BERKELEY UNIFIED SCHOOL DISTRICT

REPARATIONS TASK FORCE

FINAL REPORT AND RECOMMENDATIONS

June 6, 2024

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Acknowledgements & Appreciations

Ancestors

We honor the profound legacy of those ancestors who endured the brutal chains of chattel slavery, the perpetual scars of racism, and the systemic challenges of inequality. Their strength, courage, and unyielding spirit form the foundation upon which we stand today. We remember those who were forcibly taken from their homes, those who survived the harrowing journey across the Atlantic, and those who lost their lives resisting the oppression of life in bondage. Their stories, both told and untold, are woven into the very fabric of this nation and our community.

We honor the generations who faced the trials of segregation, the terror of lynching, the battles of the Civil Rights Movement, and the ongoing fight for equality and justice. Their resilience, innovation, and unwavering hope have paved the way for this effort today. As we work towards reparations, let us always be guided by the memories, lessons, and spirit of these ancestors. May their struggles serve as a reminder of the importance of the work of the Task Force, and may their dreams inspire us to build a world where justice, equity, and freedom are realities for all.

Land

We acknowledge the land and the people to whom this land belongs. This is the land of the Lisjan Ohlone and Muwekma Ohlone peoples, and they are still here. We stand in solidarity with all indigenous people and their right to self-determination, liberation, and peace. We commit to working toward the healing of generational trauma, theft, and dispossession that native and indigenous people have faced and continue to face.

Allies

We recognize the panoply of allies—across all races, generations, backgrounds, and communities—who support the cause of justice for Descendant communities. Many of these allies have their own personal and ancestral experiences of oppression and resistance. Their liberation and repair are critical to the liberation and repair of Descendant communities; and the liberation and repair of Descendant communities are critical to their liberation and repair. We value the strength that comes from difference and the power of collective action.

Individuals

We acknowledge our grandchildren, children, spouses, partners, friends, and caregivers who made sacrifices so Task Force members could be fully engaged over the course of the past 15 months. We also acknowledge the many volunteers who helped on this journey. We would like to specifically appreciate Dr. Ashley Adams, Dr. Tolani Britton, Nicholas Cummings, Dr. Stephanie Johnson, Dan Lindheim, Kamilah Moore, and Luis Rodriguez for their invaluable contributions. We extend special thanks to Kad Smith for volunteering as the Task Force facilitator and to Vikas Maturi for his guidance and support.

I. Executive Summary

Historical Background & Context

The current form of the Berkeley Unified School District ("BUSD'' or "District") was established in 1936, just before the African American population of Berkeley began to grow. New African American families to BUSD experienced segregated schools, with their students often relegated to inferior facilities that received less District support. This segregation was a direct manifestation of broader societal discrimination, including redlining and discriminatory housing practices that confined African American families to specific neighborhoods.

In the 1960s, BUSD voluntarily desegregated its schools, implementing busing programs in order to realize racial integration. These efforts, while significant, did not eliminate disparities in educational outcomes. Many additional programs were implemented over the next few decades, including the Diversity Project led by former BUSD school board member and current Dean of the USC Rossier School of Education Pedro Noguera, but they failed to improve outcomes for African American students. In 2008, the District launched the 2020 Vision in partnership with the City of Berkeley, Berkeley City College, and the University of California, Berkeley. It aimed to close the achievement gap for African American and Latino/a/x students. Yet despite significant investment, it too failed to eliminate the racial opportunity gap.

The District's current effort to disrupt these equity gaps—the African American Success Framework—uses systematic assessment, planning, and intervention. Yet the size of the gap and recent protests by African American students at Berkeley High School underscore the deep, persistent nature of these disparities and the need for other policy solutions such as reparations.

The Task Force

The District established its Reparations Task Force ("Task Force") to provide recommendations regarding reparations for BUSD students with ancestors who were enslaved in the United States (referred to as "Descendants") as well as how to fund and implement such reparations. The Task Force—composed of 15 BUSD community members, parents, staff, and students, all of whom participated in their personal time without compensation—met thirteen times from April 2023 through June 2024.

Task Force Research, Expert Consultation, Outreach, and Engagement

The Task Force dedicated significant effort to researching reparations, which included reviewing other examples of reparations from the report by the California Task Force to Study and Develop Reparation Proposals for African Americans. Task Force members also studied existing reparations frameworks and consulted with experts to better understand reparations and related issues.

In addition, the Task Force prioritized community engagement, which included:

(1) *A Community Survey*: Conducted in December 2023, this survey received over 2,200 responses, including more than 460 from "Descendant Families," defined as marking "Yes"

or “Not Sure” to either being a Descendant or being a caregiver of a Descendant student. The survey sought feedback on the types of reparations the community supported, revealing strong backing for financial payments for educational purposes, adoption of curricula on the history and legacy of chattel slavery, and the creation of a harm report documenting the impacts of segregation and discriminatory policies.

(2) *Three Community Engagement Events*:
   - A talk by Kamilah Moore, Chair of the California Task Force to Study and Develop Reparation Proposals for African Americans, on September 7, 2023, which focused on the work of the California Task Force and how the legacy of chattel slavery manifested in California.
   - A community conversation on reparations on September 13, 2023, which featured facilitated breakout groups to discuss the community's views and hopes for reparations.
   - A presentation on the findings from the community survey on March 25, 2024, which included a gallery walk and breakout discussions on the survey’s findings.

(3) *Public Updates and Presentations*: The Task Force provided regular updates to the BUSD School Board and the community. These updates were made available on the Task Force's dedicated webpage.

Recommendations

Based on its research, expert consultation, outreach, and engagement, the Task Force is recommending the following types of reparations in support of current and future Descendant students:

(1) *Create a Harm Report*: The Task Force is recommending the creation of a comprehensive harm report documenting the impacts of segregation, discriminatory policies, and other legacies of chattel slavery within BUSD. This report should include primary source research, historical data on student outcomes, and interviews. The harm report should detail the institutional activities by BUSD that negatively impacted Descendant students, as well as the reparative actions BUSD has undertaken. This recommendation underscores the importance of recording this history, much of which has been forgotten, devalued, or misinterpreted. Nearly two-thirds of respondents to the community survey supported this recommendation.

(2) *Develop, Adopt, and Deploy Curricula*: The Task Force is recommending the development, adoption, and deployment of curricula on the history and legacy of chattel slavery in the U.S., California, Berkeley, and BUSD, highlighting the associated harms caused to Descendants. Such curricula, potentially integrated with the District’s ethnic studies curricula, should incorporate information from the report published by the California Statewide Task Force as well as the BUSD harm report. This would provide a more complete and accurate understanding of national, state, and local history. Survey respondents strongly supported curricula-related reparations.

(3) *Provide Financial Payments to BUSD Descendant Students for Educational Purposes*: The Task Force is recommending providing financial payments to BUSD Descendant students for educational purposes. The Task Force felt strongly that financial compensation should be a component of reparations in BUSD. While unrestricted financial payments were considered, the Task Force ultimately decided that educational purposes were most appropriate, given BUSD's role as an educational institution and the educational nature of the harms caused. This type of reparations received the strongest support from survey respondents, both overall and among Descendant Families.

The Task Force is also recommending the following sources for funding reparations in the District:

(1) *Solicit Philanthropic and Corporate Giving*: The Task Force is recommending the solicitation of voluntary donations from philanthropic foundations and corporations. For tax purposes, these donations would likely need to be made to a local foundation. Although there is intense competition for philanthropic funding and potential resistance from corporations, this funding source is progressive, as it comes from foundations and corporations. It would also generate one-time revenue and could be collected quickly.

(2) *Initiate a Lawsuit*: The Task Force is recommending filing a lawsuit against private entities whose historical activities connected to the legacy of chattel slavery, particularly redlining, have led to lower funding for BUSD today. While the lawsuit could take years to reach its conclusion and require a significant upfront investment, this funding source is progressive, targeting private entities unjustly enriched by their past actions, and could generate significant revenue.

(3) *Propose a Tax Measure via Initiative*: The Task Force is recommending placing a parcel tax or a real estate transfer tax (assessed on the transfer—usually sale—of real property) on the ballot via initiative. Efforts should be made to minimize the impact on Descendant taxpayers. By placing the tax on the ballot via initiative, it would need to be approved by only a simple majority of voters. While this tax could not be placed on the ballot until November 2026, its structure can be progressive, it can include certain exemptions, and it would generate significant, ongoing revenue.

Considerations for Implementation

While the Task Force decided it could not make a recommendation regarding implementation until there was more definitive direction regarding what was to be implemented, the Task Force did identify important considerations for implementation once there was such direction.

Conclusion

The Task Force's work represents a critical step towards addressing the legacy of chattel slavery in BUSD. The recommendations emphasize a multi-pronged approach involving truth-telling, acknowledgment, and practical support to uplift Descendant students. If these recommendations are adopted, it will enable BUSD to foster a more inclusive and equitable environment, enabling all students to receive the support and experience the opportunities they deserve.

II. Historical Background & Context

While the institution of chattel slavery ended in 1865 with the passage of the Thirteenth Amendment, its legacy has manifested in every aspect of American society for the past 159 years in the form of discrimination, social prejudice, bigotry and, ultimately, disparate life experiences for the descendants of those enslaved by the institution of American chattel slavery ("Descendants"). In California and, more specifically, in Berkeley, the impacts on Descendants have included:

- Exclusion from certain neighborhoods through title and covenant restrictions, redlining, and single-family zoning.[1]
- Use of eminent domain leading to the dispossession of property.[2]
- Under-investment in neighborhoods resulting in suppressed property values.[3]
- Environmental racism.[4]
- Over policing and mass incarceration.[5]
- Discrimination and harassment by employers.[6]
- Disparities in healthcare access.[7]
- Racial terror, often being instigated or supported by civic or elected local leaders.[8]
- Voter suppression through barriers to voting and explicit disenfranchisement.[9]
- Inadequate affordable housing development, resulting in gentrification and displacement.[10]

And, of course, the impact of the legacy of chattel slavery on Descendants in Berkeley is also present in public education. In order to understand this impact, it is necessary to understand the historical context of today's District. The following historical overview summarizes the harms to BUSD students caused by the legacy of chattel slavery as well as the efforts by BUSD to overcome

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[1] California Task Force to Study and Develop Reparation Proposals for African Americans Report (CARTF Report), 214-220; Jesse Barber, "Redlining: The history of Berkeley's segregated neighborhoods," *Berkeleyside*, September 20, 2018, https://www.berkeleyside.org/2018/09/20/redlining-the-history-of-berkeleys-segregated-neighborhoods; Supriya Yelimeli, "Berkeley denounces racist history of single-family zoning, begins 2-year process to change general plan," *Berkeleyside*, Feb. 24, 2021, https://www.berkeleyside.org/2021/02/24/berkeley-denounces-racist-history-of-single-family-zoning-begins-2-year-process-to-change-general-plan.

[2] CARTF Report, 206-211.

[3] *Ibid*., ch.7, sec. V.

[4] *Ibid.*, ch. 7, sec. III.

[5] *Ibid*., ch. 11.

[6] *Ibid*., ch. 10.

[7] *Ibid.*, ch. 12.

[8] *Ibid.*, ch. 3.

[9] *Ibid.*, ch. 4.

[10] *Ibid.*, 213, 225-227.

this legacy, and it demonstrates that these efforts have been and will continue to be insufficient—hence, the need for reparations.

A. Prior to the Establishment of BUSD (Pre-1936)

The land that now forms Berkeley was originally known as xučyun by the indigenous Chochenyo speaking Ohlone people.[11] The conquest and occupation by the Spanish, and the subsequent establishment of 21 missions (with the San Francisco de Asís mission located across the Bay in what is today known as "San Francisco"[12]), decimated the local Ohlone population.[13] The land then became Mexican territory in 1821 and was included in the large land grant to Luis Peralta that became Rancho San Antonio.[14] The land became United States territory after the Mexican-American war and then—due to the population boom after the gold rush—formally became part of the U.S. when California became the 31st state on September 9, 1850.[15] The genocidal effect of these actions was that the Ohlone population declined to less than 1,000 by 1852.[16]

While California was officially a free state in name, its first state government supported the institution of chattel slavery.[17] Estimates suggest that up to 1,500 enslaved individuals lived in California in 1852, and they would have faced many of the same brutal conditions as in slave states.[18] It is not known whether anyone who was enslaved at that time resided in what is now Berkeley. Incorporated in 1878, the town was given the name of "Berkeley" after Bishop George Berkeley, a philosopher and enslaver.[19]

It appears that there were public schools in Berkeley before its incorporation. The first public school—the "Ocean View School"—was built "on or near" the corner of San Pablo Avenue and Virginia Street on land deeded to the town "to be used for school purposes."[20] Upon incorporation, the number of public schools grew quickly. By 1900, there appear to have been nine schools; by 1906, there were at least fourteen schools, including two intermediate schools and Berkeley High

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[11] Centers for Educational Justice and Community Engagement, "Ohlone Land," University of California, Berkeley, https://cejce.berkeley.edu/ohloneland.

[12] California Missions Foundation, "San Francisco de Asís," https://californiamissionsfoundation.org/mission-san-francisco-de-asis.

