



The *Loyola Public Interest Law Reporter* is an innovative legal publication that focuses on reporting the most current legal topics in a news format directed to students, educators and practitioners. *PILR* is edited and produced by Loyola students and is housed within the Center for Public Service Law. Founded in 1995, *PILR* offers feature articles and news of legal developments in the areas of human rights, economic justice, criminal justice, the environment, and governance. In addition to an editorial staff selected through a write-on process, Loyola law students direct all aspects of *PILR*'s research, writing, graphics, production and business management.

**Editor-in-Chief**

Holly Carnell

**Managing Editor**

Aaron Purser

**Senior Features Editors**

Lesley Shermeta

Cerise Fritsch

**Senior News Editors**

Corinne Blank

Lindsey Keller

**Symposium Editor**

Margaret Egan

**Assistant Symposium Editor**

Lindsay Dates

Elizabeth Nelson

Danielle Luisi

**Staff Writers**

Ana Maria Echiburu

Matthew T. Glavin

Noah Hurwitz

Chantal Kazay

Christina Laga

Jason Lewis

Jessica Lienau

“Bill” Metzinger

Jeremy Moorehouse

Sameena Mohammed

Christy O’Berry

Lauren Rafferty

Clay Rehrig

Angie Robertson

William Tasch

Jennifer Weed

Ann Weilbaecher

Liz Winiarski

**Faculty Advisor**

Henry Rose, J.D., Associate Professor, Loyola University Chicago  
School of Law

---

TABLE of CONTENTS

FEATURE ARTICLES

<i>Dean Michael Kaufman</i>	v	<b>Foreword</b>
<i>Jonathan Baum</i>	221	<b>What did <i>Brown</i> Do? A Legal and Personal Journey</b>
<i>G. Robb Cooper and James Prescott</i>	231	<b>What Did <i>Brown</i> Do for You? <i>Brown v. Board</i> Fifty Years Later</b>
<i>Allan Alson and Elizabeth Nelson</i>	242	<b>Educational Impact of Resource Allocation Differences Between Suburban and Urban High Schools</b>
<i>Michael Klonsky</i>	255	<b>Chicago’s School Reform: No “Miracles” Here</b>
<i>Eric S. Tars</i>	267	<b>Separate &amp; Unequal in the Same Classroom: Homeless Students in America’s Public Schools</b>
<i>Laurene M. Heybach</i>	281	<b>Advocacy and Obstacles in the Education of Homeless Children and Youth in Illinois</b>
<i>Cary M. Martin</i>	294	<b>Homeless Education: Unveiling the Truth Behind Beating the Odds</b>
<i>Margaret Egan</i>	bi	<b>Afterword</b>



# Foreword

*by* DEAN MICHAEL KAUFMAN

In his inaugural address, the 44th President of the United States warned that “our schools fail too many.” President Obama, however, declared that we can “transform our schools to meet the demands of a new age,” but only if “our imagination is joined with common purpose, necessity with courage.”

In the articles presented in this important *Public Interest Law Reporter* Symposium Issue, “Separate and Unequal? The Socioeconomic Realities of Public Education in America,” the authors join their “courage” with the “necessity” to improve our nation’s schools, and their “imagination” with the “common purpose” of providing educational equity and excellence for our children. Each of these authors recognizes that there are gross disparities in educational funding in Illinois and throughout the country. As a consequence, many children do not receive even a minimally adequate education, particularly children of color, children in high poverty districts and homeless children.

In his article, Jonathan Baum, Director of Pro Bono at Katten Muchin Rosenman, LLP, demonstrates that the Supreme Court's recent decisions have undermined the promise of *Brown v. Board of Education*, frustrating efforts toward racial integration and educational equality. Mr. Baum answers the question, "What did *Brown* do for you?" from two perspectives: as a practitioner of civil rights law, and as a steward of a racially integrated school system. Mr. Baum contends that the Supreme Court's recent opinion *Parents Involved in Community Schools v. Seattle School District No. 1* represents the ultimate retreat from the promise of *Brown*. Accordingly, Mr. Baum concludes that whatever *Brown* was going to do, it has already done.

In their companion article, "What Did *Brown* Do For You: *Brown v. Board* 50 Years Later," Dr. G. Robb Cooper and James Prescott share Mr. Baum's analysis of the legacy of *Brown*, but offer practical steps towards bridging the racial gap in education. Mr. Cooper and Mr. Prescott argue that more funds should be precisely tailored towards prenatal care, early childhood education and parental training.

In his article, "Educational Impact of Resource Allocation Differences Between Suburban and Urban High Schools," Allan Alson, Associate Director for Leadership Consortium for Education Change, and Elizabeth Nelson, a Loyola Law Student, demonstrate just how much money really "matters" in the educational opportunities afforded children. By comparing a suburban high school with urban high schools in the Chicago Public School District, Dr. Alson and Ms. Nelson persuasively show that the allocation of additional resources toward effective educational programs significantly improves learning outcomes.

Michael Klonsky, the Director of the Small Schools Workshop, questions the efficacy of various efforts to "reform" the Chicago Public Schools. In "The Terms of Chicago's Consent Decree: There are No 'Miracles' Here," Mr. Klonsky analyzes the small schools movement and Chicago's proposed "solutions" to an inadequate school system, including selective enrollment schools, charter schools, and Renaissance 2010. Mr. Klonsky argues that none of these proposed solutions have substantially narrowed the dramatic gap in achievement that persists along racial and socioeconomic lines.

This symposium issue also brings together authors who show how the educational system works to the particular disadvantage of homeless students. Eric S. Tars, Children and Youth Staff Attorney at the National Law Center on Homelessness and Poverty, contends that the deprivation of education to

homeless children is not just a violation of federal law, it is an affront to human rights. In his article, “Separate & Unequal in the Same Classroom: Homeless Students in America’s Public Schools,” Mr. Tars describes the barriers to homeless students’ education and the legal mechanisms developed to address those barriers. He believes that advocates for homeless students and advocates for minority students face similar legal and political hurdles, and therefore should adopt a unified strategy to remove those hurdles.

Laurene M. Heybach, Director of the Law Project at the Chicago Coalition for the Homeless, exposes the fact that more than 10,000 children in the Chicago Public Schools are homeless, most of whom are children of color. These children face unique educational challenges. In her article, “Advocacy and Obstacles in the Education of Homeless Children in Illinois,” Ms. Heybach argues that homeless children are overlooked by public school districts, which often take legal positions that effectively push them away.

Cary M. Martin, an attorney at Sidley Austin LLP, tells her own story of the barriers she confronted to education while a homeless student. In “Homeless Education: Unveiling the Truth Behind Beating the Odds,” Ms. Martin argues that children who are identified as homeless need not have a certain level of skill or intelligence to overcome the odds that they will remain victims of poverty. Rather, they need the assistance of adequately funded local and national support networks. She exposes the common misperception that children who do not break free from the cycle of poverty fail to do so due to a “lack of intelligence, drive or self-motivation.” As Ms. Martin’s personal experience as a homeless child reflects, this misperception itself perpetuates poverty and homelessness. Ms. Martin also critically analyzes the scope and limits of the federal McKinney-Vento Homeless Assistance Act.

Together, all of these authors confront the reality that American public education is both separate and unequal. Despite the promise of *Brown*, disparities in educational opportunities persist, and have dramatic consequences in the lives of too many children. These authors have, however, offered imaginative and courageous approaches toward coming at least a bit closer to the goal of educational equity and excellence. As such, this special issue of the *Public Interest Law Reporter* will prove to be both timely and timeless.



# WHAT DID *BROWN* DO? A LEGAL AND PERSONAL JOURNEY

by JONATHAN BAUM

*Brown v. Board of Education* was more than just a legal ruling; it was a social watershed. *Brown* struck down state laws that had mandated racial segregation in schools because such separate educational facilities were inherently unequal.<sup>1</sup> The legacy of *Brown* is inspiring but complicated. More than fifty years later, each of us is left asking: “What Did *Brown* Do?” As a student and practitioner of civil rights law and as the product, and then a steward, of a racially integrated school system, I bring to this question two different perspectives.

I have practiced civil rights law for more than twenty-five years and most recently co-authored an amicus brief, on the losing side, in *Parents Involved in*

*Community Schools v. Seattle School District No. 1*. As I will discuss, the United States Supreme Court's 2007 decision in *Parents Involved* represents the ultimate retreat from the promise of *Brown*. We have gone from "you must desegregate your schools" in 1954, to "you need not desegregate your schools if the segregation is only 'de facto'" in the 1970s, to "you are forbidden to desegregate your schools if the segregation is *de facto*" in 2007.<sup>2</sup>

My personal journey through this period began with my enrollment, in 1966, as an elementary school student in the Evanston public schools precisely because that school system was committed to racial integration. More recently, my journey has continued as a member of the Board of Education for that same school district, from 2003 to 2007, struggling to preserve a commitment to racial integration from assaults both legal and political.

An examination of what *Brown* "did" really must begin with the question; what was it supposed to do? There are sharply divergent views on this, even on the United States Supreme Court. As reflected in the *Parents Involved* opinions, Chief Justice Roberts and Justices Alito, Scalia, and Thomas believe that *Brown* was supposed to end the assignment of children to schools on the basis of their race, no more and no less.<sup>3</sup> Justices Breyer, Ginsburg, Souter, and Stevens believe, on the other hand, that *Brown* sought racially integrated schools, because, in the words of Justice Thurgood Marshall, "unless our children begin to learn together, there is little hope that our people will ever learn to live together."<sup>4</sup> Finally, still others believe that the objective of *Brown* was even more ambitious: to improve the quality of education afforded to all children, especially those of minority races.

In the first decade after *Brown* was handed down, none of these three objectives were achieved in any substantial measure. There was the occasional, highly publicized integration of a previously segregated school system, Little Rock, Ark., being perhaps the most famous, but the vast majority of minority children remained locked in racially isolated schools.<sup>5</sup> This began to change in 1964, with the passage of the Civil Rights Act.<sup>6</sup> This law gave willing national administrations the "stick" of withholding federal aid to force desegregation plans on recalcitrant school systems.<sup>7</sup> This change in the law, coupled with a growing popular commitment to racial integration, produced tremendous reductions in school segregation in that first decade.<sup>8</sup> Many more children were attending school with children of races different from their own.<sup>9</sup> In addition to those communities forced to desegregate their schools, many communities

around the nation, inspired by the promise of *Brown*, began to voluntarily racially integrate their schools.<sup>10</sup> One such community was Evanston, Ill.

My family moved to Evanston when I was in fourth grade. My parents specifically chose Evanston because they wanted my siblings and I to attend integrated schools. In 1967, the Evanston public schools, which never engaged in segregation by law, nevertheless undertook a voluntary desegregation plan.<sup>11</sup> Evanston was, and still is, like most American communities, racially segregated in its housing patterns. The “attendance areas” for most of the district’s schools were virtually all white, while a few were virtually all black. The school authorities of Evanston understood that if they simply honored this “natural” separation of the races, they would be acquiescing in racially segregated schools in perpetuity. The school authorities therefore began a long-term effort to achieve what is disparagingly referred to by critics of integration efforts as “racial balance.” They began by closing the main “black” school and reassigning its students to previously “white” schools. In subsequent years, they adopted a “60 Percent Guideline,” a goal (not a rigid quota) that no school’s population be more than 60 percent of any one race.<sup>12</sup> They employed specific measures to achieve that goal, most notably: (1) periodic redrawing of the attendance areas of the various schools, (2) the granting (or withholding) of permissive transfers to schools in attendance areas other than that in which the applicant child resided, and (3) establishment of magnet schools.<sup>13</sup> Admission to the magnet schools was not merit-based but by lottery, but the lottery results were “tweaked” depending on whether the particular applicant would help or hinder both the sending and receiving school in complying with the 60 percent guideline.<sup>14</sup>

I attended these racially integrated schools, as my children do now. I can only answer the specific question, “What did *Brown* do for you?” by quoting from Justice Stevens’ dissenting opinion in *Parents Involved*: “While the focus of our opinions is often on the benefits that minority schoolchildren receive from integrated education,” he wrote, “children of all races benefit from integrated classrooms and playgrounds.”<sup>15</sup> I am certain that I am a better person, a better parent, a better neighbor, a better boss and a better citizen by virtue of having been educated in racially integrated schools.

