements complement his commitment to education, evident in founding a tuition-free charter school for the visual and performing arts. Dudley has secured millions in grant funds, led students to national recognition with the Tri-M Music Honor Society, and assumed leadership roles in music education associations. Dudley has presented at prestigious conferences, including the National Association for Music Education's National Conference, South Dakota Music Association, and Georgia Music Educators Association.

References

- Baker, B., Di Carlo, M., & Webber, M. (2019). *The adequacy and fairness of state school finance systems* (1st ed). Albert Shanker Institute. https://www.dropbox.com/s/lwunwk22x98pg9a/EMBARGOED%20until%204-2-19%20-%20SFID_AnnualReport_2019.pdf?dl=0
- Congress. (2023). Constitution annotated 2023 Tenth Amendment Constitution of the United States of America. <https://constitution.congress.gov/constitution/amendment-10/>
- Du Bois, W. E. B. (1903). *The Souls of Black Folk: Essays and Sketches*. A. C. McClurg & Co.
- Egalite, A. J. (2023, Fall). What we know about teacher race and student outcomes: A review of the evidence to date. *Education Next Journal*, 23(4). <https://www.educationnext.org/what-we-know-about-teacher-race-and-studentoutcomes/#:~:text=In%20a%202023%20analysis%2C%20he.earlier%20in%20a%20student's%20education/>
- Gershenson, S., Holt, S. B., & Papageorge, N. (2015). *Who believes in me? The effect of student-teacher demographic match on teacher expectations*. American University, Johns Hopkins University. <https://chat.openai.com/c/4a74d1e6-1834-4e31-97d0-5ade3f692a85>
- Ingram, M. (2023, January 26). *Yale study shows Black boys are more likely to be disciplined than their white classmates*. NPR. <https://www.ctpublic.org/news/2023-01-26/yale-study-shows-black-boys-are-more-likely-to-be-disciplined-than-their-white-classmates>
- Rhames, M. (2014, March 19). Will Little Sally go to Yale or to jail? There's an algorithm for that. *Education Week*. <https://www.edweek.org/education/opinion-will-little-sally-go-to-yale-or-to-jail/theres-an-algorithm-for-that/2014/03>
- Smith, A. G., & Campbell, J. (2022). K-12 education spending spotlight: An in-depth look at school finance data and trends. *Reason Foundation*. <https://reason.org/commentary/k-12-education-spending-spotlight/#:~:text=Nationwide%2C%20inflation%2Dadjusted%20per%2D.more%20during%20this%20time%20period>
- Smith, A. G. (2022). Frequently asked questions on student-centered funding. *Reason Foundation*. https://reason.org/faq/frequentlyasked-questions-on-student-centeredfunding/?gclid=CjwKCAiAxxreqBhAxEiwAfGfndPdnJSrVfWBbBhNFivRRfctnBSS_zJdWSzBsnsZsVk6LVD09FUqlihoCYYwQAvD_BwE
- U.S. Department of Education. (2010). An overview of the U.S. Department of Education. <https://www2.ed.gov/about/overview/focus/what.html#:~:text=Although%20the%20Department%20is%20a.statistics%20about%20the%20nation's%20schools>
- U.S. Department of Education. (2023). Laws & guidance. <https://www2.ed.gov/policy/landing.jhtml?src=ft>
- United Negro College Fund. (n.d.). K-12 disparity facts and statistics. https://uncf.org/pages/K-12-Disparity-Facts-and-Stats?utm_source=google&utm_medium=cpc&utm_campaign=UNCFK12Advocacy%20&gclid=CjwKCAiAxxreqBhAxEiwAfGf
- Watson, B. A., & Flood, D. E. (2018). *Desegregation of the United States Public Schools: A Trick or Treat*. Dudley & Watson.
- Zippia. (2023, July 21). *Educator demographics and statistics [2024]: Number of educators in the US*. Educator Demographics and Statistics [2024]: Number of Educators in The US. <https://www.zippia.com/educator-jobs/demographics/>