[13] Franky Abbott, "Spanish Missions in California," Digital Public Library of America, https://dp.la/primary-source-sets/spanish-missions-in-california.

[14] Berkeley Historical Society & Museum, "Berkeley History in Brief," https://berkhistory.org/history-in-brief.

[15] California State Parks, "California Admission Day September 9, 1850," https://www.parks.ca.gov/?page_id=23856.

[16] Bay Area Equity Atlas, "Indigenous Populations in the Bay Area," https://bayareaequityatlas.org/about/indigenous-populations-in-the-bay-area.

[17] CARTF Report, 7.

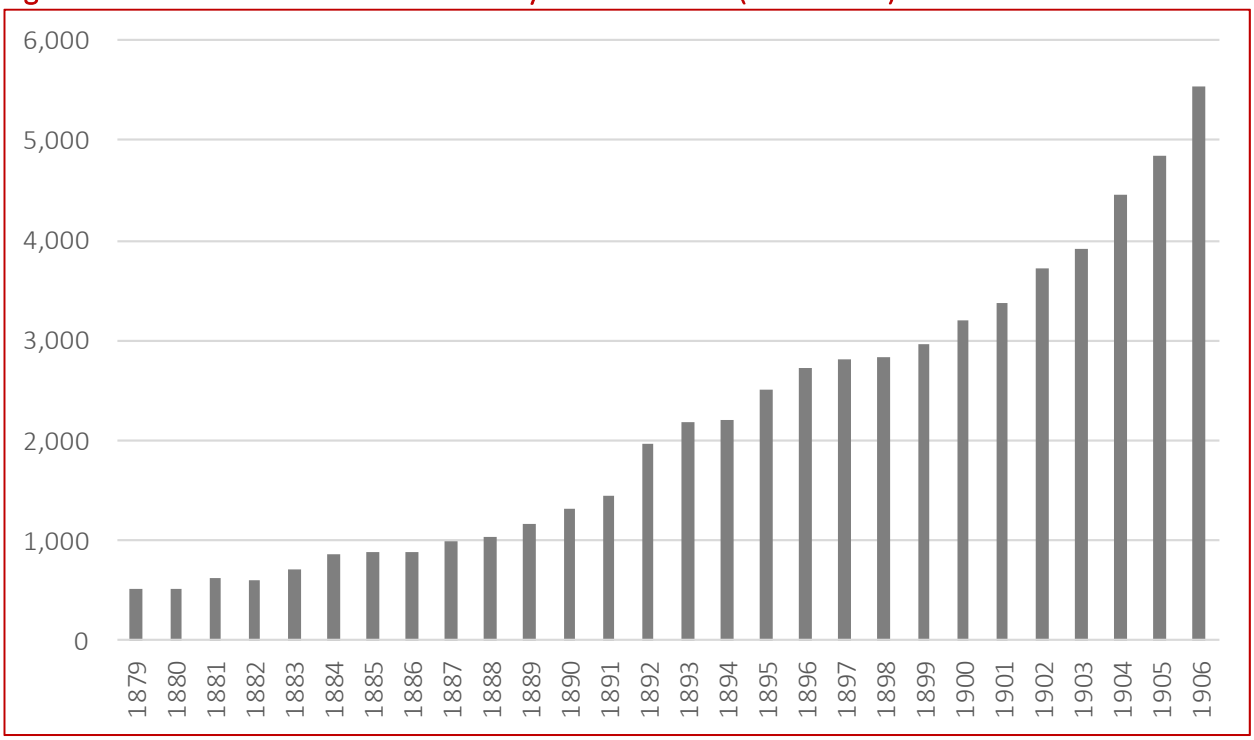
[18] *Ibid*.

[19] S.D. Waterman, *History of the Berkeley Schools* (The Professional Press, 1918), 7-8.

[20] *Ibid*., 9.

School.[21] Enrollment also grew quickly, as shown in Figure 1 below. In 1879, there were 515 enrolled in Berkeley public schools.[22] Enrollment passed 3,000 in 1900 and had surpassed 5,500 when the 1906 earthquake hit.[23]

Figure 1: Historical Enrollment in Berkeley Public Schools (1879-1906)



Source: S.D. Waterman, History of the Berkeley Schools *(The Professional Press, 1918).*

After the 1906 earthquake, the number of public school students in Berkeley increased still further and additional schools were built.[24] However, the Task Force was not able to locate more specific data on enrollment and the demographics in the leadup to unification in 1936.

B. From the Establishment of BUSD to a Racially Segregated District (1936-1964)

BUSD in its current form was created in 1936, with the merger of the then existing elementary and high school districts.[25] At the time, most BUSD public schools—primarily the elementary (K-6) schools and the junior high (7-9) schools—were segregated by race, one of the many

[21] See generally *ibid.*

[22] *Ibid*., 119.

[23] *Ibid*.

[24] See generally *ibid.*

[25] "Berkeley Unified School District," Wikipedia, https://en.wikipedia.org/wiki/Berkeley_Unified_School_District (citing to Mary Johnson, "The City of Berkeley," 1942, 56 (typewritten mss in Berkeley Public Library History Room)).

manifestations of the legacy of chattel slavery.[26] Specifically, the placement of schools and the utilization of proximity (i.e., neighborhoods) for school assignments were influenced by systematic housing discrimination practices, particularly deed restrictions, restrictive covenants, zoning, and redlining. These actions and policies effectively created and maintained housing and school segregation.[27]

While there were deed restrictions, restrictive covenants, and discriminatory zoning policies as early as the 1910s,[28] redlining began in the mid-20th century with the help of a federal agency known as the Home Owners' Loan Corporation (HOLC), which was created in 1933 to help homeowners who were defaulting en masse on their mortgages due to the Great Depression.[29] Under the auspices of offering affordable mortgages, HOLC produced maps of 250 cities, including Berkeley, that assessed the "risk" of lending money to prospective homeowners and used a color-coding system to identify the level of risk, with "red" indicating the highest risk.[30] However,

> 'risk' was code for race and class; this meant that banks—due to the intersection of race and class and the legacy of chattel slavery—would refuse to lend money to Descendants (along with many others) who wanted to buy a house or start a business outside of designated neighborhoods. Often, they would refuse to lend money in the redlined neighborhoods altogether. [¶] The government's lender, the [Federal Housing Administration] also had a 'whites-only' requirement.[31]

The practice of redlining was further supported in communities, including in Berkeley, by private businesses such as insurance companies, real estate agents, and others who would further reinforce racial discrimination in housing. Experts have calculated that "discriminatory redlining facilitated by the State of California caused the average African American in California to lose $160,931 in homeownership wealth."[32]

It was at this moment of BUSD's creation that Berkeley experienced a large influx of new residents, particularly African American residents, primarily driven by the Great Migration and World War II.[33] In 1950, the population of Berkeley had surged to 113,805, ranking it as the 91st largest city in

[26] Barber, "Redlining."

[27] *Ibid.*

[28] *Ibid*.

[29] *Ibid.*; CARTF Report, 214-217.

[30] Barber, "Redlining"; see also CARTF Report, 217-218.

[31] Barber, "Redlining."

[32] CARTF Report, 44.

[33] "Berkeley History in Brief."

the U.S. at the time (the only time Berkeley ranked in the top 100 largest U.S. cities).[34] More than half of this growth was in the African American population, which had more than quadrupled since 1930 to 11.7%.[35] And the African American population kept growing, even though the overall population of Berkeley did not. In 1960, African American residents comprised 19.6% of the overall population and, as a proportion of the city's population as a whole, reached its zenith in 1970 at 23.5%.[36] Of course, upon moving to Berkeley, African American residents "were cordoned off, not allowed to move to the north or to the east."[37] While this resulted in South and West Berkeley growing into vibrant African American communities, it also resulted in the harms associated with segregation such as over policing, environmental racism, and neighborhood disinvestment.[38]

With respect to public schools, the unsurprising results from segregation included worse facilities for predominantly non-white schools and worse outcomes for non-white students, especially Descendant students. These negative outcomes continued through high school even though Berkeley High School—the only comprehensive high school in town—was not segregated.[39]

C. From Desegregation to the Diversity Project (1964-2000)

Due to changes in the political leanings of Berkeley voters and motivated by the desire to correct the harms caused by segregation and address the legacy of chattel slavery, BUSD began the process of voluntarily desegregating its schools in the 1960s. The first real policy change towards integration occurred in 1964, when BUSD adjusted the boundaries of its three junior high schools.[40] Four years later, BUSD became the first sizable district in the U.S. to voluntarily desegregate all of its schools.[41] The District had piloted one-way busing of African American students to white elementary schools in the hills the year before and it was deemed a success, with academic achievement rising for the African American kids "who were sent up the hill."[42] Full desegregation—with the help of two-way busing, which bused white students to predominantly

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[34] Campbell Gibson and Kay Jung, "Historical Census Statistics On Population Totals By Race, 1790 to 1990, and By Hispanic Origin, 1970 to 1990, For Large Cities And Other Urban Places In The United States," U.S. Census Bureau, February 2005.

[35] *Ibid*.

[36] *Ibid.*

[37] Cheryl Davila and Ben Bartlett. "Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans." Berkeley City Council Meeting, April 30, 2019.

[38] *Ibid.*

[39] See generally Spurgeon Avakian, "School Desegregation in Berkeley, California," National Conference on Equal Educational Opportunity in America's Cities, November 16-18, 1967.

[40] *Ibid.*, 11-12.

[41] Natalie Orenstein, "A radical decision, an unfinished legacy." *Berkeleyside*. October 16, 2018, https://www.berkeleyside.org/2018/10/16/a-radical-decision-an-unfinished-legacy.

[42] *Ibid.*

African American schools and African American students to predominantly white schools—was implemented with the start of school in September 1968.[43]

The District also enhanced its curriculum to better reflect African American history and culture. At Berkeley High School, in response to student advocacy, the first (and still only) high school African American Studies department was created in 1968.[44] At its inception, the Department, initially titled "Black Studies," offered the following courses: "Afro-American Literature, Afro-American Economics, Afro-American Journalism, Swahili, Afro-Haitian [D]ance, African Civilization, and the expansion of two classes that already existed, History of Jazz and Afro-American History."[45] The District also hired new teachers to teach these new classes.[46]

While it is difficult to determine exactly how BUSD's gap in test scores between African American students and all other students has changed over the last 50 years due to a lack of easily comparable historical data, it is clear that school desegregation—though an important step forward—did not resolve the impact of the legacy of chattel slavery on students in BUSD. Subsequent efforts to address these issues have also fallen short:[47]

> By 1972, [BUSD] school board director Mary Jane Johnson warned of a "full-blown rebellion by Black parents," who were furious with the district over Black students' poor performance on standardized tests. . . .
>
> Articles in regional newspapers assessed Berkeley's so-called "integration experiment" with skepticism. The Examiner concluded in 1981 that integration had made it possible for some exceptional Black and Latino students to excel, but scores remained unchanged for the vast majority.
>
> . . . In 1996, a team of researchers led by [former BUSD school board member and current Dean of the USC Rossier School of Education Pedro] Noguera started what they termed "The Diversity Project" at Berkeley High, using research to raise awareness about the achievement gap.
>
> At the end of six years, the researchers felt they had made progress, but the gap persisted.

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[43] Avakian, "School Desegregation in Berkeley," 19.

[44] Natalie Orenstein. "Berkeley High celebrates 50 years of African-American studies," *Berkeleyside*, November 20, 2018, https://www.berkeleyside.org/2018/11/20/berkeley-high-celebrates-50-years-of-african-american-studies.

[45] The Berkeley Revolution, "Black Studies formed at Berkeley High," https://revolution.berkeley.edu/establish-black-studies-1968/?cat=453&subcat=1.

[46] *Ibid*.

[47] Ally Markovich, "Achievement gap in Berkeley schools has long been among the nation's very worst," *Berkeleyside*, August 30, 2023, https://www.berkeleyside.org/2023/08/30/achievement-gap-berkeley-unified-school-district.

> "Despite the optimism that led us to believe that Berkeley High School could be a place where racial disparities in achievement could be reduced through school change, we did not achieve our goals," Noguera reflected on the project in the book *Unfinished Business*.
>
> By 2000, the statistics were still appalling. . . . [N]ot one Black student ranked in the top quartile, and 70% were in the lowest 25% nationally, according to data shared at a meeting of Parents of Children of African Descent, which had formed to agitate the school district to do more about the results.[48]

D. From Eliminating Neighborhood Schools to the 2020 Vision (2000-2020)

One of the more far-reaching attempts to improve educational outcomes and overcome the legacy of chattel slavery in BUSD included efforts in the mid-1990s to end its neighborhood-based school assignment plan. While those initial efforts were blocked by the passage of Proposition 209, BUSD eventually created a system in the early 2000s that divided the District into three elementary school zones that cut across (rather than followed) the traditional lines separating neighborhoods, with the population of each zone approximating the demographics of BUSD as a whole.[49] Each zone was further divided into multiple "planning areas," each comprising four to eight blocks, with each area given a score on a three-level "diversity index" based on its percentage of residents of color, median income level, and mean adult education level.[50] Families of prospective students would rank the elementary schools within their zone and the District would use an algorithm to maximize family choice with the constraint being that all schools within the zone needed to have a similar proportion of students from each diversity index level.[51] This policy was found to not violate Proposition 209 because the race of an *individual* student was not taken into account.[52]

Since 2000, there have also been several smaller initiatives and programs aimed at helping BUSD overcome the legacy of chattel slavery in BUSD. Berkeley High School was restructured into numerous small schools to create a more welcoming environment. Later, the school adopted a universal 9th grade to break the perception and self-selection cycle associated with those small schools.[53] There were changes to discipline policies and to tracking practices.[54] Culturally affirming programs (e.g., Umoja, Puente, the Talented Tenth) were added and BUSD invested in career and

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[48] *Ibid.*

[49] Orenstein, "A radical decision."

