

High School Lesson
Asian American Action against Separate and Unequal Education
By Sohyun An

SSCG7: b. Define civil rights as equal protections for all people.

SSUSH13: c. Connect the decision of *Plessy v. Ferguson* to the expansion of Jim Crow laws and the formation of the NAACP.

SSCG12. Describe the tools used to carry out United States foreign policy, including diplomacy and treaties; economic, military, and humanitarian aid; and sanctions and military intervention.

Despite being hardly known, Asian Americans were not strangers to the history of school (de)segregation. Although the practice was uneven and sporadic, and although it nowhere approached the near-universal extent and persistence of the segregated schooling imposed on African American students, Asian American children and families fought hard against racial discrimination in schooling. This essay provides background information of three pre-Brown court cases of Asian American struggles against school segregation and suggests an inquiry lesson on this largely forgotten history.

Background Information

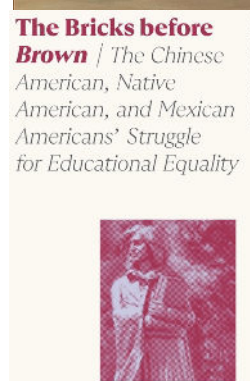
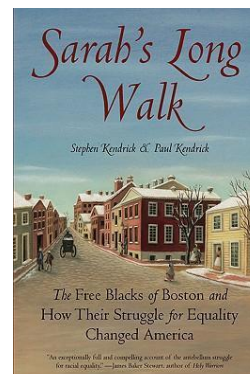
Overturing the 1896 *Plessy v. Ferguson* decision and its “separate but equal” doctrine, the *Brown v. Board of Education* decision of 1954 is generally regarded as the watershed constitutional case of the twentieth century. Given the recognition, the Brown decision is included more frequently than any other Supreme Court ruling in social studies curriculum standards and textbooks. The exclusive focus on Brown decision in teaching about school (de)segregation, however, may incur the danger of a single story.

Among the stories often forgotten in teaching about school segregation are more than 90 pre-Brown court cases, through which many African American families and communities across the country had challenged separate and unequal schooling. African American legal challenges against school segregation indeed goes back to mid-1800s when a 5-year-old Sarah Roberts and her family sued the city of Boston, Massachusetts for segregating African American children in unequal schools through [Roberts v. Boston of 1849](#).

Also, largely untold in teaching about school segregation are Indigenous, Latinx, and Asian American communities’ struggles with unequal education. Although relatively little known, these marginalized communities challenged educational injustice through litigation, protests, or other means. According to law scholar Marisela Martinez-Cola and her book [The Bricks before Brown](#), the road to Brown was long and multiracial, and the Brown came after more than 100 court cases over a more than 100-year period.

When the long multicolored history of school (de)segregation is silenced, students may develop a false perception that the fight against school segregation was a matter of white–Black racial relations confined within the 1950s South.

Students may also uncritically accept the dominant racialization of communities of Color as insignificant,



inferior, or powerless by not learning about the marginalized communities' historical agency to fight educational injustice. Instead, they may agree with a dominant narrative that positions the U.S. government and its officials (e.g., presidents, U.S. Supreme Court justices, or legislators) as agents of social change, while overlooking the government's role in creating and maintaining racist system in the first place.

To teach beyond a single story of Brown, this article focuses on Asian American challenges against separate and unequal schooling in the pre-Brown era through three court cases: *Tape v. Hurley* (1885), *Aoki v. Deane* (1907), *Lum v. Rice* (1927).

Tape v. Hurley (1885)

Although initially welcomed as a cheap labor source during the California Gold Rush in the 1840s and the transcontinental railroad construction of the 1860s, the Chinese migrants were soon viewed as a “yellow peril” and excluded from immigration, naturalization, land ownership, voting, employment, and interracial marriage. Anti-Chinese lynching and mob violence were not uncommon in 1870s.

In this context, Chinese American children's requests for equal education were consistently denied by white lawmakers. The earliest California school laws did not mention race, but by 1864, California law explicitly stated that “Negroes, Mongolians, and Indians” could attend school but only a “separate school” and only if the parents of 10 or more children applied:

Section 68. Negroes, Mongolians, and Indians, shall not be admitted into the Public Schools; provided, that upon the application of the parents or Guardians of ten or more such colored children, made in writing to the Trustees of any district, said Trustees shall establish a separate School for the education of Negroes, Mongolians, and Indians, and use the Public School funds for the support of the same; and, provided, further, that the Trustees of any School District may establish a separate School, or provide for the education of any less number of Negroes, Mongolians, and Indians, and use the Public School funds for the support of the same, whenever in their judgment it may be necessary for said Public Schools.