In the meantime, as Evanston was voluntarily desegregating, a backlash set in against school desegregation nationally. Fueling this backlash was the fact that the effort to desegregate schools had moved out of the narrow confines of the

“peculiar” south to the large urban school systems in the rest of the nation. Prominent national politicians rode this anti-integration wave, segregated school systems were no longer threatened with the loss of federal funds, and the United States Supreme Court itself retrenched. In a series of decisions culminating in *Milliken v. Bradley*, a new Supreme Court majority vigorously embraced the distinction between “*de jure*” segregation, children of different races going to different schools because of an explicit legal requirement, and “*de facto*” segregation, children of different races going to different schools as a result of “natural forces” such as housing patterns.<sup>16</sup> *De jure* segregation had to be rectified; *de facto* segregation did not.<sup>17</sup> So, in *Milliken*, a federal court could not impose a desegregation plan involving reassignment of children in the Detroit school district (virtually all black) together with children from the surrounding suburban school districts (virtually all white), because the suburban districts had not previously segregated black children, there were none, by law.<sup>18</sup> That this made it impossible to racially integrate the Detroit schools was a consequence the Court’s majority was willing to accept.

*Milliken* was the beginning of the end for efforts to achieve racial integration of the schools through judicial remedies. Court rulings like *Milliken* and a retreat in American public opinion from the ideal of racial integration combined to not only stall, but actually roll back, the promise of *Brown*. Since the mid-1970s, nationwide the percentage of minority children attending racially segregated schools has consistently increased and continues to do so.<sup>19</sup>

Still, there was Evanston and numerous other communities like it around the nation. These were communities, some with a prior history of *de jure* segregation, some without, with a local commitment to racially integrated schools, regardless of the retreat from the promise of *Brown* by the Court and the national public.

In 2003, I was elected to the Board of Education of the Evanston school district I had attended and to which I now send my children. I ran for the Board principally because I saw the district’s commitment to racial integration under attack, not from court decisions but from local political forces. A group of older African-American activists had begun a campaign to eliminate the 60 percent guideline and re-establish a “neighborhood” school in Evanston’s virtually all-black Fifth Ward. These activists, almost none of whom actually had children in the schools, waxed nostalgic about the “sense of community” in the segregated school that had been closed in order to bring about racial integra-

tion. Most important, to focus on the precise topic of this program, these activists had concluded that *Brown*, or racial integration, had not “done anything” for their community. While having white children sit beside black children in Evanston classrooms might please the sensibilities of Evanston’s largely liberal white population, they complained, racial integration had failed to eliminate the huge “achievement gap,” as reflected on standardized tests, between children from Evanston’s predominantly low-income black families and its almost-exclusively college-educated white ones. Overlooked, however, was the fact that African-American students in Evanston performed significantly better on standardized tests, had a higher graduation rate, and were more likely to go to college than African-American students in Illinois or the nation as a whole.<sup>20</sup>

To illustrate how law and local politics can overlap, the Evanston activists’ critique of racial integration in the schools was echoed by United States Supreme Court Justice Clarence Thomas. Justice Thomas wrote in his *Parents Involved* opinion that, “nothing but an interest in classroom aesthetics and a hypersensitivity to elite sensibilities justifies the school districts’ racial balancing programs.”<sup>21</sup> Studies of the impact of racial integration on African-American student achievement, Justice Thomas noted, correctly, were divided on its value.<sup>22</sup> “Given this tenuous relationship between forced racial mixing and improved educational results for black children,” Justice Thomas concluded, it cannot be “plausibly maintained” that “an educational element supports the integration interest, let alone makes it compelling.”<sup>23</sup> Indeed, the push for racial integration was, in the view of Justice Thomas and the Evanston activists, not merely unnecessary but insulting. Justice Thomas wrote, “[t]here is no reason to think that black students cannot learn as well when surrounded by members of their own race as when they are in an integrated environment.”<sup>24</sup>

What of the social benefits of racial integration and the interest in producing an educational environment that reflects the pluralistic society in which our children will live? Justice Breyer denominates this as the “democratic element” supporting desegregation.<sup>25</sup> Justice Thomas perfunctorily dismisses this: “Students of different races within the same school may separate themselves socially” anyway, and besides, “[s]ome studies have found that a deterioration in racial attitudes seems to result from racial mixing in schools.”<sup>26</sup>

Once on the Evanston Board of Education, I succeeded in pushing through a reaffirmation, albeit a tepid one, of the 60 percent guideline. The idea of a new

Fifth Ward school was shelved because there was no money to build one and the existing schools had excess capacity anyway. However, the notion that there was a conflict between racial integration and African-American student achievement would not go away. In my third year on the Board, the same group of activists began lobbying for the establishment of classrooms with an “African-Centered Curriculum,” (ACC), at existing Evanston schools.<sup>27</sup> It was only by black students learning together, immersed exclusively in the culture that was uniquely theirs, the activists argued, that they could achieve their full academic potential.<sup>28</sup>

Invoking the school district’s mission statement, which committed the district to “integrated education” and a “multicultural” curriculum, I opposed the ACC program.<sup>29</sup> I enlisted the support of nationally-renowned educator Jonathan Kozol, author of *Savage Inequalities* and other books on race and education.<sup>30</sup> Mr. Kozol wrote a public appeal to my fellow Board members praising Evanston as “a rare and distinguished exception to the present very dangerous pattern of resurgent racial segregation in the nation’s public schools.”<sup>31</sup> He urged the Board members to “resist this betrayal of *Brown v. Board of Education*.”<sup>32</sup> He wrote, “I would be heartsick to have to report to my friends among the education leaders of this country that Evanston has chosen to give up the ethical distinction for which it is renowned.”<sup>33</sup> Mr. Kozol concluded bluntly, “I beg you not to do this.”<sup>34</sup>

The debate in the community grew quite heated. Some African-American parents contacted me privately to express their opposition to ACC but declined to go public with their views for fear of “breaking ranks.” To my shock and dismay, I was loudly and repeatedly denounced as a “racist” which is, of course, the sharpest sword you can brandish against a white person in a liberal community like Evanston. My fellow white Board members expressed their fears about being similarly labeled, and the Board approved the ACC on a five-to-two vote.

Coincidentally, at the same time as I was fighting the racial integration battle locally, I was also fighting it as a civil rights lawyer nationally. I joined a group of attorneys in my firm who prepared an amicus brief for the Anti Defamation League (ADL) in the *Parents Involved* case.<sup>35</sup> The issue presented in *Parents Involved* was whether the Seattle, Wash., and Louisville, Ky., school districts were barred by the Equal Protection Clause from using race as a factor in magnet school admissions in order to maintain racially integrated schools in

the face of racially segregated housing patterns.<sup>36</sup> The position of the ADL in this litigation, supporting the two school districts, was noteworthy because ADL has been most prominent for its strong and persistent opposition to the use of racial quotas.<sup>37</sup> But ADL recognized the difference between the use of race to bring our children together and the use of race to keep them apart.<sup>38</sup> ADL came to appreciate the “compelling interest” in children of different races learning together in part from its experience operating the “A World of Difference Program,” in which thousands of teachers and peer trainers have brought literally millions of children of all races together in workshops teaching the values of tolerance and diversity.<sup>39</sup>

While the ADL may have come to appreciate the difference between employing race to include and employing race to exclude, such an awareness was noticeably lacking in the highest court in the land. Foreshadowing the ultimate result in *Parents Involved*, Chief Justice Roberts engaged, at oral argument, in a remarkable exchange with the attorney for the Seattle school district. When the attorney made the point that students denied admission to a magnet school in order to maintain racial integration were not thereby deprived of a quality education because they could still go to one of the district’s other schools, the Chief Justice asked: “How is that different from the separate but equal argument? In other words, it doesn’t matter that they’re being assigned on the basis of their race because they’re getting the same type of education.”<sup>40</sup> It was different, the Seattle attorney responded, “because the schools are not racially separate. The goal is to maintain the diversity that existed within a broad range in order to try to obtain the benefits that the educational research shows flow from an integrated education.”<sup>41</sup> However, the Chief Justice persisted: “I mean, everyone got a seat in *Brown* as well; but because they were assigned to those seats on the basis of race, it violated equal protection. How is your argument that there’s no problem here because everybody gets a seat distinguishable?”<sup>42</sup> Obviously exasperated with the moral obtuseness of the Chief Justice, the Seattle attorney responded bluntly: “Because segregation is harmful. Integration, as this Court has recognized in *Swann*, in the first Seattle case, has benefits.”<sup>43</sup> It is a sad day when the Chief Justice of the United States has to be reminded that integration is good and segregation is bad.

On May 15, 2007, I ended my term on the Evanston Board of Education, with the future of racial integration in its schools, as a local political matter, very much up in the air. Then, on June 28, 2007, the United States Supreme Court gave vital aid and comfort to those who want to retreat from the prom-

ise of *Brown*.<sup>44</sup> In its decision in *Parents Involved*, the Court held, by a five-to-four vote, that the Seattle and Louisville school districts had, indeed, violated the Equal Protection Clause by using race as a factor in school assignment in order to maintain racially integrated schools.<sup>45</sup> The Court held that these locally-adopted voluntary integration plans were subject to “strict scrutiny,” which meant that, in order to survive, they had to be “narrowly tailored” to serve a “compelling state interest.”<sup>46</sup> Four justices held that maintaining racially diverse schools simply was not “compelling,” so no race-conscious measures could be employed in service of that goal, end of case.<sup>47</sup>

Justice Kennedy, on the other hand, said that “a compelling interest exists in avoiding racial isolation, an interest that a school district, in its discretion and expertise, may choose to pursue. Likewise, a district may consider it a compelling interest to achieve a diverse student population.”<sup>48</sup> Unwilling to go as far as his four brethren, Justice Kennedy admonished that “to the extent that the plurality opinion suggests that state and local authorities must accept the status quo of racial isolation in schools, it is, in my view, profoundly mistaken.”<sup>49</sup>

Nevertheless, Justice Kennedy provided the crucial fifth vote to invalidate the Seattle and Louisville plans, because he concluded that they were not sufficiently “narrowly tailored” to serve even a compelling interest in racially diverse schools.<sup>50</sup> Specifically, he said that school districts may not advance their interest in racially integrated schools by assigning specific students to specific schools (or barring them from others) because of their race.<sup>51</sup> This leaves open, in Justice Kennedy’s view, numerous other ways school districts can “pursue the goal of bringing together students of diverse backgrounds and races.”<sup>52</sup> Justice Kennedy even provides a list of such “constitutionally permissible” alternatives: “strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance, and other statistics by race.”<sup>53</sup> Pretty weak medicine for curing entrenched racial segregation.

What does this mean for Evanston? Within weeks after the *Parents Involved* decision, the school district was threatened with a lawsuit challenging its use of race as a factor in magnet school admissions. With the commitment to racial integration so diminished already, the school board had little difficulty in quickly ending this “offensive” use of race. There was discussion of perhaps substituting the more constitutionally acceptable factor of “socioeconomic sta-

tus” for race, but this was deemed too troublesome a can of worms to open. Will race continue to be a factor in drawing Evanston attendance zones, a tool Justice Kennedy left the district with? This is doubtful, as schools in Evanston have been drifting outside the 60 percent guideline for years, some dramatically so, and there doesn’t appear to be any interest in redistricting to address this.

So, the bottom line more than fifty years after *Brown* is that it has been hollowed. Both courts and public officials continue to give lip service to “the value of diversity,” but the fact is that the United States Supreme Court has systematically reduced the number of weapons in the arsenal of a school district that wants to maintain racially integrated schools, and even in communities like Evanston, there is a diminished political will to use the few that remain. Perhaps the most honest answer, then, to the question, “What Did *Brown* Do For You?” is that whatever it was going to do, it has done.