[50] *Ibid.*

[51] *Ibid*.; see also Lisa Chavez and Erica Frankenberg, "Integration Defended: Berkeley Unified's Strategy to Maintain School Diversity," University of California, Berkeley Law School, September 2009.

[52] *American Civil Rights Foundation v. Berkeley Unified School District* 172 Cal.App.4th 207 (2009).

[53] Markovich, "Achievement gap."

[54] See Berkeley Unified School District, "Board Policy 5144.36: Expulsion," June 29, 2016; see also Berkeley Unified School District, "Common Core State Standards Mathematics Pathways and Acceleration Options at the Secondary Level," September 25, 2013.

technical education classes and programs to get students to college (e.g., Bridge and RISE).[55] The District established and then expanded the Office of Family Engagement and Equity.[56]

Perhaps the most significant initiative aimed at closing the opportunity gap in BUSD was the 2020 Vision, which was driven by the leadership and advocacy of United in Action, a coalition of community organizations. Launched in 2008, this initiative was a collaborative effort by the District, the City of Berkeley, Berkeley City College, and the University of California, Berkeley.[57] The goal of the 2020 Vision was simple and direct: "high academic achievement for all Berkeley students, while placing a priority on closing the opportunity gap for African American and Latino/a/x children and youth."[58] For over a decade, BUSD and its partners invested millions of dollars and created or refined over 50 "aligned programs" under the umbrella of the 2020 Vision.[59] There were also significant efforts in data tracking as well as public participation and reporting. In 2018, a report "showed that gaps have significantly narrowed in some areas since the [2020 Vision] launched, and more kids are coming to kindergarten ready to learn," but that it had "not come anywhere close to achieving the ambitious goal of totally abolishing the 'achievement gap' or 'opportunity gap'" for African American students in BUSD.[60]

Then, in its namesake year of 2020—after over a decade of effort, turnover in elected officials, gentrification, and mediocre results—a global pandemic hit; while it appeared that the 2020 Vision was unlikely to have succeeded in its goal, COVID was its undoing. The 2020 Vision faded away and BUSD remained unable to overcome the legacy of chattel slavery.

It was during the years of the 2020 Vision that gentrification—another manifestation of the legacy of chattel slavery—hit BUSD's African American families particularly hard.[61] The cost of living in traditional African American neighborhoods in Berkeley increased dramatically, resulting in a feedback loop that decimated these neighborhoods: working class and poor African American residents were forced to leave due to the increasing cost of living; middle- and upper-middle class, mostly non-African Americans would then move in, further increasing the cost of living and forcing more working class and poor African American residents to leave.

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[55] Markovich, "Achievement gap."

[56] *Ibid.*

[57] Natalie Orenstein, "10 years later, progress made on 2020 Vision goals, but big gaps remain," *Berkeleyside*, September 28, 2018, https://www.berkeleyside.org/2018/09/28/10-years-later-progress-made-on-2020-vision-goals-but-big-gaps-remain.

[58] City of Berkeley, "Berkeley's 2020 Vision: 2018 Update," September 25, 2018, ex. 2.

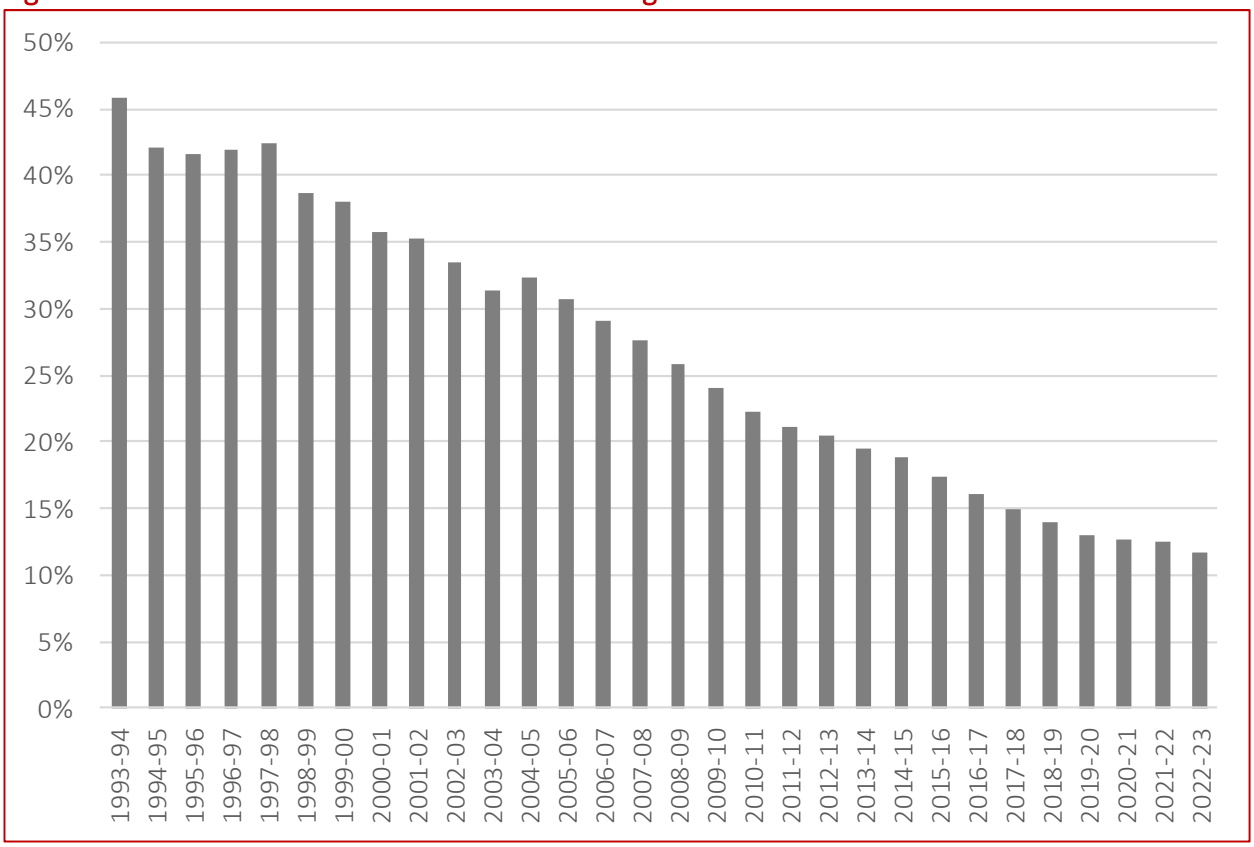
[59] *Ibid*., 3.

[60] Orenstein, "10 years later."

[61] Natalie Orenstein, "Not enough or too much? Neighbors react to 20-year South Berkeley plan." *Berkeleyside*, May 30, 2019, https://www.berkeleyside.org/2019/05/30/not-enough-or-too-much-neighbors-react-to-20-year-south-berkeley-plan.

While gentrification in the City of Berkeley began as early as the 1970s,[62] its effect on BUSD appeared in the late 1980s and early 1990s, as shown in Figure 2 below. In 1993-94, African Americans were the largest racial student group, comprising over 46% of the BUSD student K-12 population.[63] In 2000-01, the percentage of African American students in BUSD had dropped to 36%.[64] By 2010-11, the percentage was down to 22%, with African American students no longer comprising the largest racial student group in the District.[65] In 2022-23, the latest year in which data is available, African Americans made up less than 12% of the student body in BUSD, meaning that the African American student body had—as a percentage—dropped by two-thirds in approximately two decades.[66]

Figure 2: African American Students as a Percentage of Enrollment in BUSD



Source: DataQuest. California Department of Education. https://dq.cde.ca.gov/dataquest [Select "District," "Annual Enrollment Data," "Berkeley," and appropriate year].

[62] See Darrell Owens, "The History of Gentrification in Berkeley: Part I," October 25, 2021, https://darrellowens.substack.com/p/the-history-of-gentrification-in.

[63] California Department of Education, DataQuest, https://dq.cde.ca.gov/dataquest [Select "District," "Annual Enrollment Data," "Berkeley," and "1993-94"].

[64] *Ibid.* [Select "District," "Annual Enrollment Data," "Berkeley," and "2000-01"].

[65] *Ibid.* [Select "District," "Annual Enrollment Data," "Berkeley," and "2010-11"].

[66] *Ibid.* [Select "District," "Annual Enrollment Data," "Berkeley," and "2022-23"].

Despite the 2020 Vision and other efforts during this time period, there were still many other setbacks. In 2005, the District reached a settlement in response to a lawsuit over improper student discipline that disproportionately impacted African American students.[67] Like many districts, BUSD also continued to enroll a disproportionate number of African American and Latinx students in special education, subjecting the District to heightened scrutiny by the California Department of Education.[68] Academic outcomes for African American students in BUSD also continued to lag significantly behind other BUSD students. In 2018-19, the year before the COVID-19 pandemic, less than 30 percent of African American students in BUSD were at grade level in English Language Arts/ Literacy (ELA) while 73 percent of all other students in BUSD were at grade level in ELA.[69] For math, less than 23 percent of African American students were at grade level while over two thirds of all other students were at grade level.[70] For science, the percentages were 12 percent and 56 percent, respectively.[71]

E. Today

The current effort to overcome the legacy of chattel slavery in BUSD is the African American Success Framework ("Framework"), a three-year plan "intended to disrupt the equity gaps with a systematic process and approach of assessment, planning, and execution to rigorously remediate and prevent educational, social, and developmental disparities."[72] The Framework is based on the Multi-Tiered System of Support concept, which involves providing increasing levels of support and intervention focused on students who, in the context of the Framework, are not meeting certain District-wide thresholds.[73] As of April 2024, the Framework involved 51 strategic actions, 20 of which were complete, 26 of which were in progress, and five have not been started.[74] The Framework is a critical component to helping BUSD overcome the legacy of chattel slavery; indeed,

[67] Youth and Education Law Project, "Smith v. Berkeley Unified School District, No. C-04-3306 WDB (N.D. Cal.)," Stanford Law School, https://law.stanford.edu/youth-and-education-law-project/cases/smith-v-berkeley-unified-school-district-no-c-04-3306-wdb-n-d-cal.

[68] Ally Markovich, "Black and Latino students in Berkeley Unified are overrepresented in special ed," *Berkeleyside*, June 12, 2022, https://www.berkeleyside.org/2022/06/12/black-latino-students-berkeley-unified-overrepresented-special-ed.

[69] California Assessment of Student Performance and Progress ("CASPP"), "Test Results for California's Assessments," https://caaspp-elpac.ets.org/caaspp/Default [Select "English Language Arts/Literacy and Mathematics" and search "Berkeley Unified," then "View ELA Detailed Test Results," and then "2018-19" and "Race and Ethnicity"].

[70] *Ibid*. [Select "English Language Arts/Literacy and Mathematics" and search "Berkeley Unified," then "View Math Detailed Test Results," and then "2018-19," "Berkeley Unified," and "Race and Ethnicity"].

[71] *Ibid*. [Select "Science" and search "Berkeley Unified," then "View Detailed Test Results," and then "2018-19," "Berkeley Unified," and "Race and Ethnicity"].

[72] Berkeley Unified School District, "African American Success Framework," August 2022, 4.

[73] *Ibid*., 7-11.

[74] Berkeley Unified School District, "The African American Success Framework in Action," April 10, 2024.

as is described in Section V.A, the Task Force expects that the District will not cut funding to—or otherwise reduce support for—the Framework.