In 1870, California responded to the growing anti-Chinese movement by removing the term “Mongolian” from its school law and excluding Chinese American students from public education. In 1880, however, California had to amend its school law because the state Supreme Court concluded that race could not prevent young people from attending school in *Ward v. Flood* (1874) decision. The amended school law of 1880 now read, “Every school, unless otherwise provided by law, must be open for the admission of all children between six and twenty-one years of age residing in the district.”

1662. Every school, unless otherwise provided by law, must be open for the admission of all children between six and twenty-one years of age residing in the district; and the Board of Trustees, or City Board of Education, have power to admit adults and children not residing in the district, whenever good reasons exist therefor. Trustees shall have the power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases.

Mamie Tape’s story unfolded against this backdrop. Mamie’s parents, Joseph and Mary Tape, immigrated from China and had a successful business in California. In 1884, they tried to enroll their 8-year-old U.S.-born daughter Mamie in Spring Valley Primary School, an all-white school in their neighborhood. The school principal Jennie Hurley refused to admit Mamie because of her Chinese descent. The state school law at that time guaranteed “all children” admission to public schools. Yet the city of San Francisco had been excluding Chinese American children from public schools for more than a decade. Mamie’s parents found the exclusion unfair and sued the San Francisco Board of Education. The Superior Court ruled in favor of the Tape family. On appeal, the state Supreme Court upheld the lower court verdict in *Tape v. Hurley* of 1885.



Dissatisfied with the ruling, the superintendent of San Francisco, Andrew Moulder, lobbied the state legislature to amend the state school law by adding the line: “trustees shall have the power... to establish separate schools for children of Mongolian or Chinese descent. When such separate schools are established Chinese or Mongolian children must not be admitted into any other schools”.

1662. Every school, unless otherwise provided by law, must be open for the admission of all children between six and twenty-one years of age residing in the district, and the Board of Trustees, or City Board of Education, have power to admit adults and children not residing in the district whenever good reason exists therefor. Trustees shall have the power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and also to establish separate schools for children of Mongolian or Chinese descent. When such separate schools are established, Chinese or Mongolian children must not be admitted into any other schools.

[Mamie’s mother protested by writing an open letter to a local newspaper:](#)

Mamie Tape will never attend any of the Chinese schools of your making! Never!!! I will let the world see Sir what justice there is when it is governed by the race of prejudiced men! Just because she is of Chinese descent, not because she doesn’t dress like you because she does. Just because she is descended from Chinese parents. I guess she is more of an American than a good many of you that is going to prevent her being educated.

AN INDIGNANT MOTHER.

She Takes the San Francisco Board of Education to Task Sharply.

[San Francisco Letter.]

The board of education of San Francisco is in a bad predicament owing to a recent judicial decision, in accordance with which the Chinese of that city may demand education for their children at the public expense. It was determined by the board that the Chinese children should have a separate school-house, but when the building was provided no pupils were to be found except a little 9-year-old girl, and her parents insisted that she should attend one of the public schools near her home. The strife over the matter called forth the following letter from an indignant mother:

"An Indignant Mother," *The New North-West* (Deer Lodge, MT), May 22, 1885.

Mr. Moulder has a grudge against this Eight-year-old Mamie Tape. I know they is no other child I mean Chinese child! care to go to your public Chinese school. May you Mr. Moulder, never be persecuted like the way you have persecuted little Mamie Tape. Mamie Tape will never attend any of the Chinese schools of your making! Never!!! I will let the world see sir What justice there is When it is govern by the Race prejudice men! Just because she is of the Chinese decend, not because she don't dress like you because she does. Just because she is decended of Chinese parent: I guess she is more of a American than a gool many of you that is going to prevent her being Educated.
MRS. M. TAPE.

Excerpt from the letter written by Mrs. Tape to the San Francisco Board of Education after Mamie was again rejected from admittance to Spring Valley Primary School following the decision in Mamie's favor. *The New North-West* (Deer Lodge, MT), May 22, 1885.