---

## NOTES

- 1 *Brown v. Board of Education*, 347 U.S. 483, 495 (U.S. 1954).
- 2 *Id.*; *Milliken v. Bradley*, 418 U.S. 717, 752 (U.S. 1974); *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 127 S. Ct. 2738, 2768 (U.S. 2007).
- 3 *Parents Involved*, *supra* note 2 at 2768.
- 4 *Id.* at 2835 (citing *Milliken v. Bradley*, *supra* note 2 at 783).
- 5 *Congress Link: Major Features of the Civil Rights Act of 1964*, The Dirksen Congressional Center, (2006), [http://www.congresslink.org/print\\_basics\\_histmats\\_civilrights64text.htm](http://www.congresslink.org/print_basics_histmats_civilrights64text.htm).
- 6 *The Civil Rights Act of 1964*, Pub. L. No. 88-352 (July 2, 1964).
- 7 *Congress Link*, *supra* note 5.
- 8 *Id.*
- 9 *School Desegregation and Equal Educational Opportunity*, Civilrights.org, available at <http://www.civilrights.org/resources/civilrights101/desegregation.html>.
- 10 *Id.*
- 11 *Board Ponders Future of D65’s Racial Guideline*, EVANSTON REVIEW, June 6, 2002, available at <http://infoweb.newsbank.com/iw-search/we/infoWeb>.
- 12 *Id.*
- 13 *Supreme Court Ruling May Change Policy On Magnet School Selection*, EVANSTON REVIEW, July 5, 2007, available at <http://infoweb.newsbank.com/iw-search/we/infoWeb>.
- 14 *Id.*
- 15 *Parents Involved*, *supra* note 2 at 2798.
- 16 *Milliken*, *supra* note 2 at 752.
- 17 *Id.*
- 18 *Id.*
- 19 Kevin Drew, Harvard’s Civil Rights Project Tracks Schools and Desegregation, CNN.COM (May 17, 2004) available at <http://www.cnn.com/2004/LAW/05/15/harvard.report/index.html>.

- 20 Karen Berkowitz, *Achievement Gap Overshadows Gains*, EVANSTON REVIEW, Oct. 24, 2002, available at <http://infoweb.newsbank.com/iw-search/we/infoWeb>.
- 21 *Parents Involved*, *supra* note 2 at 2770.
- 22 *Id.* at 2821.
- 23 *Id.* at 2778.
- 24 *Id.*
- 25 *Id.* at 2779.
- 26 *Id.* at 2780.
- 27 *Parents Seek African Focus In Curriculum*, EVANSTON REVIEW, May 20, 2004, available at <http://infoweb.newsbank.com/iw-search/we/infoWeb>.
- 28 *Id.*; The absence of any research validating this theory was deemed inconsequential.
- 29 *Our Mission*, Evanston/Skokie School District 65, available at <http://www.d65.k12.il.us/>.
- 30 Jonathan Kozol, *Author Jonathan Kozol Asks D65 Not to Implement ACC*, EVANSTON ROUNDTABLE, Letters, Opinion, 7, (March 22, 2006).
- 31 *Id.*
- 32 *Id.*
- 33 *Id.*
- 34 *Id.*
- 35 Brief Amicus Curiae of Anti-Defamation League in Support of Respondents, *Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S. Ct 2738, 5 (U.S. 2007) (No. 05-908, 05-915), 2006 WL 3486958.
- 36 *Parents Involved*, *supra* note 2 at 2746.
- 37 Brief Amicus Curiae of Anti-Defamation League, *supra* note 35, at 1.
- 38 *Id.* at 7.
- 39 *Id.* at 12.
- 40 Transcript of Oral argument, *Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S. Ct 2738, 44 (U.S. 2007) (No. 05-908), 2006 WL 2486958.
- 41 *Id.*
- 42 *Id.* at 49.
- 43 *Id.*
- 44 *Parents Involved*, *supra* note 2 at 2738.
- 45 *Id.* at 2768.
- 46 *Id.* at 2751-2.
- 47 *Id.* at 2835.
- 48 *Id.* at 2797.
- 49 *Id.* at 2791.
- 50 *Id.*
- 51 *Id.* at 2792.
- 52 *Id.*
- 53 *Id.*

# WHAT DID *BROWN* DO FOR YOU? *BROWN V. BOARD* FIFTY YEARS LATER

by DR. G. ROBB COOPER AND JAMES PRESCOTT

*Brown v. Board of Education* is one of the few cases that most Americans recognize. The United States Supreme Court's decision in *Brown*, rejecting *Plessy's* "separate but equal standard," led to the Civil Rights Movement of the 1960s and the push to desegregate a variety of institutions, including schools.<sup>1</sup> However, since that landmark decision, *Brown's* practical impact has been ambiguous at best. Although *Brown* was successful in achieving general, racial desegregation and led to the end of Jim Crow laws, the Supreme Court also sought to ensure equality in opportunity beyond fiscal and staffing considerations. Thus, the achievement gap between whites and minorities remains. In mitigating the achievement gap, *Brown* has not done enough.

This article seeks to define what *Brown* has done and then what *Brown* has failed to do. First, it considers what the courts set out to achieve through its *Brown* decisions. Next, it considers whether the current state of education conforms to those goals by considering recent empirical studies measuring academic achievement for minorities and whites. It concludes that while *Brown* has done much and public education has come a long way, in order to further minimize the difference in achievement between races, the federal government should focus on legislative rather than litigious means. With an increased focus on prenatal and early childhood care and education, as well as parental training, the true purpose of *Brown* may be fully realized.

### *BROWN* AND ITS PROGENY

The standard extended by the *Brown* Court was surprisingly narrow in scope. Chief Justice Warren believed that educational segregation deprived minorities of intangible benefits, such as an ability to study and engage in discussion with students of other racial backgrounds.<sup>2</sup> “To separate [students] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.”<sup>3</sup> As segregation was inequitable due to its denial of such benefits, “separate but equal” was found to be a violation of the Fourteenth Amendment.<sup>4</sup>

While *Brown I* addressed what standard should be applied, *Brown II* concentrated on how to apply it. The Warren court hesitated to provide any concrete procedures as to how desegregation should be pursued, as it believed it would be better addressed by local courts.<sup>5</sup> The Court did provide a course of action as to how the local courts should apply these guidelines. While permitted to consider practical issues such as the physical condition of the schools and the school transportation system, lower courts were compelled to apply equitable principles in desegregating with all deliberate speed.<sup>6</sup> What this meant was that the school districts could consider personal preferences, but only to the extent that they would not infringe upon the public’s goal of desegregation or the expedited achievement of that purpose.

The effect of these decisions did lead to some desegregation, but the standard set by these cases was relatively ineffective and could be met by merely claiming an “open enrollment” policy, which gave students the choice to go to

whatever school they chose. This type of de facto segregation is what the Court addressed in 1968 with *Green v. County School Board of New Kent County*.<sup>7</sup> In that case, the school district offered the students the option to transfer to a different school as a means of satisfying their desegregation duty.<sup>8</sup> While reasonable in theory, the result was minimal desegregation as no Caucasian students transferred to the “black school,” while few African American students transferred to the “white school.”<sup>9</sup>

The Court, in *Green*, mandated that school districts had an affirmative duty to desegregate.<sup>10</sup> A plan must not merely address the issue of desegregation but effectively resolve it.<sup>11</sup> The Court recognized that there was no universal “cure” for segregation, and that for each district a plan would need to be customized.<sup>12</sup> While the school districts would be free to assess all practical circumstances, as permitted in *Brown II*, the school district had to demonstrably act in good faith and the plan had to have a significant chance to achieve desegregation at the earliest practicable date.<sup>13</sup> The plan need not be the “best” plan; it need only fit those parameters as defined above.<sup>14</sup> This idea of measuring desegregation not by policy neutrality but real world effectiveness of the plan was later upheld in *Brown III*.<sup>15</sup>

Desegregation standards seemed clear to school districts until 2007 when the Supreme Court decided *Parents Involved in Community Schools v. Seattle*, in which the Court seemingly stood *Brown* on its head.<sup>16</sup> In this case, the school districts involved bussed students from one school to another to ensure racial neutrality within the schools, seemingly as the earlier *Brown* cases had demanded that they do.<sup>17</sup> However, the Supreme Court, under Chief Justice Roberts, found that such activities were not constitutional in the given case.<sup>18</sup> Essentially, the Court found that the federal government’s interest was not in racial equality within its schools by itself, but for something much broader. The *Parents Involved* decision discusses diversity of a broader scale taking into consideration many different factors, of which ethnicity is but one part.<sup>19</sup>

The *Parents Involved* decision further stated that a strict adherence to racial composition would ensure that race would always be a factor in American life.<sup>20</sup> That strict adherence runs counter to the goal of the original *Brown* decision.<sup>21</sup> Rather the purpose was to ensure a broad array of viewpoints and perspectives leading to a more enriched educational experience for all students, regardless of classification.<sup>22</sup> Racial balance by percentages by itself was not a sufficient government goal to justify the policy.<sup>23</sup>

The progeny of *Brown*, including *Parents Involved*, signifies a dedication by the Court to not merely eliminate social racial barriers, but an intention to improve students' performance across the board. In a practical sense, this has not been the case as the empirical real world evidence shows; there has been no such marked improvement in student performance.

#### BROWN IN THE REAL WORLD

By some metrics, academic performances among minority groups and African Americans in particular have improved dramatically. Significantly more African Americans have high school educations now, in comparison with 1957, from 18.4 percent to 79.2 percent, and African Americans with a college degree have also increased sizably, from 2.9 percent to 17.2 percent.<sup>24</sup> In comparison, 88.7 percent of Caucasians have high school degrees now in comparison to 43.2 percent in 1957, and 29.4 percent have college degrees as opposed to 8 percent in 1957.<sup>25</sup> Dropout rates for African Americans have been cut in half since 1974, and college entrance rates have grown from 45.8 percent to 66.7 percent.<sup>26</sup> While disparities in degrees obtained between African Americans and Caucasians still exist, the gap continues to steadily narrow.

However, quality of education is not measured in completion alone, but also in skills obtained. In these metrics, there is a more exacerbated difference between minorities and Caucasians. African Americans and Latinos continually score significantly lower on tests than their Caucasian counterparts. The average African American or Hispanic elementary, middle, or high school student achieves scores comparable to a Caucasian student ranked in the lowest quartile.<sup>27</sup> While these gaps in achievement began to narrow in the 1970s and 1980s, this process stalled in the 1980s.<sup>28</sup>

These disparities are brought into sharper context when considered in light of each individual's performance. According to the 2000 National Assessment of Educational Progress reading assessment, 40 percent of Caucasian fourth graders scored at or above proficient, compared to only 12 percent of African American students, 16 percent of Hispanic students, and 17 percent of Native American students.<sup>29</sup> In math, 35 percent of white fourth graders scored at or above proficient, while just 5 percent of African Americans, 10 percent of Hispanics, and 14 percent of Native Americans scored as high.<sup>30</sup> If the tests had been applied based on aggregated student scores, nearly 40 percent of all stu-

dents would fail, but the failure rate for minority students could be as high as 80 percent.<sup>31</sup>

The education achievement difference persists into later education. In 2005 in math tests given to high school seniors, on a scale of 300, the average Caucasian score was 157, compared to 127 for African Americans and 133 for Latinos.<sup>32</sup> In reading tests, on a scale of 500, Caucasian students scored 293 on average, while African Americans averaged 267 and Latinos averaged 272.<sup>33</sup>

Although there have been some marked improvement in some metrics, American schools have yet to live up to the promise of *Brown* as there is significant racial disparity in academic performance. Thus the critical question becomes; what causes such a gap?