However, as the history of such efforts in BUSD has shown, the Framework—even if successfully implemented—will not be sufficient to fully overcome the legacy of chattel slavery in BUSD on its own; nor should anyone expect it to. As highlighted by a recent article,[75] there are many factors—some of which are outside the District's control—that contribute to the struggles that the District has experienced in properly supporting its African American students, including:

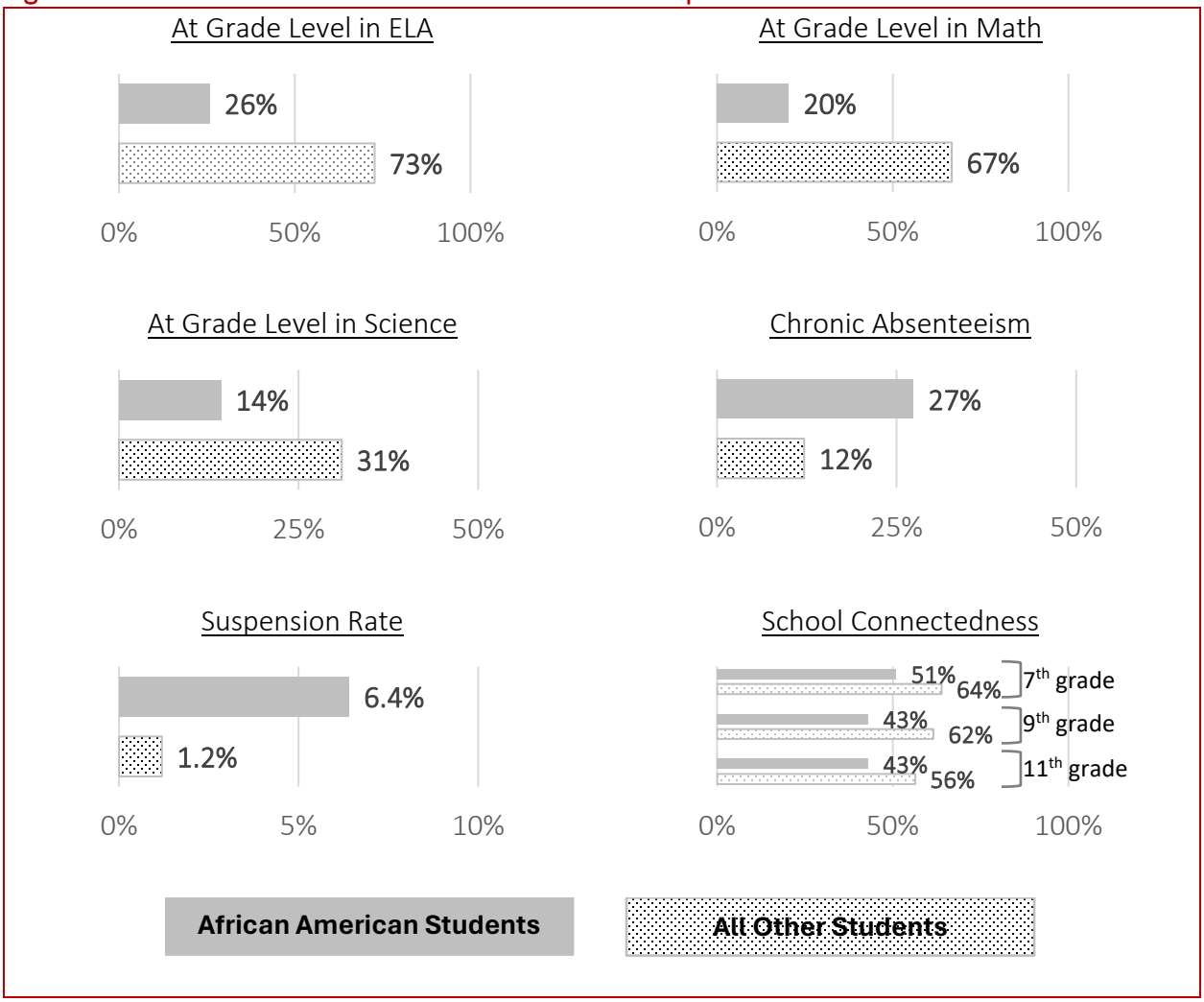
- The legacy of segregation and discriminatory policies, which has left lasting impacts that continue to affect African American and Latino/a/x students.
- The significant disparity in family income and educational attainment among different racial groups in Berkeley, which closely correlate with student academic performance.
- Implicit bias against and lower expectations for African American and Latino/a/x students, which affects student confidence and performance.
- Inconsistent application and follow-through of initiatives and policies aimed at addressing the opportunity gap.
- The need for greater collaboration between BUSD, community organizations, and the City of Berkeley in addressing the multi-faceted needs of African American families and their children.

Similarly, the vast current disparities in student outcomes shown in Figure 3 below should not be surprising. There are large gaps between the percentages of African American students in BUSD who are at grade level in ELA and Math (assessments given in grades 3-8 and 11) as compared with all other students; the same is true in science (assessment given in grades 5, 8, and 10-12). The rate of chronic absenteeism—defined as missing at least 18 days in a school year—for African American students in BUSD is more than double that of all other students and the suspension rate for African American students in BUSD is more than five times that of all other students. African American students in BUSD also report substantially lower levels of school connectedness than of all other students.

In addition to these data, the community survey (see Section IV.C.1) revealed many other instances of harm experienced by Descendants in BUSD. Respondents shared stories that illustrate the wide range of ways the legacy of chattel slavery affects students on a daily basis. One respondent highlighted the "[l]ack of acknowledgment of elementary school staff bias, especially from [the] principal, which resulted in shaming and unfair blame towards [B]lack students and families," while another respondent, noting the "lack of representation of other [B]lack students in advanced classes," described feeling "lonely and psychologically scarred." A parent of a BUSD Descendant student shared that a teacher's "extreme unconscious bias . . . caused harm to my child" and that they "had to move classes." Other respondents described instances of harm through low expectations, with some families leaving the District for private schools.

[75] Markovich, "Achievement gap."

Figure 3: Outcomes for African American Students Compared with All Other Students in BUSD



Source (ELA, Math, Science; 2022-23): California Assessment of Student Performance and Progress, https://caaspp-elpac.ets.org/caaspp/Default [Select "English Language Arts/Literacy and Mathematics" or "Science" and search "Berkeley Unified," then "View Detailed Test Results," and then "2022-23" and "Race and Ethnicity"].
Source (Chronic Absenteeism, Suspension Rate; 2022-23): DataQuest. California Department of Education. https://dq.cde.ca.gov/dataquest [Select "District," "Absenteeism Data" or "Suspension and Expulsion Data," "Berkeley," and appropriate year].
Source (School Connectedness, 2021-22): CalSCHS, "Search LEA Reports," https://calschls.org/reports-data/search-lea-reports [Search "Berkeley" and click "Student Reports"].

African American students at Berkeley High School recently expressed their own outrage at the harms they have experienced. As reported by the *Berkeley High Jacket*, "[a]t the beginning of second period on Friday, May 3, 2024, approximately 150 students gathered on the senior steps in protest of the mistreatment of Black students and educators at Berkeley High School."[76] The students shared personal stories of harm and connected their protest to "the historical

[76] Josephine Morasky, "BHS students sit-in in protest of the mistreatment of Black students and teachers within BUSD," *Berkeley High Jacket*, May 15, 2024, https://berkeleyhighjacket.com/2024/news/bhs-students-sit-in-in-protest-of-the-mistreatment-of-black-students-and-teachers-within-busd.

mistreatment of Black students and Black teachers at Berkeley High." Despite these experiences, the students were clear that they "want[ed] to end [the protest] with . . . hope[]."[77] In capturing the mood of the students, one student declared: "I hope that after you hear my story and the other stories you hear today you make Black studies classes more accessible and you reinstate your mantra that a class space should have open minded and inclusive discussions. And most of all, . . . I hope you're listening."[78]

[77] *Ibid.*

[78] *Ibid.*

III. The BUSD Reparations Task Force

On May 20, 2020, George Floyd, a 46-year-old African American, was murdered by a white Minneapolis police officer. Mr. Floyd's murder led to protests across the U.S. against racism and police brutality. This tragic event also revitalized efforts that have been ongoing for centuries—perhaps most famously with Major General W. T. Sheman's Special Field Order No. 15, that confiscated 400,000 acres of coastal land in South Carolina, Georgia, and Florida and provided up to 40 acres to approximately 18,000 families that had been formerly enslaved[79]—to secure reparations for Descendants and those impacted by the legacy of that institution.[80]

In California, the Legislature approved, and the Governor signed, Assembly Bill No. 3121, which created the "Task Force to Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans Who are Descendants of Persons Enslaved in the United States" ("CARTF").[81] In June 2023, the CARTF published a 1,100-page report ("CARTF Report") on how the institution of chattel slavery and its legacy negatively impacts society generally and Descendants specifically in California. The CARTF Report also provided recommendations on appropriate ways to educate all Californians regarding the CARTF's research and proposed remedies—i.e., reparations—in light of this research.[82]

Here in Berkeley, the BUSD School Board recognized that "within Berkeley Unified School District there are still many structures and symbols that uphold a legacy of racism, oppression, exclusion, and inequality."[83] BUSD community members also organized a group to explore the possibility of reparations within BUSD. The group consisted of volunteers, including local civic and religious leaders, BUSD family members, former BUSD Board members, and BUSD staff (participating in their personal time). This community group, which met every other week from September 2020 through May 2022, researched existing examples of reparations, discussed policy and legal considerations, and worked with an outside firm to conduct a voter poll to gauge community support for reparations in BUSD. The voter poll showed strong support for reparations in BUSD. The group's efforts culminated in a letter to BUSD requesting the establishment of its own reparations task force. [84]

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[79] Freedmen and Southern Society Project, "Order by the Commander of the Military Division of the Mississippi," January 16, 1865, https://freedmen.umd.edu//sfo15.htm.

[80] See Royall House & Slave Quarters, "Belinda Sutton and Her Petitions," https://royallhouse.org/slavery/belinda-sutton-and-her-petitions; see also Robert L. Johnson, "Reparations for slavery are the only way to fix America's racial wealth disparities," June 5, 2020, https://www.nbcnews.com/think/opinion/reparations-slavery-are-only-way-fix-america-s-racial-wealth-ncna1225251.

[81] Assembly Bill No. 3121 (Statutes of 2020, Chapter 319).

[82] See CARTF Report, pt. VIII.

[83] Berkeley Unified School District, "Resolution In Support of Black Lives Matter," June 10, 2020, https://www.berkeleyschools.net/2020/06/resolution-in-support-of-black-lives-matter.

[84] Community Letter to the BUSD Board of Education Regarding Reparations, June 15, 2022, https://www.berkeleyschools.net/wp-content/uploads/2023/05/Reparations-Letter-to-BUSD-Board-.pdf.

In March 2023, the District created its own Reparations Task Force ("Task Force") with the following purpose: "In response to the legacy of chattel slavery in the U.S., BUSD seeks to explore the establishment of a program of reparations for BUSD students with ancestors who were enslaved in the U.S."[85] More specifically, the Task Force was asked to "more deeply explore and make recommendations on"[86] three questions:

(1) What do reparations look like?
(2) How can BUSD fund reparations?
(3) How can and should BUSD implement such a program?

The direction from the District was to provide recommendations for reparations "for BUSD students with ancestors who were enslaved in the U.S." This is why this Final Report defines a "Descendant" as someone who descends from a person "enslaved by the institution of American chattel slavery." (See Section II.) As the Task Force understood American chattel slavery to be based on the pernicious and abhorrent belief in the inferiority of Black people, the Task Force focused on the experience of African Americans in Berkeley and BUSD. The Task Force did not opt to change this focus.[87]

After an informational meeting held on March 30, 2023, anyone connected to BUSD or the BUSD community interested in serving on the Task Force was invited to complete an online form. The District sought to create a cross-racial, cross-generational group that reflected both the past and the present of BUSD community members. The District extended Task Force invitations to 19 individuals: ten BUSD community members (mostly parents/guardians of BUSD students), six

[85] Berkeley Unified School District, "BUSD Reparations Task Force," https://www.berkeleyschools.net/reparations-task-force.

[86] *Ibid.*

[87] The District—or others considering the recommendations from this Final Report—may wish to consider using one of the following different approaches to the focus of a reparations policy. Each of these alternative approaches would fundamentally alter the purpose, outcome, and targeted population of a reparations policy.

Black Students: This approach would expand the focus of any reparations program to include all Black students in BUSD, not just those who are Descendants of American chattel slavery. Thus, this approach would align a reparations policy even more closely with race as compared to the current scope, which focuses specifically on Descendants of enslaved individuals.

Discriminatory Harm: This approach would focus specifically on individuals impacted by discriminatory policies based on race, ethnicity, or religion, such as redlining, segregation, discriminatory lending practices, school segregation, or employment discrimination. While these discriminatory policies predominantly affected African Americans and other non-White communities, some of them affected people who identified as Jewish, Catholic, and Italian, among others. Thus, this approach would expand the scope by including non-Black individuals affected by these policies yet also would narrow it by requiring a connection to a specific discriminatory harm; in doing so, this approach would align a reparations policy with race, ethnicity, and/or religion.

Ancestral Slavery: This approach would focus on anyone with an ancestor who was enslaved in the U.S., including Indigenous people and others who were enslaved. Slavery was common in the U.S., with chattel slavery being the most widespread and well-known. This approach would expand the focus since slavery in the U.S. victimized individuals of all races; consequently, it would completely decouple a reparations program from race.

BUSD staff members, and three BUSD students. Ultimately, the 15 individuals listed in Figure 4 below comprised the membership of the Task Force.