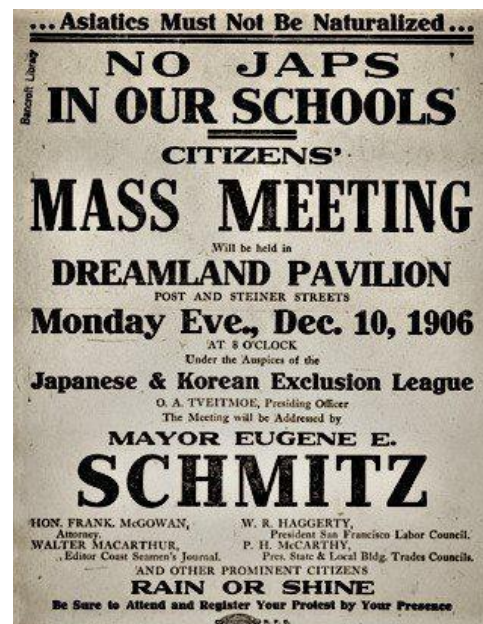
Regardless, the school board quickly opened a Chinese primary school in San Francisco and ordered Mamie and other Chinese American children to attend the school.

Aoki v. Deane (1907)

The numbers of Japanese immigrants were low until the first decade of the 20th century. So, Japanese American children were allowed to attend white schools as long as white residents did not object. By 1910, however, the number of Japanese migrants reached about 72,000 as they became a new source of cheap Asian labor after the 1882 Chinese Exclusion Act.

Paralleling the population growth, the anti-Japanese movement intensified. The 1901 campaign platform of San Francisco Mayor Eugene Schmitz included educating "all Asiatics, both Chinese and Japanese" in segregated schools. In 1905, the *San Francisco Chronicle* began an anti-Japanese campaign with a series of articles demonizing the Japanese, and labor unions formed the Japanese and Korean Exclusion League.

Responding to anti-Japanese movement, the San Francisco Board of Education changed the name of segregated Chinese school in the city from the "Chinese Primary School" to the "Oriental Public School" in 1906 and ordered Japanese American students, who had been attending white schools, to go to the segregated Oriental school. The Japanese immigrant community protested, keeping their children at



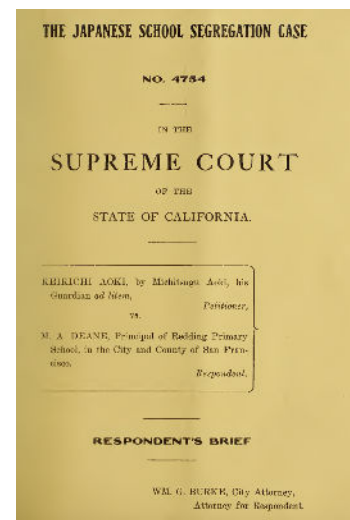
home. They also appealed to the Japanese government and media about their mistreatment. A leading Tokyo Newspaper responded, for example, by calling for all Japanese to “stand up. Our countrymen have been humiliated on the other side of the Pacific. Our boys and girls have been expelled from the public schools by the rascals of the United States, cruel and merciless like demons.” The Japanese government, a rising world power at the turn of the 20th century, officially protested.

To maintain a good relationship with Japan, [U.S. President Theodore Roosevelt intervened](#). The president stated, “to shut them [Japanese American students] out from the public schools is a wicked absurdity” in his State of the Union Address and ordered the U.S. Attorney General to take court action against the San Francisco Board of Education.

On the morning of January 17, 1907, a 10-year-old Japanese immigrant student, Keikichi Aoki, was accompanied by representatives of the US Attorney’s office and went to San Francisco’s Redding School to request admission to the school. Principal Deane refused. After this prearranged confrontation, the Attorney General filed his brief in both Federal District Court and the State Supreme Court through *Aoki v. Deane* of 1907.

In the meantime, President Roosevelt met with San Francisco school officials and California legislative leaders to work out a negotiation. The result was that the president would make the Gentlemen’s Agreement with Japan, by which Japan would end Japanese laborer migration to the United States, and in exchange, the San Francisco Board of Education would rescind its segregation order. With this settlement, the *Aoki v. Deane* was dropped, not decided. Keikichi Aoki and other Japanese American students in San Francisco were able to return to white schools. By the 1920s, most of the 30,000 Japanese American students in California attended white public schools.

To note, unlike the Tape case, the *Aoki v. Deane* was settled out of court via political means, which was partly due to international politics. Whereas China held little political clout on the world stage at the turn of the 20th century, Japan was a rising international power who had just defeated China in the Sino-Japanese War in 1895 and Russia in the Russo-Japanese War in 1905. In this international context, the U.S. federal government intervened on behalf of the Japanese Americans and forced the local school board to relent its segregation order, whereas the government took no action in the case of Chinese American students. This shows not only domestic but also international contexts shape Asian American lives and anti-Asian racism.