One explanation for the performance gap is that schools are not desegregating to the degree *Brown* envisioned. This is not a failure of *Brown*, but rather a reality of suburbanization and natural progression. *Brown* only mandated that school districts be desegregated, not states or other government entities.<sup>34</sup> Since 1954, there has been more “white flight” to the suburbs, with Caucasian students moving out of urban school districts.<sup>35</sup> School districts are “desegregated,” but only to the degree permissible by the concentration of minorities within an area. As a result, the average Caucasian student attends school with 81.2 percent Caucasian students and 18.8 percent minority.<sup>36</sup>

Other suggested reasons for the performance gap relate to insufficient desegregation, as primarily Caucasian suburban school districts have greater access to funding due to higher property taxes. Specifically, many contend that minority students are put at a disadvantage due to lower teacher to student ratios or decrepit school facilities, due to insufficient operating budgets.

Most people in the United States believe that lower teacher to student ratios would improve the quality of education.<sup>37</sup> However, a 2002 study found that lower teacher student ratios did not lead to higher SAT and ACT scores.<sup>38</sup> Indeed, when student to teacher ratios were under thirteen, the study suggested that students did worse on these exams.<sup>39</sup> Studies in England and the United States have also demonstrated a lack of correlation to class size and student performance.<sup>40</sup> On the other hand, there have also been studies that have shown some positive effect of small class size on class performance.<sup>41</sup> So while any definitive statement on the effectiveness of smaller class size is un-

warranted at this time, the United States Department of Education continues to support smaller class sizes as a remedy to flagging test scores.

Moreover, in a recent study, too little financial support was identified as the biggest problem facing our schools.<sup>42</sup> Again, the public's perception may not align with fact. Since 1970, the average amount spent per student has more than doubled, even after inflation has been taken into account.<sup>43</sup> Assuming that popular perception is correct that more money per student equates to higher academic performance, aggregate scores over that time should have increased. However, over that period aggregate scores in reading have remained consistent while math increased a mere six percent.<sup>44</sup> This is too much investment for negligible gain.

The judicial enforcement of equal opportunity can only be so effective; *Brown* has done all it can. If the United States is committed to improving their schools and minimizing the achievement gap, it must refocus on funneling its limited resources into programs that will provide the most benefit for all, which can only be achieved through legislation.

#### *BROWN AS IT SHOULD BE*

Given the achievement gaps and the additional strain placed on the government's funding abilities, it is vital that the government direct funding to areas where it would do the most good. While the achievement gap is serious, some of it should be naturally mitigated by future generations becoming more educated. To further minimize the difference in achievement between races, the federal government should focus on additional funding for widespread pre-school education, prenatal care and parental training advocating high parental involvement.

Some of the gaps in racial achievement should naturally decrease assuming a comparable increase in educational completion. Evidence demonstrates that the higher level of education the parents have completed, the higher the scores their children will obtain eventually.<sup>45</sup> As more minority students complete their education, the higher their children's scores will be. As the degree gap continues to narrow between Caucasians and minorities, so will the achievement gap.

Studies show that the benefits of preschool investment exist beyond academic achievement. Students who participate in preschool activities do more than achieve higher test scores later in life, but also obtain a host of other benefits.<sup>46</sup> Students are less likely to repeat a grade or need special education, and are more likely to attend college.<sup>47</sup> Moreover, students are less likely to participate in criminal activity, be unemployed and will generally have higher incomes than their peers.<sup>48</sup> They are also less likely to smoke, rely on public assistance or become teenage parents.<sup>49</sup> The total net impact of these benefits is a \$2 to \$4 return in investment on every government dollar spent on these programs.<sup>50</sup>

In terms of how successful these programs are in generating cognitive improvement, the results are mixed. Generally, most studies support that early education does provide tangible benefits for educational achievement. However, some studies are mixed and suggest that preschool can have a positive effect but only when continued with high quality education. Finally, Steven Levitt, of *Freakonomics* fame, suggested that any and all benefits that appear to derive from preschool could be attributed to other factors.<sup>51</sup>

The federal government is currently conducting an ongoing study regarding its Head Start program, which provides pre-school aged children of lower-income families with both educational and health services, while encouraging parental involvement.<sup>52</sup> The earliest portion of its study has shown that in general these services result in some benefit to the children in cognitive and social development.<sup>53</sup> The study is ongoing and will track these students through their educational progression.<sup>54</sup>

Another, proactive means of minimizing the achievement gap is through increased funding for prenatal care. African American parents are more than twice as likely to forego prenatal care as their Caucasian counterparts.<sup>55</sup> This type of care provides doctors with a vital opportunity to instruct expecting parents in nutrition and child care, and helps ensure the development of the child.<sup>56</sup> Without prenatal care, children are three times more likely to be born underweight and are five times more likely to die.<sup>57</sup> While there is some question as to whether increased prenatal care is the sole cause for these trends, as those mothers who do not receive such treatment are generally prone to more socioeconomic risks such as poverty and younger age, it generally agreed that prenatal care can mitigate the above concerns.<sup>58</sup>

Empirical studies have shown that lower birth weight does lead to some cognitive and social deficiencies. Children who have a lower birth weight are less likely to graduate from high school and go to college.<sup>59</sup> These children tend to perform worse in school and have lower I.Q.s, with an increased incidence of neurosensory impairments.<sup>60</sup> These problems tend to manifest by age eight and persist throughout the child's life.<sup>61</sup> In addition to cognitive disadvantages, studies have shown the children born under weight were found to be less active, vocal, responsive and cooperative.<sup>62</sup> These children also tend to have an abbreviated attention span and are less happy.<sup>63</sup>

Investment in prenatal care is vital in providing a solid baseline with which to begin child educational achievement. While prenatal care will not improve child performance, it would tend to insulate them from lower birth weights which act as a barrier.

One of the biggest influences on childhood development is parental involvement. Multiple studies have established that parental involvement in the form of interest in the child, particularly parent-child discussions can have a significant positive effect on a child's behavior and achievement, in spite of other socioeconomic factors.<sup>64</sup>

While it may seem that this parental involvement is relatively straight forward and does not require much training, optimal participation as defined by these studies requires more nuanced approaches and often runs against common sense. For example, studies have shown that an organized, structured home life can often stymie academic achievement.<sup>65</sup> Thus, parental participation should be curtailed as the child enters adolescence. In their exuberance to "push" their child to higher achievement, a diligent parent could actually limit their student's achievement.<sup>66</sup> As such, parental training is vital to help shape the parental involvement in ways that make the interactions as healthy and supportive as possible.<sup>67</sup>

## CONCLUSION

*Brown* was a momentous decision in our country's history, but its promise is not one that can be fulfilled by legal standards alone. While public education has come a long way in bridging the racial education gap in some areas, it still has a long way to go. While well-intentioned individuals have proposed in-

creasing staffing and funding in key areas to mitigate these problems, these plans may not be entirely effective. To a degree, some of the disparity in educational achievement will decrease as more minority individuals complete their education and have children. However, more funds should be focused on prenatal and early childhood care and education, as well as parental training. By focusing more on these areas and acting appropriately, the achievement gap can be greatly mitigated and the true purpose of *Brown* may be finally realized.

---

## NOTES

- 1 *Brown v. Board of Education of Topeka et al.*, 347 U.S. 483, 495 (1954).
- 2 *Id.* at 494.
- 3 *Id.*
- 4 *Id.* at 495.
- 5 *Brown v. Board of Education of Topeka et al.*, 349 U.S. 294, 299 (1955).
- 6 *Id.* at 300-01.
- 7 *Green v. County School Board of New Kent County et al.*, 391 U.S. 430 (1968).
- 8 *Id.* at 434.
- 9 *Id.* at 441-42.
- 10 *Id.*
- 11 *Id.*
- 12 *Id.* at 439-40.
- 13 *Id.* at 440-41.
- 14 *Id.*
- 15 *Brown et al. v. Board of Education of Topeka, Shawnee County, Kansas*, 892 F.2d 851 (1989).
- 16 *Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S. Ct. 2738 (U.S. 2007).
- 17 *Id.* at 2746.
- 18 *Id.* at 2767.
- 19 *Id.*
- 20 *Id.* at 2758.
- 21 *Id.* at 2767-68.
- 22 *Id.*
- 23 *Id.*
- 24 *Social/Economic Indicators: Comparing Brown Era Racial Disparities to Today*, Kirwan Institute for the Study of Race & Ethnicity, OHIO STATE UNIVERSITY, 3, Apr. 2004.
- 25 *Id.*
- 26 *Id.*
- 27 *Closing the Achievement Gap: The Impact of Standards-Based Education Reform on Student Performance*, U.S. Commission on Civil Rights, OFFICE OF THE GENERAL COUNSEL, 9, July 2, 2004, <http://www.law.umaryland.edu/marshall/usccr/documents/closingachiegap.pdf> (last visited Apr. 15, 2009), citing Robert Rothman, *Closing the Achievement Gap: How Schools Are Making It Happen*, JOURNAL OF THE ANNENBERG CHALLENGE, vol. 5, no. 2, Winter 2001/02, available at [http://www.annenbergchallenge.org/pubs/cj/gap\\_cj.htm](http://www.annenbergchallenge.org/pubs/cj/gap_cj.htm).
- 28 *Id.*

29 *Closing the Achievement Gap*, *supra* note 27 at 10-11, citing *Reaching Out: Raising African American Achievement*, U.S. DEPARTMENT OF EDUCATION, [http://www.ed.gov/nclb/accountability/achieve/achievement\\_aa.html](http://www.ed.gov/nclb/accountability/achieve/achievement_aa.html) (last visited Apr. 15, 2009); *Reaching Out: Raising Hispanic Achievement*, U.S. DEPARTMENT OF EDUCATION, [http://www.ed.gov/nclb/accountability/achieve/achievement\\_hisp.html](http://www.ed.gov/nclb/accountability/achieve/achievement_hisp.html) (last visited Apr. 15, 2009); citing *Raising American Indian Achievement*, U.S. DEPARTMENT OF EDUCATION, [http://www.ed.gov/nclb/accountability/achieve/achievement\\_native.html](http://www.ed.gov/nclb/accountability/achieve/achievement_native.html) (last visited Apr. 15, 2009).

30 *Id.*

31 *Closing the Achievement Gap*, *supra* note 27 at 11.

32 *National Center for Education Statistics*, U.S. DEPARTMENT OF EDUCATION, INSTITUTE OF EDUCATION SCIENCES, <http://nces.ed.gov/nationsreportcard/nde/criteria.asp>, (select grade 12 and subject math-new frame work; select national jurisdiction; select race/ethnicity major reporting group; select year 2005) (last visited Apr. 15, 2009).

33 *Id.* (select grade 12 and subject reading; select national jurisdiction; select race/ethnicity major reporting group; select year 2005).

34 *Brown*, *supra* note 1 at 495.

35 Kim M. Lloyd et al, *Trends in Educational Achievement of Minority Students since Brown v. Board of Education*, PRINCETON UNIVERSITY, 5, June 22, 2001, available at [http://www.texas10.princeton.edu/reports/misc/trends\\_in\\_ed.pdf](http://www.texas10.princeton.edu/reports/misc/trends_in_ed.pdf).

36 *Id.* at 15, tble 11.

37 Ninety-five percent of Americans polled believe that smaller class sizes would be extremely or somewhat effective in attracting and retaining “quality” teachers; See Lowell C. Rose and Alec M. Gallup, *The 39th Annual Phi Delta Kappa/Gallup Poll of the Public’s Attitudes Toward the Public Schools*, PHI DELTA KAPPA 33, 43, tbl 40, Sept. 2007, available at [http://www.pdkmembers.org/members\\_online/publications/e-GALLUP/kpoll\\_pdfs/pdkpoll39\\_2007.pdf](http://www.pdkmembers.org/members_online/publications/e-GALLUP/kpoll_pdfs/pdkpoll39_2007.pdf).

38 William L. Bainbridge, *SchoolMatch Analyzes High School Pupil/Teacher Ratios: Little Relationship Between High school Pupil/Teacher Ratios and Pupil Performance on Scholarship Examinations*, USA TODAY, Dec. 21, 2002, available at <http://schoolmatch.com/articles/hiclasssize.cfm>.