Figure 4: List of BUSD Reparations Task Force Members

Dr. Monique Allen BUSD Parent	Lea Murray Community Member
Harrison Blatt BUSD Staff	Raniiya Nolen BUSD Student (c/o '24)
Joshua Daniels BUSD Parent/BUSD Alumni (c/o '99)	Danielle Perez BUSD Staff/BUSD Parent
Carrie Gray BUSD Parent	Ana Tellez BUSD Parent
Dr. Rosa Higgs Community Member/BUSD Alumni (c/o '62)	Tanisha Walton (Co-Chair) Community Member
Tyler Holmes BUSD Staff	Dr. Erika Weissinger BUSD Parent
Adena Ishii (Co-Chair) Community Member	Dr. Dawn Williams BUSD Staff/BUSD Parent
John "Chip" Moore III (Co-Chair) BUSD Parent	

Tanisha Walton, a pastor at the Way Christian Church in Berkeley, and Adena Ishii, former president of the League of Women Voters of Berkeley, Albany, Emeryville, were initially elected co-chairs of the Task Force. John "Chip" Moore III, a BUSD parent, City Planning Commissioner, and chair of the City of Berkeley's Police Accountability Board, was elected as a third co-chair midway through the Task Force's tenure.

To support the Task Force, the District invited Kad Smith to serve as facilitator. Mr. Smith, a Berkeley High School alumnus, previously served as the Project Director at CompassPoint, a Bay Area leadership development organization, and as the co-chair of Measure Y1 (Youth Voting). Mr. Smith agreed to serve as facilitator in a volunteer capacity.

The Task Force was composed entirely of volunteers, with all members participating in events during non-work hours and without compensation. Experts who were consulted were also unpaid. The lack of funding, while understandable given BUSD's budgetary constraints, did constrain the Task Force and highlights an inherent irony in using the unpaid labor of Task Force members to address remedies for historical injustices rooted in unpaid labor.

The Task Force met monthly starting in April 2023 and was expected to present its recommendations by December 2023. However, its tenure was extended to June 2024 at the Task Force's request to ensure multiple opportunities for BUSD community members to engage

through events and a survey. In total, the Task Force formally met 13 times. See Figure 5 below for the dates and main topic(s) for each meeting.

Figure 5: List of BUSD Reparations Task Force Meetings

April 24, 2023
Introductions and norm-setting

May 22, 2023
Select co-chairs and initial discussion of community outreach

June 29, 2023
Examples of other reparations and legal considerations

August 28, 2023
Prepare for community engagement events

September 28, 2023
Provide feedback on community survey

October 23, 2023
Provide feedback on community survey (cont.)

November 27, 2023
Finalize community survey

January 25, 2024
Review results of community survey and discuss and finalize recommendations regarding types of reparations

February 27, 2024
Discuss funding sources

March 28, 2024
Discuss funding sources (cont.)

April 25, 2024
Finalize recommendations regarding funding sources

May 16, 2024
Review and provide feedback on draft report and recommendations

June 6, 2024
Vote on report and recommendations

IV. Task Force Research, Expert Consultation, Outreach, & Engagement

A. Research

As part of its work, the Task Force dedicated significant effort to studying and researching reparations. Members reviewed the CARTF Report and the "San Francisco Reparations Plan 2023" submitted by the San Francisco African American Reparations Advisory Committee.[88] These documents provided crucial information and data that informed the Task Force's discussions and understanding of reparations. For instance, the Task Force discussed in detail the following examples of reparations drawn from the CARTF Report:

1. International Examples

(West) Germany — Israel (Luxembourg Agreement and Federal Compensation Final Law): West Germany (and, later, a unified Germany) agreed to pay reparations to Holocaust survivors and their descendants, as well as the descendants of those murdered in the Holocaust. The reparations included direct payments to survivors and compensation for health impacts. By 2000, it is estimated that Germany had paid more than US$38.6 billion in reparations to approximately two million recipients.[89]

Canada (Indian Residential Schools Settlement Agreement): Canada agreed to pay reparations to the survivors of its residential school system, which forcibly removed and enrolled hundreds and thousands of First Nations, Métis, and Inuit children from the 1600s until the mid-1990s. Many of these children in the schools were physically and sexually abused and thousands more died or went missing. It is estimated that by 2012 Canada paid more than US$3.6 billion to approximately 78,400 recipients. The reparations program also included a Truth and Reconciliation Commission as well as funding for the Aboriginal Healing Foundation, commemorative projects, and mental health resources for former students.[90]

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[88] See San Francisco African American Reparations Advisory Committee, San Francisco Reparations Plan 2023, July 7, 2023.

[89] CARTF Report, 526-31; see also Asaf Elia-Shalev, "Germany agrees to record $1.4 billion in annual Holocaust reparations as survivors age," *Jewish Telegraphic Agency*, June 14, 2023, https://www.jta.org/2023/06/14/global/germany-agrees-to-record-1-4-billion-in-annual-holocaust-reparations-as-survivors-age.

[90] CARTF Report, 542-45; see also Australian Broadcasting Company News, "Canada is promising billions in compensation for Indigenous children abused in the welfare system," January 4, 2022, https://www.abc.net.au/news/2022-01-05/canada-indigenous-compensation-billions-reconciliation/100739092.

2. National Examples

Indian Claims Commission: The U.S. created the Indian Claims Commission to resolve tribal land claims against the U.S. and to make payments to tribes. It awarded approximately $800 million in total payments to tribes. However, not all claims were resolved by the Commission.[91]

Japanese Americans (Civil Liberties Act of 1988): The U.S. agreed to pay reparations to Japanese Americans who were incarcerated between 1942 and 1946. Over 82,000 recipients received $20,000 each for a total allocation of almost $1.65 billion. The U.S. also issued a formal apology to each recipient.[92]

3. State Examples

Florida (Rosewood Claim Bill): The State of Florida agreed to pay reparations for the massacre and destruction of Rosewood in 1923. Florida made direct payments to the remaining survivors and compensated former property owners for the loss of property. Additionally, the state annually funds education scholarships for the direct descendants of African American families from Rosewood. The total cost of these reparations is estimated to be $2.1 million. Furthermore, Florida directed the Florida Department of Law Enforcement to conduct a criminal investigation into the destruction of Rosewood and mandated the state university system to continue researching the incident, the history of race relations in Florida, and to develop educational materials about the destruction of Rosewood. These measures aim to acknowledge the historical injustice and ensure that the events of Rosewood are remembered and taught in educational institutions.[93]

California (Sterilization Compensation Program): The State of California agreed to pay reparations to individuals who were sterilized by staff in state-run homes and hospitals under a state-authorized eugenic sterilization program. California allocated a total of $4.5 million for direct payments to the estimated 244 survivors. California also issued a formal apology and ordered the creation of memorial plaques.[94]

4. Local Examples

Evanston, IL (Restorative Housing/Cash Payment Program): The City of Evanston, Illinois, agreed to pay reparations to African American residents, their descendants, or other residents who experienced housing discrimination by Evanston. Under the program, each recipient was awarded

[91] CARTF, 547-49.

[92] *Ibid.*, 552-54; see also Bilal Qureshi, "From Wrong To Right: A U.S. Apology For Japanese Internment," *Code Switch*, August 9, 2013, https://www.npr.org/sections/codeswitch/2013/08/09/210138278/japanese-internment-redress.

[93] CARTF, 560-62.

[94] *Ibid.*, 565-68; see also Cheri Mossburg, "California will compensate survivors of its forced sterilization program," *CNN*, July 14, 2021, https://www.cnn.com/2021/07/14/us/california-forced-sterilization-eugenics-payments/index.html.

$25,000 to either purchase a home, conduct home improvements, or pay down their mortgage. Evanston has since expanded the program to include direct cash payments. Evanston also created an Equity and Empowerment Commission, honored local historical African American sites, and issued an apology.[95]

Asheville, NC (Reparations Commission): The City of Asheville, North Carolina, created a Reparations Commission to recommend how to allocate $1.9 million to make amends for its historical injustices against African Americans. These injustices include Asheville's participation in and sanctioning of the enslavement of African Americans, the enforcement of segregation, and the implementation of an urban renewal program that destroyed multiple successful African American communities. Notably, the funds for reparations were raised by selling land that had been seized from African American communities under eminent domain. The Reparations Commission's mandate is to address these and other harms inflicted upon African Americans living in Asheville.[96]

B. Expert Consultation

Members of the Task Force also consulted with leading experts in reparations and related fields, both locally and in California. This consultation took the form of presentations to and discussions with the Task Force as well as individual members consulting with these experts and then reporting back to the Task Force.

1. Dr. Ashley Adams



Dr. Ashley Adams is the Director of the Black Reparations Project, a collaborative effort between faculty and students at Mills College at Northeastern University and University of California, Berkeley's Goldman School of Public Policy. Its work focuses on promoting education and research on reparations policies and initiatives in California and across the nation. She is also an Associate Adjunct Professor of Public Policy at Mills College as well as a Lecturer at University of California, Berkeley's Goldman School of Public Policy. Her academic focus is on preservation policy for African American historical locations and on reparations. She holds a Ph.D. in public policy from Walden University and an M.A. in public affairs from Park University.

Dr. Adams presented to the Task Force in June 2023. She provided an overview of the reparations frameworks adopted by the United Nations and the reparations framework proposed by Professor William A. Darity Jr. and A. Kirsten Mullen. She also gave a survey of other local reparations initiatives in the U.S.

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[95] CARTF, 570-73; see also City of Evanston, "Evanston Policies and Practices Directly Affecting the African American Community, 1900 - 1960 (and Present) [DRAFT]."

[96] CARTF, 573-75; see also City of Ashville, "Community Reparations Commission," https://www.ashevillenc.gov/department/city-clerk/boards-and-commissions/reparations-commission.

2. Dr. Tolani Britton



Tolani Britton is an Associate Professor at the University of California Berkeley, School of Education. She is collaborating with the California Department of Justice and CARTF members to bring the learnings from the CARTF Report to high school students and the general public.

She met with members of the Task Force to share how she is developing curricula based on the CARTF Report for high school students and the general public.

3. Nicholas Cummings



Nicholas Cummings is an attorney with over thirteen years of legal experience in the public sector. Most relevantly, he is the former Corporation Counsel for the City of Evanston. In that role, he wrote Evanston's reparations policy and advised on its implementation. Mr. Cummings received his J.D. from the Chicago-Kent College of Law at the Illinois Institute of Technology.

Mr. Cummings provided non-legal advice to the Task Force regarding the potential sources to fund reparations. He presented to Task Force members and answered questions regarding funding sources.

4. Dr. Stephanie Johnson



Stephanie Johnson is a former Berkeley Civic Art Commissioner and was consulted to discuss the possibility of displaying a "Black Joy Memory Wall." Dr. Johnson met with an individual Task Force member and discussed ways to showcase local Descendant artists using various platforms such as digital, traditional, and billboards.

5. Dan Lindheim



Dan Lindheim is Professor of Practice and Faculty Director of the Center on Civility & Democratic Engagement at the Goldman School of Public Policy at the University of California, Berkeley. Previously, he served as the City Administrator of the City of Oakland.

Mr. Lindheim provided guidance to Task Force members on municipal tax considerations.

6. Vikas Maturi



Vikas Maturi is the Manager of Grantmaking Strategy and Research at Liberation Ventures, a foundation dedicated to supporting and providing technical assistance to reparations efforts through the U.S. At Liberation Ventures, Mr. Maturi is responsible for working directly with those reparations efforts and providing support and technical assistance. He received his M.S. in Management Science and Engineering from Stanford University.

Mr. Maturi has supported and advised the Task Force in multiple ways. He was instrumental in finalizing the community survey (see Section IV.C.1) and provided feedback on how best to analyze the results. Additionally, he connected the Task Force to other experts and resources and provided advice on evaluating funding sources.

7. Kamilah Moore



Kamilah Moore was appointed to the CARTF and served as its chair. She is a reparatory justice scholar and an attorney with a specialization in entertainment and intellectual property transactions. Moore wrote her master thesis exploring the intersections between international law and reparatory justice for the trans-Atlantic slave trade, chattel slavery, and their legacies. She earned her J.D. from Columbia Law School and her L.L.M. in International Criminal Law from the University of Amsterdam.

Chair Moore presented at a community engagement event organized by the Task Force on the work of the CARTF that covered the legacy of chattel slavery in California. She also consulted with individual members of the Task Force on reparations generally.

8. Luis Rodriguez



Luis A. Rodriguez is a Visiting Assistant Professor at the University of California Law San Francisco and co-teacher of the Social Enterprise & Economic Empowerment Clinic, in which law students serve as outside counsel for social enterprises. He previously worked in the Treasury Department as a Senior Policy Analyst where he assisted in the design, implementation, underwriting, and awards process of COVID economic recovery programs. He received his J.D. from the UCLA School of Law and his M.A. from the University of Chicago.

Professor Rodriguez presented to Task Force members on historical redlining in the City of Berkeley.

9. Legal Consultation

The Task Force also consulted attorneys with experience in filing class action lawsuits against financial institutions regarding the opportunities and risks of using a lawsuit to fund reparations, including the possibility of a lawsuit in which BUSD would be the plaintiff.

10. BUSD Consultation

Dr. Enikia Ford Morthel, the BUSD Superintendent, gave a presentation to the Task Force on the District's latest efforts to improve outcomes for Descendant students, particularly through the African American Success Framework. Joemy Ito-Gates, Ethnic Studies Teacher on Special Assignment for BUSD, presented to the Task Force on the content and development of the ethnic studies curriculum.