Lum v. Rice (1927)

California was not the only place in which early Chinese Americans faced educational discrimination. After the Civil War, dominant whites in the South sought to undermine the changing power shift between freed African Americans and whites by encouraging non-Black migration. In this context, some Chinese migrants began to move to the South, and soon a question arose: Where should Chinese American children go to school in the bifurcated world of Jim Crow?

In the case of Mississippi, the state constitution stated that separate schools were to be provided for the “White” and “colored” races. Conventionally the “colored” meant Black in the Jim Crow South. Navigating the binary racial world, Chinese immigrants taught their children at home or sent them to China for education. Some could enroll their children at a white school when there were only one or two Chinese families living in the district and white residents did not see them as a threat.



Marth Lum’s story unfolded against this backdrop. Marth’s parents, Katherine and Jeu Gong Lum, migrated from China and settled in Rosedale, Mississippi, running a grocery there. In the 1923-24 school year, then 8-year-old Martha and her sister Berda could attend the all-white Rosedale public school in their neighborhood. Then, on the first day of the next school year, they were summoned to the principal’s office and told that they were no longer welcome at the school because they were not white.

Martha’s parents filed suit in local court, arguing their daughters were not “colored” and, as U.S.-born citizens, their daughters had the right to attend a public school. The Bolivar County Judge ruled in favor of Martha’s family. The school district’s board trustees appealed to the state Supreme Court, which reversed the previous decision in *Rice v. Lum* (1925):

We think that the constitutional convention used the word “colored” in the broad sense rather than the restricted sense; its purpose being to provide schools for the white or Caucasian race, to which schools no other race could be admitted, carrying out the broad dominant purpose of preserving the purity and integrity of the white race and its social policy.

Rice v. Gong Lum, 139 Miss. 760, 104 So. 105 (1925)

May 11, 1925 · Mississippi Supreme Court · No. 24773
139 Miss. 760, 104 So. 105

In our state no statute has defined the term “colored race,” and, considering the policy of the state indicated above, we think that the constitutional convention used the word “colored” in the broad sense rather than the restricted sense; its purpose being to provide schools for the white or Caucasian race, to which schools no other race could be admitted, carrying out the broad dominant purpose of preserving the purity and integrity of the white race and its social policy.

Martha’s family appealed, and the case went to the US Supreme Court. In November 1927, the court issued a unanimous ruling in confirmation of the state Supreme Court. Citing *Plessy v. Ferguson* and other state cases adjudicating the issue of “separate but equal” education, the court held that the states maintained the authority to establish “separate but equal” schools without violating the Fourteenth Amendment:

GONG LUM ET AL. v. RICE ET AL.

ERROR TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI.

No. 29. Submitted October 12, 1927.—Decided November 21, 1927.

A child of Chinese blood, born in, and a citizen of, the United States, is not denied the equal protection of the laws by being classed by the State among the colored races who are assigned to public schools separate from those provided for the whites, when equal facilities for education are afforded to both classes. P. 85.

139 Miss. 760, affirmed.

Frustrated with the court decision, Martha's family moved to Arkansas and settled in a town where Martha and her siblings could attend a white school. In the late 1930s Mississippi formally established segregated schools for Chinese students.

To note, although Martha's parents sought to provide their daughters with access to a quality education, their lawsuit did not challenge the constitutionality of segregated education. Instead, it challenged their daughter's classification as "colored," which was unsuccessful and thus affirmed the application of the "separate but equal" doctrine to Chinese Americans.

An Inquiry Lesson on Three Court Cases

Taken together, the three court cases disrupt dominant narratives of school segregation. First, the cases reveal that Asian Americans were no stranger to the history of fighting against separate and unequal education. Second, the cases challenge racialization of Asian Americans as passive victims by showcasing Asian American resistance against racial discrimination. Third, the cases unsettle the dominant belief of racism as "bad men doing bad things" by debunking white supremacy encoded in educational laws and court rulings. Fourth, the three cases, when compared, reveal how international contexts and U.S. foreign policies play a significant role in shaping Asian American experiences.

An inquiry lesson is suggested in the following pages, which is adapted from Dr. [Sohyun An's C3 Framework Inquiry Lesson](#). Below are suggested resources for teachers and students for further information.