39 *Id.*

40 *Small class pupils ‘do no better,’* BBC NEWS, Jan. 5, 2005, available at <http://news.bbc.co.uk/1/hi/education/4146977.stm>; *Reducing Class Size, What Do We Know?*, U.S. DEPARTMENT OF EDUCATION, March 1999, [http://www.ed.gov/pubs/ReducingClass/Class\\_size.html](http://www.ed.gov/pubs/ReducingClass/Class_size.html) (last visited Apr. 15, 2009).

41 *Id.*

42 Lack of funding was consistently found the biggest problem facing American schools in Gallup Polls taken in 2004-2007, with approximately 20% of Americans finding it to be the biggest problem every year. Other factors included Lack of Discipline, Overcrowded Schools, Fighting, Lack of Quality teachers, Concern about Standards, and drug use by the student body; See Lowell C. Rose and Alec M. Gallup, *supra* note 37 at 44, tbl. 43.

43 Dan Lips et al, *Does Spending More on Education Improve Academic Achievement*, THE HERITAGE FOUNDATION, Sept. 8, 2008, available at [http://www.heritage.org/research/Education/bg2179.cfm#\\_ftn1](http://www.heritage.org/research/Education/bg2179.cfm#_ftn1).

44 *Id.*

45 *National Center for Education Statistics*, *supra* note 32, (select grade 8 and subject math; select national jurisdiction; select parent’s major reporting group); (select grade 8 and subject reading; select national jurisdiction; select parent’s major reporting group).

46 *The Economic Promise of Investing in High-Quality Preschool*, COMMITTEE FOR ECONOMIC DEVELOPMENT, 2006, <http://www.aap.org/advocacy/putchildrenfirst/background/summary-prek-econpromise.pdf> (last visited Apr. 15, 2009)

47 *Id.*

48 *Id.*

49 *Id.*

50 *Id.*

51 Steven D. Levitt and Stephen J. Dubner, *Freakonomics*, 167-76, (Harper Collins 2005).

52 42 U.S.C. § 9831.

53 Westat et al, *Head Start Impact Study: First Year Findings*, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, Office of Planning, Research and Evaluation Administration for Children and Families, June 2005, [http://www.acf.hhs.gov/programs/opre/hs/impact\\_study/reports/first\\_yr\\_execsum/first\\_yr\\_execsum.pdf](http://www.acf.hhs.gov/programs/opre/hs/impact_study/reports/first_yr_execsum/first_yr_execsum.pdf) (last visited Apr. 15, 2009).

54 *Id.*

55 *Late or No Prenatal Care*, CHILD TRENDS DATA BANK, tbl 1, <http://www.childtrendsdata.bank.org/indicators/25PrenatalCare.cfm> (last visited Apr. 15, 2009).

56 *Id.*

57 *Id.*

58 *Id.*

59 See generally Maureen Hack, M.B. et al, *Outcomes in Young Adulthood for Very-Low-Birth-Weight infants*, NEW ENGLAND JOURNAL OF MEDICINE, January 17, 2002, available at <http://content.nejm.org/cgi/content/abstract/346/3/149>.

60 *Id.*

61 Marcus Richards, *Birth Weight and Cognitive Function in the British 1946 Birth Cohort: Longitudinal Population Based Study*, MRC National Survey of Health and Development, UNIVERSITY COLLEGE LONDON, January 27, 2001, available at <http://www.bmj.com/cgi/content/full/322/7280/199>.

62 *Effects of health and nutrition on cognitive and behavioural development in children in the first three years of life. Part 1: Low birth weight, breastfeeding, and protein-energy malnutrition*, UNITED NATIONS UNIVERSITY, available at <http://www.unu.edu/unupress/food/v201e/ch07.htm#b3-Low%20birthweight>.

63 *Id.*

64 Charles Desforges and Alberto Abouchar, *The Impact of Parental Involvement, Parental Support, and Family Education on Pupil Achievements and Adjustment: A Literature Review*, UNITED KINGDOM DEPARTMENT FOR CHILDREN SCHOOLS AND FAMILIES, Research Report No. 433, 23-29, <http://www.dcsf.gov.uk/research/data/uploadfiles/RR433.pdf> (last visited Apr. 15, 2009).

65 *Id.* at 25-26.

66 *Id.*

67 *Id.*

# EDUCATIONAL IMPACT OF RESOURCE ALLOCATION DIFFERENCES BETWEEN SUBURBAN AND URBAN HIGH SCHOOLS

*by* ALLAN ALSON & ELIZABETH NELSON

Public schooling in the United States exists as a great equalizer for our society, providing a powerful opportunity to launch all children into the realms of academic and social success. This, in turn, places a special burden on our schools to strengthen the pillars of democracy by ensuring that this opportunity is equally distributed. Secretary of Education, Arne Duncan frequently espouses the belief that urban schools will succeed when they break the cycle of

poverty.<sup>1</sup> In order to accomplish this lofty goal, one may wonder: Is it necessary to equalize fiscal inputs in order to equalize academic outputs?

For many decades our country has debated, in public forums, legislatures and courts of law, the existing funding disparities among public schools and their resultant impact on student achievement. Studies of related effects, such as class size, teacher salaries and retention, and course offerings have yielded surprisingly uneven results. In turn, these studies have played a significant role in an array of case law findings, primarily in the states that generally have not overturned existing funding formulas.<sup>2</sup>

This article explores what achievement looks in one suburban high school, Evanston Township High School (ETHS), compared to various urban high schools in the Chicago Public Schools (CPS) system. A contextual background for each school system, including a statistical analysis relating to educational inputs and outputs will be provided. Furthermore, a discussion of how a significantly greater fiscal foundation can provide students with greater opportunities for success will demonstrate that extra funding and additional services do, in fact, make a difference.

## BACKGROUND

The suburban high school, ETHS, serves the community of Evanston and part of Skokie, Ill. This single school district borders the city of Chicago and is generally regarded as a quality educational institution that sends large numbers of its graduates to higher education and has won various academic awards. ETHS is both financially and racially diverse, 36 percent of the students are in poverty<sup>3</sup> (as determined by free and reduced lunch statistics) –with a racial breakdown of 47 percent white, 36 percent Black, 11 percent Latino, 3 percent multi-racial and 3 percent Asian.<sup>4</sup> On average, ETHS spends \$17,908 per pupil annually.<sup>5</sup>

In the CPS District there are 116 Chicago public high schools.<sup>6</sup> Not unexpectedly, there is enormous variation in student performance among these high schools. Overall, CPS high schools have a much higher poverty rate of approximately 85 percent,<sup>7</sup> and a racial breakdown of 46 percent black, 39 percent Hispanic, 8 percent white, 3 percent multi-racial, and 3 percent Asian.<sup>8</sup> Select enrollment schools tend to have lower poverty rates, are more mixed racially,

and have significantly higher achievement levels.<sup>9</sup> CPS has an operational expenditure of \$11,033 per pupil, nearly seven thousand dollars less than its neighboring suburb, Evanston.<sup>10</sup> The significantly higher poverty rate in Chicago poses academic and social challenges beyond what Evanston encounters. The cumulative impact of poverty has altered the landscape for these kids. Ultimately, this poverty means that kids are arising high school further behind than their Evanston counterparts. This reality is compounded by the resource differences between the two communities.

Review of the fiscal input data reveals evident disparities in what each school's yearly expenditures purchase, including length of the school day and year, class size, teacher salaries, education, and retention, after school opportunities, breadth and depth of class offerings, numbers of Advanced Placement (AP) courses and human resources devoted to student interventions and supports.

#### SCHOOL YEAR AND SCHOOL DAY

Evanston and Chicago each meet the minimum number of school days required by the state of Illinois, consisting of a 185-day school year to ensure 176 days of attendance.<sup>11</sup> There are some charter high schools that require a longer school year for students.<sup>12</sup> Both CPS and ETHS engage their teachers for the same number of days and provide similar time for professional development during the school year. The only exception to this similarity is that ETHS provides weekly late-start days for students so that teachers can work together on curriculum, instruction and analyzing student data. On average, principals in Evanston and Chicago work the same length school year and school day.

By far, the greatest difference between these districts is the length of the school day for students and teachers. CPS has the shortest high school day in Illinois, whereas ETHS has the longest. ETHS's student day is seven and one-half hours compared to approximately six and one-half hours for CPS high schools. This difference translates into 27 fewer school days per year for CPS's high school students. What does this time buy for Evanston's students and teachers?

First and foremost, ETHS has more instructional blocks of time which translates into an ability to offer a much more varied curriculum. By the completion of their high school career Evanston students are able to take one year of

math beyond calculus, study a world language for a year or two longer, have a greater choice of history electives, study science in greater depth, explore a longer sequence of (and more technologically rich) career courses and choose from approximately four to five times more AP classes than their Chicago counterparts. For example, in Evanston, 21.2 percent of students are enrolled in AP classes, with 78 percent of these students obtaining a three or higher on the AP exam.<sup>13</sup> Conversely, 12.3 percent of CPS students are enrolled in AP courses; only 27.4 percent of these students score a three or higher on the AP exam.<sup>14</sup> The enrichment opportunities can translate into both better preparation and a more favorable transcript for application to colleges and the working world.

This additional time at ETHS allows for the development of strategies that enhance graduation rates and diminish drop-out rates. Specifically, greater dollars for staff and more time enable Evanston students to repeat failed courses during the school year as well as in the summer. The most illustrative example is math: if an ETHS student fails the first semester of algebra, he or she can repeat it during the second semester and complete the course in the summer. In Chicago, the lack of time and money dictates that a student would need to wait for summer school to repeat that semester of algebra. One consequence of this curriculum constraint is that students with multiple failures have fewer chances to get back on track to graduate with their respective class or graduate at all. Sensing this inability to catch-up can contribute to the hopelessness that leads to students leaving school without obtaining a diploma.

In the case of ETHS, a longer workday for teachers translates into two time blocks available each day for preparation as compared to only one block in Chicago. Therefore, teachers have more time to assist students, engage in group planning, call parents and take a breath in their otherwise non-stop day. That extra time and the extra professionalism afford a more desirable work environment for teachers. This, in turn, becomes a factor in a teacher's decision to stay in the same profession and location.

#### CLASS SIZE

School districts with larger budgets tend to invest more money in human resources, namely teachers. A greater number of teachers means smaller class sizes and a wider range of educational and related services available to students.

Many studies indicate that students generally learn best in an educational environment characterized by relatively small class sizes.<sup>15</sup> In Chicago most high school teachers have 140 students, or 28 students per class.<sup>16</sup> By comparison, Evanston teachers have approximately 110 students.<sup>17</sup>

Teachers with fewer than thirty students in a classroom are more likely to give assignments of greater length more frequently and, in turn, provide more detailed feedback to their students. Managing group work and other activities that stimulate collaborative problem-solving are also more easily realized in classes with fewer students. Certainly, teachers are better able to build personalized classroom environments, considered an essential component for high school success, when they have fewer students per class. In addition, though teachers in general do not call parents enough, they are more inclined to do so when they have fewer students.

In addition to providing for smaller class sizes, schools must do their best to ensure that students spend their time in class effectively. Increasing time on task, particularly in reading and math, is necessary for students who enter high school below grade level. Those most likely to fall behind both in Evanston and Chicago are students on free and reduced lunch and students of color. In both communities those students are frequently one and the same. ETHS is able to use its additional revenues and extra time to provide double period math through 11th grade and double period reading through 10th grade. These double periods not only provide catch-up opportunities in math, but also enable students to complete a full college preparatory curriculum. However, these opportunities have only been possible in Chicago through temporary grant funding. This double period is available for one year less in Chicago than in Evanston. It is worth noting that while approximately 22 percent of ETHS students (virtually all poor and of color) arrive at high school below grade level in reading and math, the respective figure in some CPS high schools is three to four times that number, demonstrating the effectiveness of these double periods.