C. Outreach & Community Engagement

The Task Force also made outreach and community engagement a priority. This included the following activities:

1. Community Survey

In mid-December 2023, the Task Force released a community survey with the help of the District. The primary purpose of the survey was to solicit community feedback on the types of reparations that the Task Force should consider recommending to the District. The District announced and distributed the link to the survey via two emails in January and Task Force members further distributed it via their personal and professional networks. The survey was made available in English and Spanish. The survey closed on January 19, 2024.

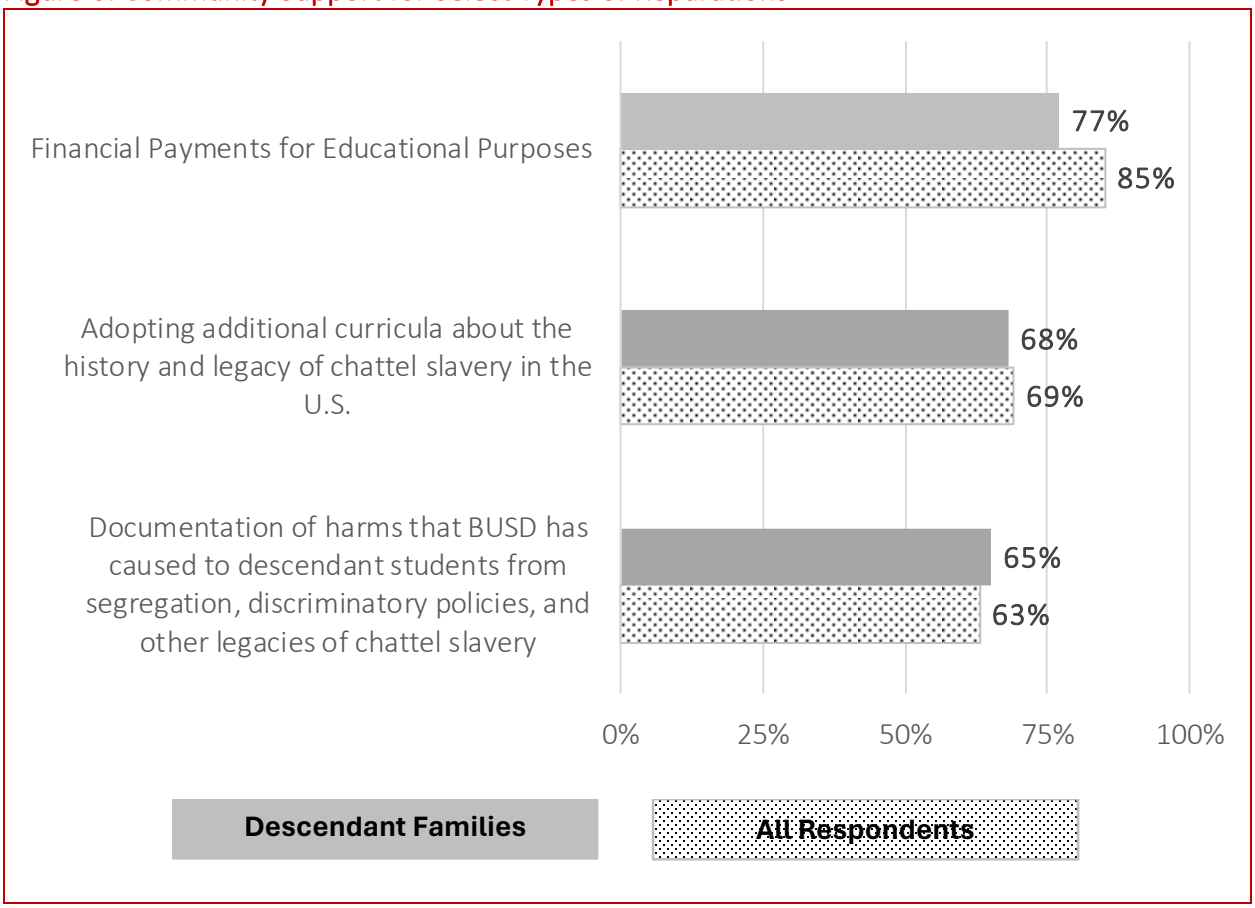
The community's response to the survey was exceptionally high, with more than 2,200 responses, of which more than 460 were "Descendant Family" respondents—defined as marking "Yes" or "Not Sure" to either being a Descendant or being a caregiver of a Descendant student. The high number of responses is much greater than the average response rate for other BUSD surveys.

Almost all respondents were familiar with reparations, with 93 percent indicating that they were "very familiar" or "somewhat familiar" with the concept. The survey demonstrated strong community support for the idea of repaying a debt to Descendants: 78 percent of respondents stated that they "strongly agree" or "somewhat agree" with the statement that "American society owes a debt to the descendants of people enslaved in the U.S. for the impacts of chattel slavery and its legacy, including segregation and discrimination." This is comparable to the 71 percent of respondents who expressed support for "reparations to African Americans for slavery and historic discrimination" in the randomized voter poll conducted by the community group.

The community survey also asked respondents for their opinion on which types of reparations the Task Force should recommend to the District. As shown in Figure 6 below, some of the strongest

support was for providing financial payments to BUSD Descendant students for educational purposes (85% of all respondents and 77% of Descendant Families), adopting additional curricula focused on the history and legacy of chattel slavery in the U.S. (69% of all respondents and 68% of Descendant Families), and creating a harm report to document the impacts of segregation, discriminatory policies, and other legacies of chattel slavery in BUSD (63% of all respondents and 65% of Descendant Families).

Figure 6: Community Support for Select Types of Reparations



A full analysis of the survey results is available on the Task Force webpage (see #3 below).

2. Community Engagement

The Task Force held three community engagement events described and pictured below. All of these events were announced in advance by the District and were open to the public. The Task Force held the events in the BUSD School Board room, which included food and Spanish translation.

September 7, 2023: A Talk by Kamilah Moore, Chair of the California Task Force to Study and Develop Reparation Proposals for African Americans: This event featured a talk by Kamilah Moore,

Chair of the CARTF. Her presentation focused on the work of the CARTF and how the legacy of chattel slavery manifested in California. Approximately 25-35 people attended.



◀*Chair Moore speaking to community members on Sep. 7, 2023, in Berkeley, CA.*



◀*BUSD Supt. Enikia Ford Morthel (L); Chair Moore (C); BUSD School Board Member Ka'Dijah Brown on Sep. 7, 2023, in Berkeley, CA.*

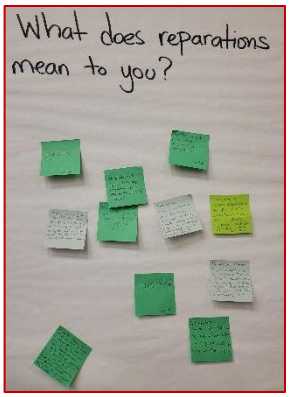
September 13, 2023: A Community Conversation Regarding Reparations: This event provided an opportunity for the community to come together for a discussion regarding reparations. It started with an overview of various examples of reparations, which was followed by facilitated breakout groups that used the following four prompts to guide their discussions:

- What brought you out here tonight?
- What does reparations mean to you?
- What harms could reparations address for Descendants in our community?
- How could reparations by BUSD help students who are Descendants?

Attendees were also encouraged to provide written responses on sticky notes and to post them on poster boards in the room. Approximately 30-40 people attended.



◀*Task Force Co-Chair Tanisha Walton facilitating breakout group conversation on Sep. 13, 2023, in Berkeley, CA.*



◀*Written community feedback on Sep. 13, 2023, in Berkeley, CA.*

March 25, 2024: Findings from the Community Survey: This event provided a summary of the findings from the community survey (see Section IV.C.1). Attendees also engaged in a gallery walk of graphical displays of survey findings. Similar to the Community Conversation regarding Reparations (see above), there were facilitated breakout groups for attendees to discuss their reactions to the results of the survey. Attendees were also encouraged to write down their thoughts on sticky notes and post them on poster boards in the room. Approximately 40-50 people attended.



◀*Written community feedback on Mar. 25, 2024, in Berkeley, CA.*



◀*Community members reviewing data from community survey on Mar. 25, 2024, in Berkeley, CA.*

These community engagement events provided the Task Force with invaluable information beyond what was captured via the community survey. Attendees expressed interest in and strong support for BUSD pursuing reparations. They offered suggestions (many of which were captured by the survey) and asked probing questions.

One question, in particular, arose often: At what levels of government—federal, state, or local—should reparations be pursued? The response that emerged from these discussions was that, while the federal government is certainly culpable for the harms of chattel slavery, it is not the only governmental actor. State and local governments share this responsibility too. For instance, local governments were responsible for urban renewal, zoning laws that placed toxic factories and freeways in redlined neighborhoods, the segregation of public schools, and voter disenfranchisement. Robin Rue Simmons, a former Evanston alderwoman and a leader in the reparations movement, stated: "No single initiative can close the wealth gap, no individual can lead a movement, not one state alone is the answer and there is not an exact model... It will take all of us doing our part, every person, every government body, all historically anti-Black institutions."[97] During community engagement meetings, some referred to this as a "layered" approach to reparations, in which accountability is placed at multiple levels of government.

In addition to these three events, the Task Force also gave two public updates (June 7, 2023, and December 6, 2023) and is scheduled to give a presentation on this Final Report to the BUSD School Board on June 12, 2024. Information and recordings of these updates and presentations are available on the Task Force webpage (see #3 below).

3. Webpage (www.berkeleyschools.net/reparations-task-force)

The District has created a webpage for the Task Force to share information with the public about its work. This webpage summarizes the background and purpose of the Task Force and provides examples of existing reparations programs. Additionally, the slides for each Task Force meeting are made public on this webpage prior to each meeting. The webpage also provides information regarding community engagement events.

[97] Robin Rue Summons, Post on LinkedIn, April or May, 2024, https://www.linkedin.com/posts/robin-rue-simmons-6b9330a6_evanston-reparations-fund-to-be-deposited-activity-7182155807080300545-260f.

V. Recommendations

The charge of the Task Force was to produce recommendations in response to three questions:

(1) What do reparations look like?
(2) How can BUSD fund reparations?
(3) How can and should BUSD implement such a program?

After some initial discussion, the Task Force agreed to start with the first question ("What do reparations look like?") before addressing the second ("How can BUSD fund reparations?"). Additionally, the Task Force realized it was unrealistic to provide recommendations for the third question ("How can and should BUSD implement such a program?") until the specific types of reparations were identified as the District might need to hire experts in order properly implement a specific type of reparations. Therefore, the Task Force focused on the first two questions and provided recommendations for each; the third question has been left to future endeavors, although Section VI offers considerations for implementation.

A. Recommendation: Types of Reparations

Although the community group that advocated for the creation of the Task Force supported unrestricted cash payments for BUSD Descendant students, the District made clear to the Task Force that this was not necessarily the expected end point. The Task Force was expected to consider all possible types of reparations.

As discussed in Section IV, Task Force members researched many different types of reparations, consulted with experts, outreached to the community, and hosted community engagement events. This work included reviewing the reparations framework created by the United Nations General Assembly in 2005, which identified five categories of reparations: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. The Task Force also considered the framework put forward by Professor William A. Darity Jr. and A. Kirsten Mullen, which identified three categories of reparations: acknowledgement, redress, and closure.

Ultimately, the Task Force landed on three categories:

(A) Financial payments to BUSD Descendant Students
(B) Truth-telling and acknowledgement by BUSD, and
(C) Changes to BUSD programs

Within these three categories, the Task Force identified the 15 possible types of reparations for consideration shown in Figure 7 below.

Figure 7: List of Types of Reparations Considered

A. Financial Payments to BUSD Descendant Students	B. Truth-Telling and Acknowledgment by BUSD	C. Changes to BUSD Programs
A.1 For educational purposes	B.1 Documentation of harms that BUSD has caused to Descendant students from the legacy of chattel slavery	C.1 Increase the number of Descendant teachers
A.2 For career purposes	B.2 A truth commission to collect testimony and educate the public about the harms BUSD has caused to Descendant students	C.2 Promote fair and equitable discipline practices for all students, particularly for Descendant students
A.3 For housing purposes	B.3 Creating monuments and memorials to honor Descendant leaders and students in BUSD	C.3 Improve college readiness or career preparation for Descendant students
A.4 For all purposes	B.4 An apology from BUSD for the harms the District has caused to Descendant students	C.4 Help Descendant students and their families feel more welcome and connected at school
	B.5 Adopting additional curricula about the history and legacy of chattel slavery in the U.S.	C.5 Improve access to enrichment programs for Descendant students
	B.6 Adopting additional curricula about the harms BUSD, the City of Berkeley, and the State of California have caused to Descendants	

The Task Force agreed to recommend three (or as close to three as possible) for several reasons. First, recommending all 15 types of reparations could lead to unequal consideration, paralysis due to an overwhelming number of recommendations, and a reduced ability to ensure implementation. Second, recommending three types of reparations provides the District and the community with flexibility on how to proceed, as opposed to a single type, which would be a take-it-or-leave-it proposition. Lastly, and perhaps most importantly, addressing the legacy of chattel slavery cannot be accomplished with a single action. American chattel slavery and its legacy evolved over hundreds of years and through thousands of laws, policies, and initiatives. Undoing this legacy will similarly require a concerted effort over an extended period, with considerable thought and effort on public policy remedies.

