

# COVID-19 & EDUCATIONAL CIVIL RIGHTS

A RISING TIDE OF  
LITIGATION ISSUES



LAWYERS' COMMITTEE FOR  
CIVIL RIGHTS  
UNDER LAW

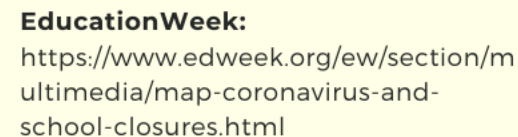
# ABOUT THE LAWYERS' COMMITTEE

The principal mission of the Lawyers' Committee for Civil Rights Under Law is to secure equal justice for all through the rule of law, targeting in particular the inequities confronting African Americans and other racial and ethnic minorities.

The Lawyers' Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination and the resulting inequality of opportunity – work that continues to be vital today.



A map of the United States showing the distribution of three types of state constitutions. The map uses three colors: red for states with a single-chamber legislature, blue for states with a bicameral legislature, and green for states with a bicameral legislature that includes a popularly elected governor. The text "UNITED STATES" is centered on the map.



# OBJECTIVE

Educate various stakeholders on how state and local policy decisions made in response to COVID-19 may result in a variety of federal and state legal claims.



# POTENTIAL LEGAL CLAIMS

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## U.S. CONSTITUTIONAL CLAIMS

(i.e., equal protection, due process, fundamental right to education)

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## FEDERAL STATUTORY CLAIMS

(i.e., Title IV and Title VI of the Civil Rights Act of 1964, Equal Educational Opportunities Act, IDEA).

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## STATE CONSTITUTIONAL CLAIMS

(i.e., education clause, equity/adequacy, equal protection, due process, fundamental right to education)

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## STATE STATUTORY CLAIMS

(i.e., state education code obligations, civil rights statutes)

# MEET OUR PANELISTS

Moderator



**DAVID  
HINOJOSA**

Director,  
Educational  
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Lawyers' Committee for  
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# MEET OUR PANELISTS