#### TEACHER PREPARATION, COMPENSATION AND RETENTION

Teacher preparation, compensation and retention are inextricably linked together in their impact on quality education. Students have a much greater chance of academic success and engagement when their teachers are better

prepared. That preparation includes a breadth and a depth of content knowledge, instructional repertoire and capacity to collaboratively analyze student work and reflect on their practice. In many ways these three factors create a vicious cycle in which less compensation and inferior working conditions draw less prepared teachers, leading to poorer pedagogy and diminished outcomes for students.

Teachers hired at ETHS are far more likely than their CPS counterparts to have gone to a college or university with a higher rated teacher education program, have a master's degree and have some prior teaching experience. Of course, one factor that lures teachers to Evanston is higher compensation. A starting teacher's salary at ETHS is approximately \$10,000 more than a first year teacher in Chicago receives. The average teacher salary in CPS schools is \$74,839,<sup>18</sup> while the average teacher salary in Evanston is \$84,431.<sup>19</sup> Using current salary figures, CPS teachers at maximum salary will receive around \$80,000, while teachers in Evanston will top out at nearly \$110,000.<sup>20</sup> When teachers are better paid and feel that they are well supported and have time to work with students, develop their skills, and engage with colleagues to improve their practice, they are more inclined to stay longer in the profession and at their current location. In fact, ETHS has far less turnover than CPS. The resulting stability affords students a learning environment where teachers are not only better prepared but are also more experienced and skilled at their craft, which translates into greater student engagement and academic success.

#### AFTER SCHOOL OPPORTUNITIES

Research clearly demonstrates that students who are involved in athletics and extracurricular activities have greater academic success than their peers. For poor students who lack a safe community environment and have few positive adult role models, after school activities enable them to be in a protected setting with an adult who can help them develop new interests and skills. Money provides the opportunity for schools to offer a wide range of programs that can meet the varied interests of students. Suffice it to say that ETHS is among the high schools in Illinois with the greatest number of athletic sports and teams. In addition, its rich variety of after school programs and clubs in the arts, politics, culture, student government and intramurals means that there is virtually "something for everyone." Unfortunately, resources in Chicago do not enable the high schools to match the wide collection of activities offered at

ETHS. The result is that far fewer students in Chicago will be engaged in fun and meaningful after school programs. Nevertheless, Chicago should be recognized and commended for its city-wide endeavor, After School Matters, which provides a wide array of social, cultural and art opportunities and strives to provide what the CPS budget will not allow.

#### STUDENT INTERVENTIONS AND SUPPORTS

High school students are at a difficult time in their lives. They are facing significant identity issues that are compounded by poverty and all of its related woes. For poor students who aspire to be the first college student in their family it can be especially challenging to navigate these uncharted waters. With this backdrop, students' experiences with violence, drugs, peer relationships and strife at home can result in emotional strains that require strong and supportive interventions. Additionally, students who enter high school behind in their academics, with low self-confidence and little resilience, as well as poor study and organizational skills, need specific support to help them surmount these barriers.

Again, available dollars translates into more academic counselors, better college and career centers, additional social workers, better health services, more tutoring, and teachers and administrators better equipped to respond to student needs. At ETHS there are academic tutoring centers for every subject available all day. Because ETHS has a longer school day, students have more opportunities to avail themselves of the subject supports and to visit the well-equipped college and career center. The student-counselor ratio at ETHS is 1:250<sup>21</sup> while in CPS high schools it is 1:450.<sup>22</sup> In addition, ETHS has an average of 6.5 social workers while most CPS high schools do not have one full-time social worker at their call.

Clearly, all of these factors combine to create and sustain opportunities for success in and beyond high school. It should be noted that the list above is not fully inclusive of the educational benefits gained by additional resources. Facilities, equipment, textbooks and technology all play a role in the probability of student academic success. Certainly, many CPS high schools and their students overcome the obstacles created by this very significant financial disparity. Students' path to success would be greatly eased if they could enjoy the services and supports that the extra dollars provide.

## FISCAL OUTCOME DIFFERENCES

Finally, it is, of course, the academic results that matter. With respect to outputs, it is essential to analyze measures that both indicate success while students are in school and after students leave high school. The measures we chose to determine school success include the Prairie State Achievement Exam (PSAE), average American College Testing Program (ACT) scores, and freshmen on-track to graduate rates. The PSAE is the state exam administered to all Illinois high school juniors and is used to determine Adequate Yearly Progress (AYP) for the No Child Left Behind Act. The ACT, embedded in the PSAE, is the college admissions test of choice for students in the Midwest. Post-high school indicators employed are graduation rates, drop-out rates and college attendance rates.

## TEST SCORES

In Evanston, there are significantly larger gaps in white-black and white-Latino test scores than in Chicago. Although results for poor and minority students in both communities fall below AYP standards, black and Latino students in Evanston outperform their peers in Chicago and in the state by significant margins on both the ACT and PSAE. In addition, far more ETHS students are meeting and exceeding state standards than those in Chicago. Statewide, 52 percent of students are meeting or exceeding standards as articulated by the PSAE.<sup>23</sup> In Chicago, 28 percent are meeting or exceeding this standard,<sup>24</sup> while in Evanston, this number exceeds the state average at 69 percent.<sup>25</sup> Similarly, the average ACT score in Evanston is 23.1,<sup>26</sup> whereas the average ACT score in CPS is 16.0.<sup>27</sup> The average for Chicago charter schools is slightly higher, at 16.5.<sup>28</sup>

Many would argue that although test scores are critical school accountability measures, they do not tell the full story about academic achievement. Graduation, dropout and college attendance rates more fully reveal students' life opportunities after high school. Therefore, it is imperative to address the discrepancies in the data to get the complete picture of student achievement.

## GRADUATION, DROPOUT, AND COLLEGE ATTENDANCE RATES

In the three areas of graduation rates, dropout rates and college attendance rates, ETHS students demonstrate far better performance than do CPS students. Overall graduation rates are 91.5 percent for Evanston<sup>29</sup> (four year rate) compared to 55 percent for Chicago (five year rate).<sup>30</sup> In Evanston, 86 percent of black kids graduate.<sup>31</sup>

Low attendance rates contribute to the discrepancy in the above referenced rates, compounding the achievement problem. Interestingly, however, attendance rates for CPS are 84 percent,<sup>32</sup> while attendance rates in Evanston are 95 percent.<sup>33</sup> Additionally, CPS has a dropout rate of approximately 42 percent<sup>34</sup> while ETHS's rate hovers below 2 percent.<sup>35</sup> For graduates of their respective high schools, approximately 45 percent of CPS students attend two or four year colleges and universities as compared to the nearly 90 percent of ETHS students who do so in four years.

When one looks only at poor students and students of color in Evanston the numbers drop, although they still exceed those in Chicago. For example, for poor students and those of color in Evanston, the graduation rate drops to about 86 percent, the dropout rate remains the same, and the college attendance rate falls to about 80 percent. Clearly, these ETHS students are not matching their white or wealthy counterparts, but the resources that define the quality of their education ensure that their foundation for life beyond high school is better established and that they have a greater foothold for the future than their CPS peers.

Only 45 percent of CPS high school graduates graduate from college within 6 years, compared to 64 percent of the national sample.<sup>36</sup> This graduation rate is directly correlated with each student's high school grade point average (GPA) – only 15 percent of those students with a 2.0 GPA or less graduate from college within six years, as opposed to 75 percent of those students who graduate college with a 3.6 GPA.<sup>37</sup> The implication of this reality is clear when one realizes that only about 6 percent of CPS high school freshman will graduate college.<sup>38</sup> Sixty-five percent of students from ETHS graduated from college.

COMPARISON OF CHICAGO PUBLIC HIGH SCHOOLS TO EVANSTON  
TOWNSHIP HIGH SCHOOL<sup>39</sup>

	<b>Chicago Public Schools</b>	<b>Evanston</b>
<b>Demographic Information</b>	46 percent black, 39 percent Hispanic, 8 percent white, 3 percent Asian, 3 percent multi-racial	47 percent white, 36 percent black, 11 percent Hispanic, 3 percent Asian, 3 percent multi-racial
<b>Percent Meeting Standard (PSAE)</b>	28 percent	69 percent
<b>Percent Meeting AYP<sup>40</sup></b>	Reading: 63 percent Math: 63 percent	Reading: 70 percent Math: 73 percent
<b>ACT College Readiness Benchmark</b>	Reading: 21 percent Math: 16 percent	Reading: 58 percent Math: 59 percent
<b>Low Income</b>	85 percent	36 percent
<b>Graduation Rate</b>	55 percent	92 percent
<b>Graduation Rate (black kids)</b>	51 percent	86 percent

#### POLICY IMPLICATIONS

In order to better equalize opportunities and outcomes for CPS high school students a variety of policies and practices will need to be altered. Foremost among these is the actual structure of school funding in Illinois. While school funding reform has been on the political landscape for over twenty years virtually no progress has been made. Simply put, unless CPS has more dollars it will not be able to address the organizational and instructional disparities that exist between itself and Evanston and other even more affluent suburbs. Whether it is through the courts or the legislature, a reduced reliance on property tax is critical to changing the distribution of educational dollars.

Funding differences also dramatically impact facilities, equipment, textbooks and supplies and technology. Very few, if any, CPS high schools can compete with ETHS in the provision of these capital goods. Greater funding equalization creates a more even playing field so that CPS can procure the quality materials necessary to support strong classroom instruction and student supports.

Moreover, improved instruction will require that the nation, state and universities as well as local school systems significantly alter the preparation, development, supervision and assessment of its teachers and leaders. In every case, more dollars are needed to build better candidate pools, create improved recruiting strategies, offer more effective professional development and design and implement supportive and accountable evaluation systems. All of this needs to be supplemented by a level of compensation that gives cities like Chicago a fighting chance when recruiting teachers and principals.

Perhaps of most immediate importance is using new funding to lengthen the school day. Helping students catch-up and accelerate their learning requires resources to expand curricular depth and variety, time-on-task, post-secondary planning, during and after school interventions and supports and athletic and extracurricular options that enhance student learning. CPS, along with its teacher union and administrative association should be exploring the means and resources necessary to lengthen the day for its high school students.

## CONCLUSIONS

What matters most, whether in Evanston or Chicago, is that the greatest number of students possible are ready to successfully confront their post high school challenges. Whether that means college or the working world, students must have a meaningful high school diploma that ensures that the academic preparation they have received is sufficient in all regards. We have demonstrated that the differential in resources favoring Evanston and its students results in greatly diminished drop-out rates, much higher graduation rates, and far more students attending two and four year colleges. This is especially true for its poor students and students of color. More money, when used appropriately, will significantly improve academic outcomes. Additional resources are desperately needed on a variety of fronts in Chicago to accelerate the rate of increased educational attainment for its high school students.