- ***The Bricks before Brown:*** The Chinese American, Native American, and Mexican Americans' Struggle for Educational Equality by Marisela Martinez-Cola
- [First Graders' Inquiry into Multicolored Stories of School \(De\)Segregation](#) by Sohyun An
- [Sarah's Long Walk, a book about Roberts v. Boston of 1849](#) by Stephen Kendrick and Paul Kendrick

High School Inquiry Lesson

How did Asian Americans challenge separate and unequal education in the late 1800s and early 1900s?		
GA Standards	<p>SSCG7: b. Define civil rights as equal protections for all people.</p> <p>SSUSH13: c. Connect the decision of <i>Plessy v. Ferguson</i> to the expansion of Jim Crow laws and the formation of the NAACP.</p> <p>SSCG12. Describe the tools used to carry out United States foreign policy, including diplomacy and treaties; economic, military, and humanitarian aid; and sanctions and military intervention.</p>	
C3 Framework Indicator	<p>D2. His.1.6-8. Analyze connections among events and developments in broader historical contexts.</p> <p>D2. His.14.6-8. Explain multiple causes and effects of events and developments in the past.</p> <p>D2. His.1.9-12. Evaluate how historical events and developments were shaped by unique circumstances of time and place as well as broader historical contexts.</p> <p>D2. His.14.9-12. Analyze multiple and complex causes and effects of events in the past.</p>	
Staging the Question	<p>Ask students, “Which historical figures, groups, or events come to your mind when you hear the word school segregation?” Draw a concept map of school segregation on the board based on what students share. Engage students in conversation on where Asian Americans might fit into the concept map and which school Asian American students might have gone to in the pre-Brown era and why.</p>	
Supporting Question 1	Supporting Question 2	Supporting Question 3
How did Mamie Tape’s family challenge school exclusion of Chinese American students in the late 1800s in California?	How did Keikichi Aoki’s family challenge school segregation of Japanese American students in the early 1900s in California?	How did Martha Lum’s family challenge school segregation of Chinese American students in the early 1900s in Mississippi?
Formative Performance Task	Formative Performance Task	Formative Performance Task
Write one to two paragraphs that answer supporting question 1 using evidence from the sources.	Write one to two paragraphs that answer supporting question 2 using evidence from the sources.	Write one to two paragraphs that answer supporting question 3 using evidence from the sources.
Featured Sources	Featured Sources	Featured Sources
<p>Source A: Tape v. Hurley court decision</p> <p>Source B: California school laws in 1860s-1880s</p> <p>Source C: News clippings on Tape v. Hurley case</p> <p>Source D: Ms. Tape’s protest letter</p> <p>Source E: Tape family picture</p>	<p>Source A: Aoki v. Deane Respondent’s brief</p> <p>Source B: Theodore Roosevelt’s Annual message to Congress</p> <p>Source C: Photos, newspaper clipping, cartoons about Aoki v. Deane</p>	<p>Source A: Lum v. Rice of 1927 decision</p> <p>Source B: Rice v. Lum of 1925 decision</p> <p>Source C: Oral history interviews of Chinese Americans about schooling in Jim Crow South</p> <p>Source D: Photographs of segregated Chinese school and Chinese American students in <i>Mississippi</i></p>
Summative Performance Task	<p>Argument Construct an argument that discusses the compelling question using specific claims and relevant evidence from historical sources while acknowledging competing views.</p>	
	<p>Extension Develop a diagram or other visualization of how Asian American experiences of separate and unequal education were shaped by international, national, regional contexts.</p>	

Featured Sources	
Supporting Question 1	<ul style="list-style-type: none"> ● Tape v. Hurley decision ● California school laws in 1860s-1880s ● “The Chinese School Problem.” Daily Alta California, March 5, 1885 ● “Chinese Mother’s Letter.” Daily Alta California, April 16, 1885 ● Tape family picture and newspaper articles on Tape v. Hurley case
Supporting Question 2	<ul style="list-style-type: none"> ● Aoki v. Deane Respondent’s brief ● Theodore Roosevelt’s Annual message to Congress ● Photos, newspaper articles, cartoons about Aoki v. Deane ● News articles, telegrams, letters, and confidential memos on Gentlemen’s Agreement
Supporting Question 3	<ul style="list-style-type: none"> ● Lum v. Rice of 1927 decision ● Rice v. Lum of 1925 decision ● Photographs of Chinese American students in a segregated Chinese school in Mississippi ● Oral interview transcripts of Chinese Americans about schooling experience in Mississippi in the early 1900s 1 ● Oral interview transcripts of Chinese Americans about schooling experience in Mississippi in the early 1900s 2 ● Oral interview transcripts of Chinese Americans about schooling experience in Mississippi in the early 1900s 3