The Task Force relied heavily on the robust input from the community survey, paying particular attention to the responses from Descendant Families due to their unique experiences and perspectives on the legacy of chattel slavery. Their input was crucial in shaping the recommendations, as these families directly bear the impacts of historical and systemic injustices.

This focus ensured that the proposed reparations would address the specific needs and concerns of those most affected.

After internal discussion and debate that integrated its research, expert advice, the community survey results, and views expressed in the community engagements, the Task Force unanimously agreed to recommend three types of reparations to support current and future Descendant students:

(1) Create a harm report to document the impacts of segregation, discriminatory policies, and other legacies of chattel slavery in BUSD.
(2) Develop, adopt, and then deploy curricula on the history and legacy of chattel slavery in the U.S., the State of California, the City of Berkeley, and BUSD and the associated harms caused to Descendants.
(3) Provide financial payments to BUSD Descendant students for educational purposes.

The Task Force also had lengthy discussions regarding whether to include one or more program changes as part of its recommendations (see C.1-C.5 in Figure 7). All five types of reparations in this category did receive strong support from the community survey. However, the Task Force came to question whether it was appropriate for programmatic changes to be categorized as reparations. Regardless of the past, the District is legally and morally obligated to support all of its students. If the District is struggling to support a certain group of students, then the District is legally and morally obligated to take steps to rectify that failing. Thus, in the case of Descendant students—a group which the District struggles to support—such programmatic changes need to occur regardless of whether the District pursues reparations.

Additionally, the Task Force learned that the District was already making programmatic changes to better support Descendant students primarily through the Framework (see Section II.E). Therefore, the Task Force decided not to include programmatic changes in its formal recommendations. However, the Task Force formally asserts that the District should not cut funding to—or otherwise reduce support for—programs that primarily support Descendant students. The District should also take steps to insulate and protect such programs from future cuts or reductions.

Each recommended type of reparations is discussed in more depth below.

1. <u>Create A Harm Report</u>

Almost two-thirds of respondents to the community survey supported including the documentation of harms that BUSD has caused to Descendant students from the legacy of chattel slavery in the Task Force's recommendations (see B.1 in Figure 7). There was a similar level of support among Descendant Families. Task Force members also agreed on the importance of a harm report. During internal discussions, Task Force members emphasized the need to document the harms that BUSD had caused to Descendants, much like how the CARTF documented the harms caused to Descendants in California. Task Force members highlighted that much of this

history has been forgotten, devalued, or misinterpreted, and stressed the importance of having it properly and publicly documented.

The harm report would document the activities by BUSD—regardless of expressed intent at the time—that negatively impacted Descendant students. These activities and impacts include, but are not limited to, those articulated in Section II. In addition to these activities and impacts, the harm report would include primary source research, the collection of historical data on student outcomes, and incorporate interviews with current and former BUSD Descendant students, staff, and families regarding their experiences in BUSD.[98] The harm report would also examine the impact of the reparative activities that BUSD has undertaken, including the decision to voluntarily desegregate all schools and the decision to stop the use of neighborhood elementary schools.

When the harm report is finished, the District should consider whether to use the report to construct and issue a formal apology for the harms it caused, as well as to tailor more specific policy remedies to address the harm.

2. Develop, Adopt, and Deploy Curricula

Over two-thirds of all respondents and Descendants Families supported including the creation of curricula on the institution of chattel slavery in the Task Force's recommendations (see B.5 in Figure 7). In its internal discussions, the Task Force agreed that this was critically important: The impact of chattel slavery and the experience of enslaved people are often misrepresented or underrepresented when taught as part of the nation's history; similarly, the teaching of the legacy of chattel slavery, which contributes to ongoing inequities that affect the daily lives of Descendants today, often paints an incomplete and incorrect picture of American history and is contrary to the purpose of a public education.

Additionally, a majority of respondents to the community survey—and an even stronger majority of Descendant Families—supported including the adoption of additional curricula about the harms BUSD, the City of Berkeley, and the State of California have caused to Descendants in the Task Force's recommendations (see B.6 above). The Task Force also agreed with this need as there was concern that a focus on the historic institution of chattel slavery would leave out information on how the legacy of chattel slavery harmed Descendants in BUSD, the City of Berkeley, and the State of California. The Task Force was deeply impressed with the important history described in the CARTF Report but noted the minimal coverage of this history in California's history social studies content standards, which were last adopted in 1998.[99] While California's Ethnic Studies Model

[98] In addition to asking about different types of reparations, the community survey also asked about the harms that respondents experienced in or by BUSD. For those respondents who indicated that there was harm, the survey then asked if they would be willing to share those experiences, with 118 respondents answering that they would like to share their experiences.

[99] See, e.g., California Department of Education, *History—Social Science for California Public Schools Content Standards*, October 1998, Standard 5.4, para. 6 ["Describe the introduction of slavery into America, the responses of slave families to their condition, the ongoing struggle between proponents and opponents of slavery, and the

Curriculum does include model courses that include more information on the institution of chattel slavery and its legacy,[100] it was compiled prior to the publication of the CARTF Report and, in any event, none of the model courses are required to be taught.[101]

The Task Force decided to combine both ideas—adopting additional curricula about the history and legacy of slavery in the U.S. and the harms caused by BUSD, the City of Berkeley, and the State of California to Descendants—into a single recommendation. It recommended that BUSD develop, adopt, and deploy curricula on these topics. The curricula should incorporate grade-appropriate information from the CARTF Report and other academic work, including the curriculum being developed by U.C. Berkeley Professor Tolani Britton in collaboration with the California Department of Justice, which aims to translate the information from the CARTF Report into K-12 lesson plans as well as educational materials for the general public.

The Task Force acknowledges that the District is already developing ethnic studies curricula for all grades that includes stories of local Berkeley Descendant community leaders—including interviews with Task Force members and the importance of reparations in the District—and information from the CARTF Report. Thus, the recommended curricula could connect to, incorporate, or become part of the existing ethnic studies curricula development. Additionally, the Task Force emphasized the importance of ensuring that the BUSD harm report has a meaningful impact by integrating its findings into the to-be-developed curricula.

3. Provide Financial Payments to BUSD Descendant Students for Educational Purposes

Financial payments to BUSD Descendant students for educational purposes received the most support—85 percent—of any type of reparation listed in the community survey (see A.1 in Figure 7). The Task Force also felt very strongly that its recommendations should include financial payments to BUSD Descendant students. This led to thoughtful consideration regarding the nature of those payments, particularly whether they should be for educational purposes or completely unrestricted.

The Task Force considered the fact that many other reparations that take the form of payments are unrestricted. Indeed, almost all of the examples of reparations that the Task Force examined in more detail included unrestricted financial payments (see Section IV.A). Unrestricted payments are also in line with the American tradition involving unrestricted financial repayment to repair

gradual institutionalization of slavery in the South"]; Standard 8.7, para. 2 ["Trace the origins and development of slavery; its effects on black Americans and on the region's political, social, religious, economic, and cultural development; and identify the strategies that were tried to both overturn and preserve it (e.g., through the writings and historical documents on Nat Turner, Denmark Vesey)"]; and Standard 8.11 ["Students analyze the character and lasting consequences of Reconstruction"].

[100] See, e.g., California Department of Education, *Ethnic Studies Model Curriculum*, 478-79.

[101] Cal. Educ. Code, sec. 51225.3. At the same time, ethnic studies is and has been a high school graduation requirement in BUSD for many years. See Berkeley Unified School District, *Berkeley High School Course Catalog 2024-25*, 9.

harm.[102] Lastly, the Task Force noted that Descendant Families expressed stronger support (50%) for unrestricted payments than respondents in general (32%).

At the same time, even though support from Descendant Families for unrestricted financial payments was higher than all respondents, Descendant Families still ranked unrestricted payments as the lowest out of all four financial payment options and ranked financial payments for educational purposes as the highest. Additionally, the Task Force found it noteworthy that Evanston, Illinois—the first local jurisdiction to utilize financial cash payments for reparations—did initially place restrictions on those payments and tied those restrictions to the harm.[103] In a similar vein, BUSD is an *educational* institution and the harm at issue here is *educational*. Thus, the Task Force ultimately concluded that it would include financial payments to BUSD Descendant students for educational purposes as part of its recommendations.[104]

B. Recommendation: Funding Sources

The Task Force considered the following three categories of funding sources:

(A) Private funding.
(B) Existing government funds and assets.
(C) New tax revenue.

Within these three categories, the Task Force identified the 12 possible funding sources for consideration shown in Figure 8 below.

Figure 8: List of Funding Sources Considered

A. Private Funding		B. Existing Government Funds and Assets		C. New Tax Revenue	
A.1	Personal Giving	B.1	Sale of BUSD Property	C.1	Parcel Tax
A.2	Philanthropic/ Corporate Giving	B.2	Lease of BUSD Property	C.2	Real Estate Transfer Tax
A.3	Lawsuit	B.3	BUSD General Fund	C.3	Cannabis Tax
				C.4	Sales Tax
				C.5	Excise Tax
				C.6	Corporate Income Tax

[102] See, e.g., Legal Information Institute, "Tort," Cornell Law School, https://www.law.cornell.edu/wex/tort.

[103] See CARTF, 570-73.

[104] While the exact scope of "Educational Purposes" would need to be defined as part of the implementation, the Task Force understood "Education Purposes" in a broad sense based on needs of BUSD Descendant students and used the Harlem Children's Zone as an example of how to understand the phrase. See Harlem Children's Zone, https://hcz.org; see also Grover J. Whitehurst and Michelle Croft, "The Harlem Children's Zone, Promise Neighborhoods, and the Broader, Bolder Approach to Education," Brown Center on Education Policy at Brookings, July 20, 2010. Due to practical and legal considerations, the Task Force also intends financial payments to go to current and future BUSD Descendant students rather than former BUSD Descendent students.

The Task Force was able to quickly eliminate the following three funding sources due to legal restrictions.

- *Sale of BUSD Property* (B.1): The Task Force eliminated this source because California law restricts the revenue from such a sale to cover District facilities costs.[105]

- *Lease of BUSD Property* (B.2): The Task Force eliminated this source because California law restricts the revenue from long-term leases to cover District facilities costs.[106] While California law does not similarly constrain the use of revenue from short-term leases, such short-term leases would not generate significant revenue.

- *Corporate Income Tax* (C.6): Local jurisdictions in California do not have the legal authority to tax corporate income.[107]

The Task Force was also able to quickly eliminate each of the following five funding sources due to the likelihood that a source would not yield significant revenue, would only yield significant revenue as a result of who was primarily paying the tax, or was not sufficiently well-defined to determine whether they would yield significant revenue.

- *Personal Giving* (A.1): The Task Force concluded that personal giving would be unlikely to yield significant revenue.

- *BUSD General Fund* (B.3): The District recently made $6.9 million in ongoing reductions[108] and the ongoing budget outlook for BUSD presents significant financial challenges.[109] Thus, the Task Force concluded that the District's General Fund would be unlikely to yield significant revenue. Moreover, the Task Force has taken the position that the District should not cut funding to the African American Success Framework and similar programs that primarily support Descendant students. If the Task Force did recommend the BUSD General Fund as a funding source, then this recommendation could potentially conflict with that position as it would require redirecting existing District funds.

- *Cannabis Tax* (C.3): The City of Berkeley recently suspended its cannabis tax in order to support cannabis businesses in Berkeley.[110] As a result, reinstating or increasing the

[105] Cal. Educ. Code, sec. 17455 *et seq*.

[106] *Ibid*.

[107] See Cal. Rev. and Tax. Code, sec. 23001 *et seq*.

[108] Berkeley Unified School District. "Approve $6.9 million in Budget Balancing solutions." April 17, 2024.

[109] See Ally Markovich, "Berkeley Unified approves staff layoffs as state budget tightens," *Berkeleyside*, May 3, 2024, https://www.berkeleyside.org/2024/05/03/berkeley-unified-staff-layoffs-state-education-budget.

[110] See Bay City News Service, "Berkeley approves tax relief for legal cannabis businesses for next 2 years," July 20, 2023, https://www.cbsnews.com/sanfrancisco/news/berkeley-cannabis-business-tax-holiday-through-2025.

cannabis tax is likely to hurt cannabis businesses in Berkeley and, as a result, is unlikely to yield significant revenue.

- *Sales Tax* (C.4): The Task Force rejected a sales tax—i.e., a tax on the sale of most goods—because it is paid by the purchaser of the goods and, as such, low-income individuals would pay a higher percentage of their income in sales taxes than high-income individuals. Additionally, the current sales tax levied in Berkeley is already 10.25%, which is almost the highest in the State.[111]

- *Excise Tax* (C.5): The Task Force removed an excise tax, which is a tax on certain goods, services, and activities, from consideration because it was not able to come up with a good, service, or activity to be taxed that would be supported by the Task Force.