---

## NOTES

1 Richard Sisk, Arne Duncan, *Newly Tapped Top Education Official, Is Obama's Neighbor*, DAILY NEWS WASHINGTON BUREAU, Dec. 6, 2008, available at [http://www.nydailynews.com/news/politics/2008/12/16/2008-12-16\\_arne\\_duncan\\_newly\\_tapped\\_top\\_education\\_o.html](http://www.nydailynews.com/news/politics/2008/12/16/2008-12-16_arne_duncan_newly_tapped_top_education_o.html)

- 2 *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973), *Plyler v. Doe*, 457 U.S. 202 (1982), *Papasan v. Allain*, 478 U.S. 265 (1986), *Committee for Educational Rights v. Edgar*, 672 N.E.2d 1178 (1996).
- 3 2008 Illinois District Report Card, Evanston Twp HSD 202, *available at* <http://www.eths.k12.il.us/reportcard/pdf/SchoolReportCard.pdf>
- 4 *Id.*
- 5 *Id.*
- 6 Chicago Public Schools, Office of Research, Evaluation, and Accountability, *CPS at a Glance*, *available at* [http://www.cps.edu/About\\_CPS/At-a-glance/Pages/Stats%20and%20facts.aspx](http://www.cps.edu/About_CPS/At-a-glance/Pages/Stats%20and%20facts.aspx)
- 7 Interactive Illinois Report Card, City of Chicago SD 299 Report Card, *available at* <http://iirc.niu.edu/District.aspx?districtID=15016299025>
- 8 Chicago Public Schools, Office of Research, Evaluation, and Accountability, Citywide Demographic Report: Demographic Report Over Time, *available at* [http://research.cps.k12.il.us/export/sites/default/accountweb/Reports/Citywide/citywide\\_demographic\\_report.pdf](http://research.cps.k12.il.us/export/sites/default/accountweb/Reports/Citywide/citywide_demographic_report.pdf)
- 9 These select enrollment schools are Lane Tech High School, Northside High School, Jones High School, Walter Payton High School, Whitney Young High School, and King High School. Statistics indicating the relative success of these high schools is detailed below.
- 10 City of Chicago Report Card, *supra* note 7.
- 11 Illinois State Board of Education Key Checkpoints to Review Before Approval of the Public School Calendar, *available at* [http://www.isbe.state.il.us/funding/pdf/ps\\_guidelines.pdf](http://www.isbe.state.il.us/funding/pdf/ps_guidelines.pdf)
- 12 Claudio Sanchez, *Charter School Network Defies Expectation*, NATIONAL PUBLIC RADIO, Oct. 5, 2008, *available at* <http://www.npr.org/templates/story/story.php?storyId=94327484>
- 13 Evanston Township High School, Report on Student Achievement: ACT Assessment System, Advanced Placement, and Scholastic Aptitude Test, *available at* [http://www.eths.k12.il.us/eval/pdf/Achievement%20Report%20Oct%20-08%20\(4\).pdf](http://www.eths.k12.il.us/eval/pdf/Achievement%20Report%20Oct%20-08%20(4).pdf)
- 14 Chicago Public Schools, Office of Research, Evaluation, and Accountability, Advanced Placement 2000-2008, *available at* [http://research.cps.k12.il.us/cps/accountweb/Reports/all\\_schools.html](http://research.cps.k12.il.us/cps/accountweb/Reports/all_schools.html)
- 15 MICHAEL J. KAUFMAN, EDUCATION LAW, POLICY, AND PRACTICE 3 (2005). (citing David Alan Gilman & Susan Kiger, *Should We Try to Keep Class Sizes Small?* 60 *Educ. Leadership* 80 (2003); Jeremy D. Finn, *Small Classes in American Schools: Research, Practice, and Politics*, 83 *Phi Delta Kappan* 551 (2002); Mary Anne Raywid, *Small Schools: A Reform That Works*, 55 *Educ. Leadership* 35 (1998); Del Stover, *Urban Districts Embrace Small Schools Movement*, *SCHOOL BOARD NEWS*, 7 (*Natl. School Bds. Assn.*, Nov. 25, 2003).
- 16 This is the number in the teacher contract in Chicago.
- 17 Evanston Public High School Report Card, *supra* note 3.
- 18 City of Chicago Report Card, *supra* note 8.
- 19 Evanston Public High School Report Card, *supra* note 3.
- 20 As stated in respective teacher contracts.
- 21 Evanston Township High School Annual Statistical Report 2007-2008, *available at* <http://www.eths.k12.il.us/reportcard/pdf/Final%20Annual%20Report%20Complete.pdf>
- 22 Chicago Public Schools Department of College and Career Preparation, *available at* <http://www.postsecondary.cps.k12.il.us/research/>
- 23 City of Chicago Report Card, *supra* note 7.
- 24 *Id.*
- 25 Interactive Illinois Report Card, Evanston Township High School Report Card, *available at* <http://iirc.niu.edu/School.aspx?schoolID=140162020170001>
- 26 Evanston Public High School Report Card, *supra* note 3.

- 27 Chicago Public Schools, Office of Research, Evaluation, and Accountability, ACT Average Scores, *available at* <http://research.cps.k12.il.us/cps/accountweb/Reports/allschools.html>
- 28 *Id.*
- 29 Evanston Public High School Report Card, *supra* note 3.
- 30 Chicago Public Schools, Office of Research, Evaluation, and Accountability, Cohort Dropout and Graduation Rates, *available at* <http://research.cps.k12.il.us/cps/accountweb/Reports/citywide.html>
- 31 Evanston Public High School Report Card, *supra* note 3.
- 32 CPS at a Glance, *supra* note 6.
- 33 Evanston Township High School Annual School Statistical Report 2007-2008, *available at* <http://www.eths.k12.il.us/reportcard/pdf/Final%20Annual%20Report%20Complete.pdf>
- 34 Cohort Dropout and Graduation Rates, *supra* note 30.
- 35 Evanston Township High School Statistical Report, *supra* note 33.
- 36 Elaine Allensworth, *Update to: From High School to the Future: A First Look at Chicago Public School Graduates' College Enrollment, College Preparation, and Graduation from Four-Year Colleges*, Consortium on Chicago School Research at the University of Chicago, October, 2006, *available at* <http://ccsr.uchicago.edu/publications/PostsecondaryUpdate.pdf>
- 37 *Id.*
- 38 Jodi S. Cohen and Darnell Little, *Of 100 Chicago Public School Freshman, 6 Will Get A College Degree*, CHICAGO TRIBUNE, April 21, 2006, *available at* [http://ccsr.uchicago.edu/news\\_citations/042106\\_chicagotribune.html](http://ccsr.uchicago.edu/news_citations/042106_chicagotribune.html)
- 39 All data for CPS high schools comes from the Interactive Illinois Report Card, *available at* <http://iirc.niu.edu/>. Percentages may not equal 100% as they have been rounded to the nearest percent. All data for ETHS comes from the Evanston Public High School 2008 Illinois District Report Card.
- 40 This data includes elementary school students as the data on the Illinois Interactive Report Card is not disaggregated for this point.

# CHICAGO'S SCHOOL REFORM: NO "MIRACLES" HERE

*by* MICHAEL KLONSKY

“**I**t [the educational system] is a system largely determined by the very economic inequality which it seeks to solve; and the power to administer the system lies all too largely in hands interested in privilege rather than in justice and in class advantage rather than in democratic control.” —W.E.B. DuBois, 1941<sup>1</sup>

## INTRODUCTION

School reform efforts at Chicago Public Schools (CPS) have always been and continue to be contested territory, much like the civil rights movement in

general. Public education in our city, and in the nation, has always been closely connected with the larger struggle for democracy, human rights and social justice. One question must continually be asked: has the system changed much from the one Dr. DuBois described nearly 70 years ago?

#### THE SMALL SCHOOLS MOVEMENT

In order to change the system, the University of Illinois at Chicago's Small Schools Workshop launched the small schools movement in Chicago nearly twenty years ago. Our research and our instincts as educators led us to believe that restructuring and redesigning CPS's large, factory-model schools into smaller, more personalized learning environments would benefit both teachers and students. The benefits small schools would provide were especially important for children of color and those from low-income families – students who had become anonymous victims of the large bureaucratic system that was, and is, CPS. Ultimately, our instincts and research proved right: dozens of new small public schools were created across the city, through partnerships between the teachers union, parents, local foundations, and community-based organizations. The early results were impressive, according to many external studies.<sup>2</sup> CUNY professor and distinguished researcher Michelle Fine, one of the authors of the first large scale study of Chicago's emerging small schools, called them “probably the single most powerful intervention for urban education in America.”

The new small schools energized hundreds of teachers; enabling them to work together in collaborative teams and helping them personalize instruction and make every student more visible and less anonymous. But like many reform efforts, the Chicago small-schools movement was susceptible to cooptation once politicians and the large foundations discovered it's potential. By 2000, the small schools ideal, its language and many of its features became absorbed into the school bureaucracy, leaving behind its social-justice focus and becoming at best, a technical reform and at worst a tool for gentrifying and re-segregating transitional neighborhoods. Its successes were credited to the very same bureaucracy and to politicians who had opposed it from the beginning, and were used to create many of the myths of Chicago school improvement under Mayor Daley's administration, that would ultimately propel his schools Chief Education Officer (CEO) Arne Duncan into the Secretary of Education post under the Obama administration.

## THE TEXAS “MIRACLE”

The full story of how that powerful movement for better urban schools was ambushed and reversed during the past decade is fully described in our book, *Small Schools: Public School Reform Meets the Ownership Society*.<sup>3</sup> But one short story, not in the book, may be instructive and relevant to understanding the Chicago reform story. It takes place in Houston, home of the so-called “Texas Miracle,” during George W. Bush’s term as governor. The “Texas Miracle” refers to George W. Bush’s claim, now disproven, that an increased emphasis on high-stakes testing resulted in greater overall student achievement and decreased dropout rates. This myth allowed Bush to take on the mantle of “education president,” and paved his road to the White House, taking along with him, Houston Superintendent, Rod Paige, who Bush would name the Secretary of Education.

Paige and other district leaders tried to coax white, middle-class parents and students back into inner-city Texas high schools, populated mainly by African-American and Latino students, by promising them their own small schools within the city’s large schools. White and middle-class students would be able to attend public schools, avoiding the minority student population, and the huge tuition fees being charged at nearby private and parochial schools because the school would remain racially segregated on the inside. This would establish a pattern of internal tracking and re-segregation, within the walls of otherwise “integrated” buildings.

Standardized test scores, however, would be aggregated along with those of the whole school population. Then, pursuant to Texas law, the top-scoring 10 percent of those graduating would receive a full scholarship to the University of Texas. Since the white, middle-class students generally outscored poor, immigrant and minority students on these tests, the small school-within-a-school would be a stepping stone to a free education at the University of Texas, while also boosting lagging school-wide scores in the face of mounting pressure from the Dept. of Education. A win-win, right? Well, maybe not.

The “Texas Miracle” was the basis for education reform policy during the George W. Bush presidency. The Federal No Child Left Behind law was designed to implement the Texas law on a national level. Reform at CPS, away from the small schools movement and towards a business model was based, in

part, on the “Texas Miracle.” The reality is, however, that the “Texas Miracle” failed our nation’s most needy students and failed to truly prepare high school students for success following high school. The impact of reform in Chicago was largely the same.

## THE HISTORY AND STATUS OF CHICAGO PUBLIC SCHOOLS

Not long before the “Chicago Miracle,” in 1987, President Reagan’s Secretary of Education, William Bennett journeyed to Chicago to announce that the city had the “worse school district in the nation.” Twelve years later, President Clinton praised Chicago as a “national model” of school reform. What happened in the intervening years was the most radical and far-reaching, community-based movement for school reform in the nation dating back to the desegregation struggles in the south during the ‘50s and ‘60s. Now realizing of course, that both Bennett’s and Clinton’s announcements were highly exaggerated—Chicago wasn’t the “worst in 1987, nor the “model” in 1999—the progress made, especially in the city’s elementary schools during that period cannot be denied and that progress can only be attributed to the extraordinary high level of community engagement. That intense level of engagement in communities previously ignored by the Daley Machine, followed in the wake of the movement that elected Harold Washington as the city’s first African-American mayor—a feat that, for this city, had many of the same qualities, and reverberated as loudly in the neighborhoods, as did President Obama’s election last November.

In the weeks leading up to the appointment of CPS CEO Arne Duncan as Obama’s Secretary of Education, there was new chatter in the local media about a “Chicago Miracle” in education. This time around, however, it was definitely a manufactured miracle. It was political spin, lacking substance and lacking the movement at the base that was seen during and immediately after Mayor Washington’s tenure.

This miracle was not about the improvement of neighborhood schools for the children already attending those schools. Rather, it was about closing schools, many of which were based in the poorest, resource-starved and isolated city neighborhoods on the city’s south and west sides. School closures would take with them, badly needed social services, special-education dollars and gathering points for the community. More importantly, they would take away public

voice and decision-making in educational policy making. The wave of school closings would also coincide with the demolition of public housing and the resettlement of thousands of African-American families and their children in a ring of poor suburbs around the south side of the city. Replacing these shuttered shells of neighborhood schools were new, better-equipped and staffed selective-enrollment schools like Northside College Prep and Walter Payton; schools that would offer only the elite students a curriculum that would take them to college or put them on a path toward economic success and a piece of the “American dream”. Other parents might have a small chance at getting their kids into one of the few new charter schools on a first-come, first-serve basis while the rest would be dispersed throughout the city into existing large schools that were ill-prepared to receive them.