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**BRENDA  
SHUM**

Senior Directing  
Attorney, National  
Center for Youth Law

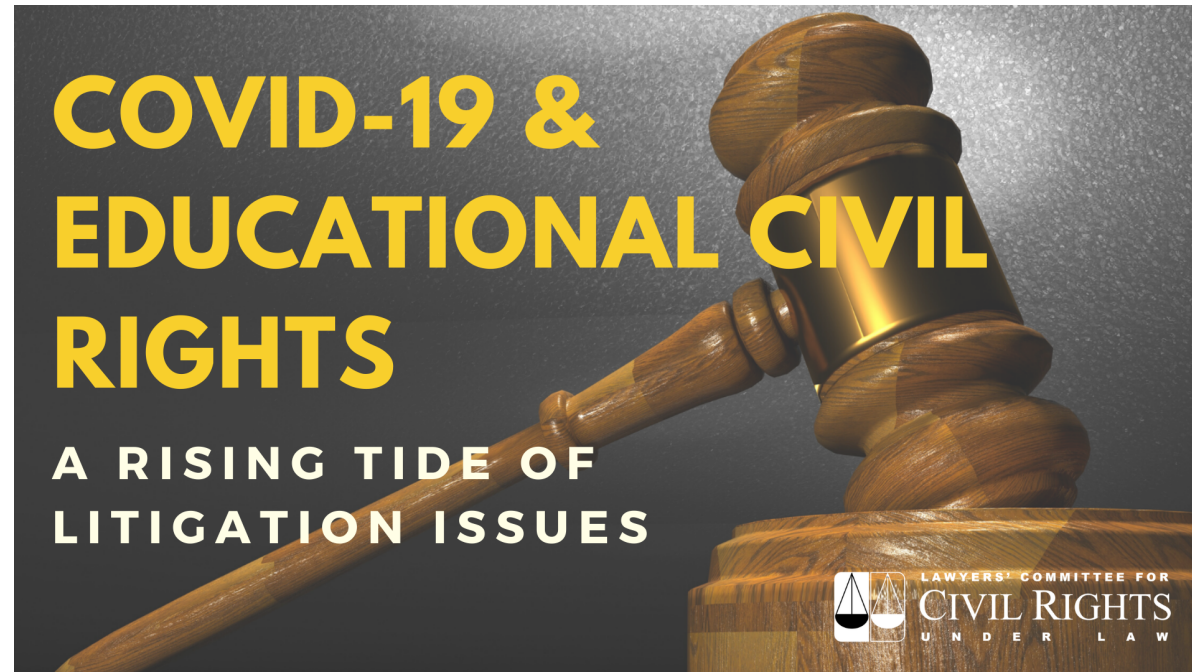
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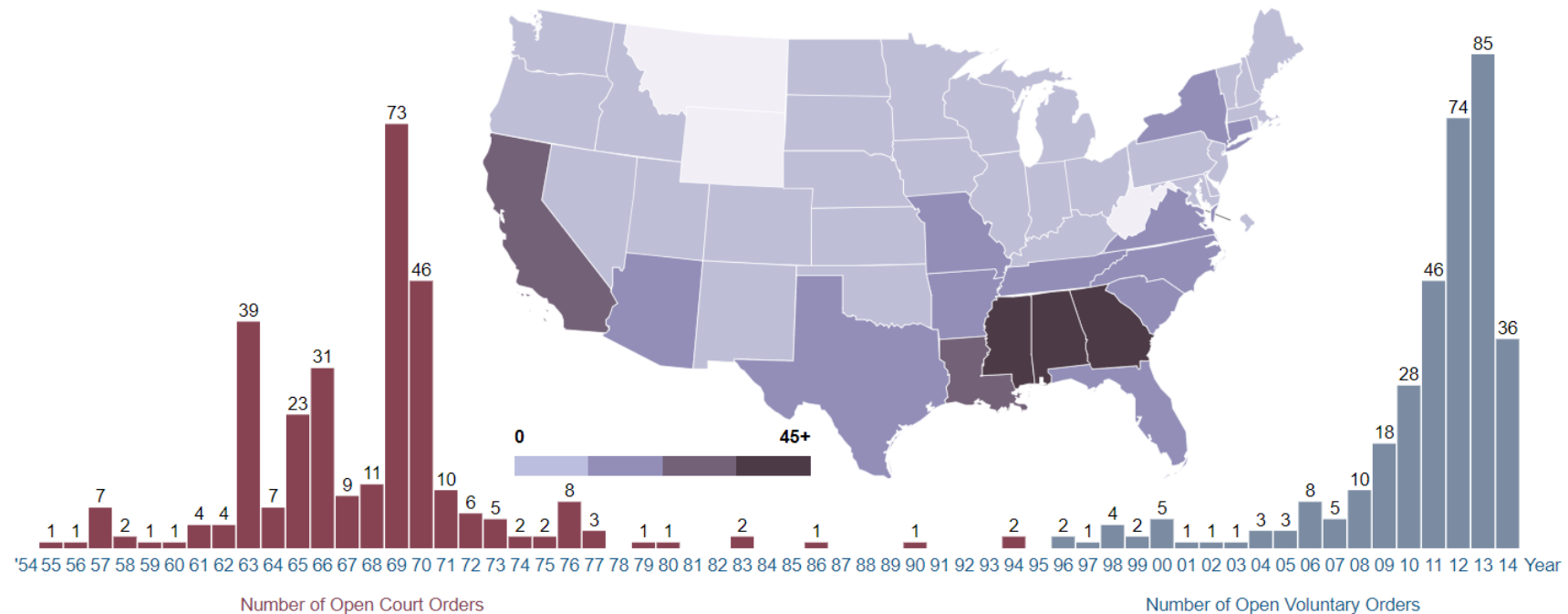
# *COVID-19 & Educational Civil Rights*