The Task Force then used four factors to analyze the remaining funding sources: to what extent the revenue source is progressive—i.e., whether it imposes a higher tax financial burden on individuals or entities with higher incomes or wealth and, due to the relationship between descendancy and financial disadvantage, whether it imposes less of a financial burden on Descendants; whether the revenue raised would be one-time or ongoing; the timeline for accessing the source; and what barriers might exist to accessing the source. The Task Force also researched and identified relevant examples related to each funding source.

Based on this analysis, the Task Force unanimously decided to recommend all three remaining funding sources:

(1) Solicit philanthropic/corporate giving.
(2) Initiate a lawsuit.
(3) Propose a tax measure (parcel or real estate transfer), but only if placed on the ballot via initiative and with the addition that efforts be made to minimize the impact on Descendant taxpayers.

Each recommended funding source is discussed in more depth below.

1. Solicit Philanthropic/Corporate Giving

This funding source would involve soliciting voluntary donations from both philanthropic foundations and corporations.[112] In soliciting donations from philanthropic foundations, the District would likely need to submit grant proposals; for corporate giving, the District may need to apply pressure on and bring attention to corporations in order to persuade them to donate. For

[111] California Department of Tax and Fee Administration, "California City & County Sales & Use Tax Rates (effective April 1, 2024)," https://www.cdtfa.ca.gov/taxes-and-fees/rates.aspx.

[112] While philanthropic or corporate donations could be used to support any of the types of reparations recommended in Section V.A, such donations could also be used to help support efforts to implement the other two funding sources.

tax purposes, the donations would likely need to be made to a local foundation rather than directly to the District.

Progressive: Philanthropic/corporate giving is a progressive funding source as it comes from foundations and corporations.

One-Time/Ongoing: Philanthropic/corporate giving would generate one-time revenue, although ongoing giving would generate ongoing revenue.

Timeline: Philanthropic/corporate giving could begin quickly, although it would likely be at least six months before the District would be able to create the job and hire someone to lead this effort.

Barriers: There is intense competition for philanthropic funding. Foundations may also want to allocate their funding to other school districts with fewer resources than BUSD. Additionally, foundations may impose conditions on their funding that are not consistent with the Task Force's recommendations. Corporations may resist pressure to give in order to avoid setting a precedent to give to other districts.

Examples: One example is the Black Birth Equity Fund created by Baby Dove, a subsidiary of Unilever, in August 2021. The fund provides African American expecting mothers with immediate financial access to doula services.[113] Another example is Reparation Generation, an organization that solicits donations to provide wealth transfers to Descendants in Detroit.[114]

2. Initiate a Lawsuit

This funding source would involve the District, perhaps in partnership with the City of Berkeley or other local jurisdictions, filing a lawsuit against those private entities whose historic activities connected to the legacy of chattel slavery, particularly redlining, have led to lower funding for BUSD today. The lawsuit could be resolved via a monetary settlement or a monetary judgment after a successful trial.[115]

Progressive: A lawsuit is a progressive funding source as it targets the actions of private entities who were unjustly enriched by their involvement or participation in historic activities connected to the legacy of chattel slavery, particularly redlining.

One-Time/Ongoing: A lawsuit would generate one-time revenue, although a settlement or judgment could generate a significant amount of revenue.

[113] Dove, "Black Birth Equity Fund: Action for Black Maternal Health," https://www.dove.com/us/en/baby/more-from-baby-dove/about-baby-dove/black-birth-equity-fund.html.

[114] Reparation Generation, https://reparationgeneration.org.

[115] In order to avoid the possibility of disclosing legally sensitive details, no additional information is provided.

Timeline: A lawsuit would likely take many years to reach its conclusion. First, there would need to be significant research in order to demonstrate, examine, calculate, and quantify how the historic actions of private entities led to lower District funding today; this would likely take at least a year. Second, the actual process of the lawsuit—filing, discovery, settlement conversations, motions, and any trial—would likely take two to three years. Unless there was a settlement, the losing party would likely appeal, which would take at least another one to two years to resolve.

Barriers: One potential barrier to a lawsuit is funding. Unless the District's attorney would be willing to work on contingency, the District would need to hire experts to collect the necessary evidence and pay attorney fees through the entire process. In total, these fees would likely be in the millions of dollars. The other potential barrier is the likelihood of success. There have been a number of reparations lawsuits. While some of them have led to legislative solutions, very few have resulted in settlements, and none have resulted in judgments in favor of the plaintiffs. While the specific legal approach that the Task Force is proposing here is designed to avoid some of the challenges faced by these other lawsuits, success cannot be guaranteed.

Examples: One example is a lawsuit filed against the City of Tulsa and others by the survivors and descendants of survivors from the 1921 Tulsa Race Massacre on the basis of Oklahoma's public nuisance law.[116] The district court dismissed the lawsuit on the grounds that the plaintiff failed to allege a proper remedy.[117] However, the dismissal was appealed and the Oklahoma Supreme recently heard oral arguments on the case.[118] Another example is *In re African-American Slave Descendants Litigation*, a lawsuit filed in 2002 in the federal court in Illinois.[119] The plaintiffs, descendants of individuals enslaved in the U.S., sought reparations from private corporations that were alleged to have unjustly profited from the institution of chattel slavery.[120] Ultimately, the district court ruled against the plaintiffs on the grounds that, among other things, they lacked standing, the statutes of limitations on any allegations had passed, and the case raised a political question (i.e., the issue should be resolved by a legislative body).[121] There was no appeal.

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[116] *Randle v. City of Tulsa*, Case No. 121,502 (Okl. Supr. Crt., 2024).

[117] Sean Murphy, "Attorneys for 3 last-known survivors of 1921 Tulsa Race Massacre appeal dismissed reparations case," *Associated Press*, August 7, 2023, https://apnews.com/article/tulsa-race-massacre-lawsuit-8d2cae8569b06c7b117793ae4368efb5.

[118] Barbara Hoberock, "Oklahoma Supreme Court hears arguments in Tulsa Race Massacre case," Oklahoma Voice, April 2, 2024, https://oklahomavoice.com/briefs/oklahoma-supreme-court-hears-arguments-in-tulsa-race-massacre-case.

[119] *In re African-American Slave Descendants Litigation*, 375 F. Supp. 2d 721 (N.D. Ill. 2005). See also Cato v. United States, 70 F.3d 1103 (9th Cir. 1995) (when descendants of individuals enslaved in the U.S. filed federal lawsuit against the federal government (as opposed to private parties) seeking damages due to enslavement and subsequent discrimination, acknowledgement of such discrimination, and an apology, the appellate court ruled against the plaintiffs on the grounds that, among other things, they lacked standing, the statutes of limitations on any allegations had passed, and claims arising out of chattel slavery and discrimination fell outside Federal Tort Claims Act's limited waiver of sovereign immunity).

[120] *In re African-American Slave Descendants Litigation*, 736.

[121] *Ibid.*, 781.

3. Propose A Tax Measure via Initiative

One of the two remaining potential taxes is a parcel tax, which is a type of property tax that is assessed on property owners either via a per parcel rate or a square foot rate. In some situations, parcel taxes can apply different rates based on the type of property (e.g., commercial or residential) or if the property is vacant. Parcel taxes are commonly used by local governments to raise local revenue for specific purposes.

The second of the remaining potential taxes is a real estate transfer tax, which is levied on the transfer—usually sale—of real property from one party to another. It is typically calculated as a percentage of the property's fair market value, although it can also be calculated as a graduated real estate transfer tax in which the tax rate increases incrementally as the property's fair market value rises.

To go into effect, either tax would need to be placed on the ballot and approved by voters. A parcel tax can be placed on the ballot by the city council, the school board, or via initiative (i.e., by gathering a sufficient number of signatures). A real estate transfer tax can be placed on the ballot by the city council or via initiative. A tax placed on the ballot by the city council or school board must be approved by a 2/3 majority of voters, whereas a tax placed on the ballot via initiative only requires a simple majority of voters to pass.

Progressive: Each kind of tax has a different progressive impact:

- Parcel Tax: A parcel tax can be made more progressive by exempting low-income taxpayers, utilizing a square footage fee rather than a per parcel fee (as larger parcels are more valuable), by applying different rates based on the type of property (e.g., commercial or residential), and/or by focusing the tax on vacant properties. Additionally, due to gentrification, there are likely few property owners who are without significant financial resources or who are Descendants. In addition to the low-income taxpayer exception permitted by law, it may also be possible to exempt or reimburse Descendants taxpayers.
- Real Estate Transfer Tax: In general, it is not clear whether a real estate transfer tax is more or less progressive as the demographics of the owners of such properties are not known. However, all else being equal, a graduated real estate transfer tax is more progressive.

One-Time/Ongoing: Either tax would generate ongoing revenue for as long as the tax is in effect.

Timeline: Since either tax would need to be placed on the ballot, the earliest that would likely happen would be November 2026. If either tax was approved by voters, then it would likely be at least an additional six to 18 months before the tax could be collected and distributed.

Barriers: The main barrier to either tax is whether voters would approve it. Based on the voter poll conducted by the community group, a parcel tax would pass the simple majority threshold but not the two-thirds majority threshold. The voter poll did not assess support for other types of taxes.

Examples: There are many examples of local parcel taxes in Berkeley and BUSD, all approved by the voters of Berkeley, that support city- and school-related services.[122] Another example is the City of Berkeley's transfer tax, also approved by the voters of Berkeley, which funds general municipal services, homeless shelters, navigation centers, mental health support, rehousing, rental subsidies, and other services for people experiencing homelessness.[123]

Together, these three funding sources provide the ability to raise funds quickly (philanthropic/corporate giving), raise a significant amount of funds (lawsuit, tax), and generate funds on an ongoing basis (tax). Additionally, these funding sources are all legal and feasible, and are either progressive or can be structured to be progressive. If adopted, these funding sources would enable the District to fund all three of the recommended reparations.

[122] See "Property Taxes," City of Berkeley. https://berkeleyca.gov/city-services/report-pay/property-taxes

[123] See "Property Transfer Tax," City of Berkeley, https://berkeleyca.gov/city-services/report-pay/property-transfer-tax.

VI. Considerations for Implementation

While the Task Force decided it could not make a recommendation regarding implementation until there was more definitive direction regarding what was to be implemented, the Task Force did identify important considerations for implementation once there was such direction.

- The District would likely need to contract with outside experts to create the recommended harm report. This would include experts to conduct the necessary primary source research, collect historical data on student outcomes, and interview current and former BUSD Descendant students, staff, and families regarding their experiences in BUSD.

- The District would likely need to hire or contract with one or more experts, which should include Descendant BUSD staff, to develop the recommended curricula. In order to build on the preexisting work already underway by BUSD to develop its own ethnic studies curricula, the District may need to continue that work as well.

- As part of providing financial payments for educational purposes, it would be important to avoid having such payments be taxable and/or affect a student's (or a student's family's) eligibility for income-based social safety net benefits.

- In order to solicit philanthropic or corporate donations, the District would likely need to hire new staff in order to write and submit grant proposals and/or apply pressure on and bring attention to corporations.

- Given that foundations and corporations need to give to a local foundation, the District could use the Berkeley Public Schools Fund or a new local foundation could be created specifically for this purpose. If the former is used, it could quickly create a fund to receive donations to support the reparations recommended in this Final Report. If the latter is created, the Task Force encourages ensuring the new foundation is led by Descendants.

- To prepare for a lawsuit, the District should work with individual members of the Task Force and should consult with attorneys to more thoroughly analyze the legal theories and options that the District could pursue.

- For either recommended tax, no action is required by the District as it would be placed on the ballot via community-led initiative.

- Any effort at implementation must also contend with Proposition 209, passed in 1996, which prohibits governments from "discriminat[ing] against or grant[ing] preferential treatment to any individual or group on the basis of race, sex, color, ethnicity or national origin in public employment, public education or public contracting."[124]

[124] Cal. Const., art. I, sec. 31.

VII. Conclusion

The work of the Task Force marks a pivotal step in confronting the legacy of chattel slavery and its impact on the educational outcomes on Descendant students within the District. Through collaboration, research, community engagement, and expert consultation, the Task Force created a preliminary framework to address historical inequities and, on that basis, has recommended actionable solutions.

Recognizing that no single program or action can fully remedy or resolve the legacy of chattel slavery, the Task Force's recommendations reflect a multi-pronged approach: a harm report documenting the impacts of the legacy of chattel slavery; curricula on the history and legacy of chattel slavery nationwide, in California, and locally; and financial payments to BUSD Descendant students for educational purposes. These steps emphasize truth-telling, acknowledgment, and practical support that collectively aim to uplift and empower current and future Descendant students. The recommended funding sources—philanthropic and corporate giving, a lawsuit, and new tax revenue—similarly provide a multi-pronged approach to generating sustainable financial support for the recommended types of reparations. All together, these recommendations establish a strong foundation for reparative actions.

Through its work, the Task Force has laid out a path forward for future generations to build upon, fostering a legacy of justice, accountability, and positive change in the community. The recommendations offer a blueprint for meaningful reparations that can help transform the Descendant experience in BUSD and create lasting impact. Implementation of these recommendations will create a more inclusive and equitable environment in BUSD, ensuring that all students receive the support and opportunities they deserve.

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