# COVID-19 & Educational Civil Rights

## Number of Districts with Currently Open Desegregation Orders

*Click on a state to see how many school districts are under orders there.*



<https://projects.propublica.org/graphics/desegregation-orders>

## Continuing obligations in desegregation cases

- Until it is released from the desegregation order, school districts must work to abolish “the system of segregation and its effects” so that racial discrimination in public education is eliminated “root and branch.” *Green v. Kent Cty. Sch. Bd.*, 391 U.S. 430, 438, 440 (1968).
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- Actions by school districts that have a racially discriminatory effect may violate the desegregation order, regardless of the intent of school administrators.

## Continuing obligations in desegregation cases

- Just as the District could not close all public schools, but continue to offer educational services to white, but not Black students, *Griffin v. Prince Edward Cty. Sch. Bd.*, 377 U.S. 218, 231-32 (1964);
- Nor could the District provide more educational resources to predominately white, but not predominately Black schools, *Price v. Denison Indep. Sch. Dist.*, 694 F.2d 334, 370-71 (5th Cir. 1982);
- So too do desegregation orders bar districts from adopting policies, like online-only programs, that result in starkly unequal access to educational opportunities

## Continuing obligations in desegregation cases

- Where a school district takes actions that “greatly reduce[ ]” the number of Black students able to obtain school meals, it is “reasonable” for a federal court to order a district to “reinstitute a school lunch program similar” to its prior program.
- *Plaquemines Par. Sch. Bd. v. United States*, 415 F.2d 817, 830-32 (5th Cir. 1969)

# LDF Advocacy

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- Sent letters to every district where LDF has active school desegregation litigation
  - Sent letter and spoke with the Louisiana Governor and State Superintendent about school district's continuing desegregation obligations
  - Tracking racial equity in two primary areas
  - Educational services (digital divide, technology access, distance learning, methods of delivery)
  - Meal Services (distribution, delivery, etc.)
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# Why Food Services?

- [Research released Wednesday](#) shows a rise in food insecurity without modern precedent. Nearly a fifth of young children are not getting enough to eat, according to surveys of their mothers by the Brookings Institution. The rate is three times higher than in 2008, at the worst of the Great Recession.
- When food runs short, parents often skip meals to keep children fed. But a survey of households with children 12 and under by Lauren Bauer, a Brookings fellow in economic studies, found that 17.4 percent reported the children themselves were not eating enough, compared with 5.7 percent during the Great Recession.
- Inadequate nutrition can leave young children with permanent developmental damage.

<https://www.nytimes.com/2020/05/06/us/coronavirus-live-updates.html>

# Leeds City Schools

- Leeds Alabama
- March 13: Alabama closed schools
- March 16 to April 3: Leeds provided Grab and Go meals
- April 3: Alabama Stay at Home Order, exempted schools
- April 3: Leeds stopped Grab and Go program
- Week of April 6: LDF Correspondence with Leeds
- April 15: Emergency Motion for Further Relief
- April 16 & 17: Hearing before federal Judge
- April 21: Resumed Meal Program

# Leeds City Schools

- District Court ruling on consent order:
- “The Court concludes and is satisfied that the following agreed remedial measures are reasonable, necessary, and consistent with the Court’s authority to enforce the desegregation order. *See Griffin v. Sch. Bd. of Prince Cty.*, 377 U.S. 218, 231 (1964); *Plaquemines Par. Sch. Bd. v. United States*, 415 F.2d 817, 832 (5th Cir. 1969)”

# St. Martin Parish, La Schools

- While recognizing the novelty of this issue and the short amount of time the parties had to address the Court's concerns in this area, the Court felt it lacked adequate information to reach a decision on its authority to act.
- The Court noted, however, that "it did not seem to be a far stretch to conclude that the consent decree in this matter allowed action based on the language in the [desegregation] decree."

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## FOR QUESTIONS, COMMENTS, AND MORE INFO

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