Rather than maintaining the spirit of the earlier small schools movement, the new charter schools, many of which are now being run by private charter management organizations (CMOs), limit the enrollment of students with special needs, disabilities, behavioral problems or English language learners, claiming that their schools are “too small” and have too few resources to take care of students that regular neighborhood schools had to accept. For instance, the Knowledge Is Power Program (KIPP), is notorious for their high attrition rates, pushing out students with low test scores in large numbers, students who often have learning difficulties, are English-language learners, have behavioral issues, or who simply are bringing down KIPP’s test score averages. This is the practical substance of the “miracle” in Chicago and its much-ballyhooed school Renaissance 2010 initiative. While conditions for most of the city’s 400,000 public school students remain basically the same, for many in those impoverished and racially isolated communities conditions are worsening.

#### CHICAGO’S PROPOSED “SOLUTIONS” TO AN INADEQUATE SYSTEM

When Chicago Mayor Richard Daley was handed power to run the school system, school reform became a mish-mash of politically driven gimmicks that had no basis in research. For example, in 1997 there was an effort to end “social promotion” which succeeded only in increasing the high school dropout rate, which has perennially hovered above 50 percent. This dropout rate is, in fact, actually much higher when you exclude the selective enrollment schools and special education students.

This effort was then followed by a succession of failed punitive strategies based solely on test score results. Another CPS reform policy was high school *Reconstitution*, essentially meaning the wholesale re-staffing of schools. Reconstitution, like most top-down reform efforts, was later considered a disastrous failure and CPS moved on. Next, CPS has launched a mandatory “turn-around” program on its neighborhood high schools, remarkably similar to *Reconstitution*, requiring entire staffs to be replaced. Only this time around, a scripted curriculum is put in place for teachers to follow. Each reform initiative lasted about a year and was then replaced by another even more unreliable measure, all of which led to the current “turn-around” and pay-for-test scores initiatives.

The first wave of successful reform in the 1990s, the small schools initiative, showed us what was possible when entire communities became energized and engaged in the change effort. Hundreds of schools with active, elected Local School Councils (LSCs) and minimal CPS central office intervention, made credible measurable gains in student learning outcomes while teachers gained a measure of control over their classrooms. This had previously been denied under the unwieldy and top-heavy bureaucratic system that was CPS.<sup>4</sup>

Neither the “Miracle” of closing schools in Chicago nor the Mayor’s mis-named *Renaissance 2010* has succeeded in substantially narrowing the so-called achievement gap. Instead they have only hastened and intensified the drive towards a two-tiered system of education that leaves behind hundreds of thousands of kids. In fact, only about six percent of CPS students graduate from universities by the time they are in their mid-20’s.<sup>5</sup> High school dropout rates continue to hover around 50 percent, much higher among African-American and Latino students,<sup>6</sup> and high school test scores showed no improvement during the four years leading up to Duncan’s appointment as Secretary of Education.<sup>7</sup> This is not to put the blame solely on the school system, Duncan, the teachers, or the schools themselves. Rather, it has become increasingly clear that without real improvements in the living conditions of CPS students and their parents—life outside of the school—no substantial improvement in city-wide learning outcomes is possible.

Nor has there been any significant narrowing of the racial inequities that have longed stained the city’s image. The current state of Chicago’s highly segregated school system can be traced back to the period following World War II when the city’s African American neighborhoods expanded and school officials

adjusted boundary lines to assure that school districts remained as segregated as the housing market. The very idea that schools could somehow be significantly improved, while a system of de facto segregation was being enforced and continuously replicated, goes to the very heart of Mayor Daley's botched reform efforts. Chicago-style school reform continues to place the burden for change directly and entirely on the schools while placing district school policy at the service of city redevelopment and downtown business interests—the enforcers of segregated housing, and thus school attendance patterns.

#### THE SOCIAL JUSTICE HIGH SCHOOL STORY

As we move into the final year of the Chicago's Renaissance 2010 plan and the 13th year of the Mayor's autocratic rule over the city's public schools, the students at a small school called Social Justice have become the conscience of the community. On January 21, 2009, students from Social Justice High School in the predominantly Mexican immigrant Little Village neighborhood, stood before a federal judge in Chicago and "begged for better schools."<sup>8</sup> The students pleaded for more diversity, for more seats for neighborhood kids in the city's top selective-enrollment schools, for more and better books, for more bilingual education, and for more qualified teachers in those schools which CPS leaders claim they have been unable to desegregate as ordered under the consent decree signed 28 years ago. There, in front of Judge Charles Kocoras, the students offered a strong, well-documented case. A case that has been made over and over again since 1954; not only have we as a society failed to live up to the promise of *Brown v. Board of Education*, which formally outlawed school desegregation, but we have failed to even take *Plessy v. Ferguson* (separate, but equal) seriously.

Social Justice High School provides an interesting case study. In 2001 a group of Little Village parents staged a 19-day hunger strike. This strike was a culmination of years of petitioning and pleading for a new high school to relieve overcrowding in their burgeoning immigrant community. Further, the parents had spent years watching the city build new, expensive, well-staffed and resourced selective-enrollment high schools and magnet schools in the hope of reversing white-flight migration of the new urban technical and professional class. The strike drew widespread community support and led to the funding and construction of the new Little Village Community High School. The new school was designed under the parents' watchful eyes, to house four small,

highly autonomous schools, including the aptly named Social Justice High. The school's curriculum would focus on preparing students as leaders, planners and problem solvers and active participants in their own community's growth and development. It also tapped into the student's interest in grassroots politics and in their daily confrontation with oppressive conditions.

Standing against the Social Justice High School students and their parents was a CPS spokesman and the district's lead attorney arguing to keep the desegregation consent decree in place. Their argument was that Chicago had already done its part, thus demonstrating to the kids and the judge, that when it comes to desegregation, to quote the old 43rd Ward's alderman Paddy Bauler, "Chicago ain't ready for reform."<sup>9</sup>

"We feel that we are in compliance with the terms and the spirit of the consent decree and we are meeting the needs of our [English as a second language] students," said CPS spokesman, Michael Vaughn. He expressed little contriteness. He failed to apologize for the hundreds of thousands of children of color lost to the streets under their watch. Nor was there any remorse for the spike in school violence that followed in the wake of Renaissance 2010 school closings or the forced, destabilizing cross-town migrations to unprepared schools. There was not even a tip of the cap to the courageous kids and their parents who ventured into these intimidating surroundings to be interrogated by the robbed and gaveled distinguished judge of the high court.

Instead CPS continued to make the same argument; "We are in compliance "in terms and spirit." CPS could take no further action to desegregate this system of 400,000 students, arguably the most racially segregated in the entire country. Was Vaughn really claiming that this was the finished product of the historic battle for school desegregation? Was he implying that being one of the most segregated school districts in one of the four most segregated state school systems in the nation was a *fait accompli*, in fact, living up to the terms and spirit of the decree? If so, then the students could not be blamed for concluding that the system wasn't broken at all, but was working just fine, just as intended—as a sorting and tracking machine rather than as the nation's best and only hope for social mobility through public education.

## CHICAGO PUBLIC SCHOOLS: A BUSINESS MODEL

CPS no longer uses the term “superintendent”, instead imposing a “business model”, the system is run by a Chief Education Officer, or CEO. The district may as well refer to the schools chief as the CNE, or “Chief Non-Educator” since the new model seems to require that the chief executive have absolutely no educational background or teaching experience. The business model management strategy has once again been reinforced by the mayor’s recent appointment of Ron Huberman as Arne Duncan replacement. Huberman has no experience in the field of American public education. He is a former police officer, Daley chief of staff, and, most recently, president of the Chicago Transit Authority. CHICAGO SUN TIMES reporter Fran Spielman noted, “The Huberman appointment is vintage Daley. The mayor has long believed that “good managers can manage anything” — even if they don’t have a clue about the agencies under their command.”<sup>10</sup> Spielman continued, “Daley has had a progression of fair-haired boys — from Forrest Claypool, David Doig and John Harris to Paul Vallas and Bill Abolt — who have hop-scotched from job-to-job before falling out of favor with the notoriously demanding mayor.”<sup>11</sup> It’s not hard to figure out the code language of “fair-haired” in this context. The mayor’s latest CEO is not likely to lead a shift in policy we heard articulated by the Social Justice High School students and parents.

The “business model” needs no Wikipedia definition here, it is just what it sounds like. Its imposition on public schools certainly does not stem from its trail of great successes, either in areas of equalizing historic racial disparities, improved learning outcomes, or even in achievement of its own bottom-line standards in the global marketplace, as the latest financial collapse surely reveals. Recent studies have revealed, for example, that privately managed charter schools in urban districts like Philadelphia, failed to outperform even the most run-down neighborhood schools.<sup>12</sup>

## NO-CHILD LEFT BEHIND AND THE SO-CALLED “ACHIEVEMENT GAP”

While the past eight years have seen more big government in public education, No Child Left Behind (NCLB) has become a boon to an emerging class of school entrepreneurs and politically-connected providers of charter school

management (Educational Management Organizations or EMOs), after-school programs and teacher “training.”

NCLB with its single-minded focus on standardized testing, calls for punitive measures against schools whose students’ scores fail to make Annual Yearly Progress (AYP). Punishments include offering their few high-scoring students a transfer to other schools, teacher/principal firings and school closures. These closings will result in a further loss of school-based social services, including community health facilities, job training and evening adult school. However, with few accessible better schools to which to transfer, neighborhood school parents stood strong and NCLB’s transfer policy was a failure.

Typically failing schools have kids from the lowest income families and resource-starved neighborhoods, reaffirming the correlation, proven many times over between standardized test scores, the racial divide, and family income. It is not that some selected poor or predominantly African-American schools are not capable of outperforming other schools in the area, or that African-American or Latino kids are not capable of excelling academically. Instead the exceptional cases are turned into an excuse for affirmation of the two-tiered system of education. University of Wisconsin educator, Gloria Ladson-Billings refers to this as, “the education debt,”<sup>13</sup> calling attention to the build-up of historically rooted inequities which make the so-called “achievement gap” impossible to transcend for most.

To meet the demands of urban gentrification, Renaissance 2010 shifted the focus from new-school creation to neighborhood school closings. With dozens of CPS neighborhood schools, almost all in African-American communities on the south and west sides on the chopping block, and hundreds of teachers being given pink slips, the EMOs moved in and were offered new charter schools to run and replicate, often with new facilities and low-paid non-certified teachers with no collective-bargaining rights.

Some liberal education groups, showing a naïve faith in the Bush administration’s intentions, argued that NCLB with all its faults was still needed in order to ensure accountability and educational equity. Every child, they argued, should be mandated to be above average by the year 2014—a new twirl on the Lake Wobegon Effect espoused by radio host Garrison Keillor. So Arne Duncan went to Washington, as did most other urban superintendents/CEOs with future political aspirations in mind, and bowed down to NCLB and its

mandates. He praised the very same Bush approach he had sharply criticized a year earlier.

## CONCLUSION

I bring up all this sordid history, not to dampen our spirits as we head into the new era of so-called *post-racialism*. Nor do I raise these issues to denigrate Mr. Duncan, whom I hope will make a good Secretary of Education. My point here is simply to show that the whole system operating behind federal policy, along with CPS's business-model response, was bound to widen rather than close the gap between the measurable learning outcomes of the city's students of color and their white, middle-class counterparts. Neither federal law, nor local education policy is connected with any meaningful plan to improve the living or working conditions of the city's poor and working class—the very ones whose children fill the bulk of those 400,000 classroom seats.

Looking ahead to the Obama era, hope fills the heart. There are already signs that President Obama's education stimulus package could substantially increase the national education budget. Furthermore the language of school reform is shifting once again. This time we are hearing more out of Washington about repairing thousands of broken schools and building new ones. Charter schools still offer the potential to become the incubators of innovation they were originally intended to be; a critical voice within public education, rather than a stalking horse for privatization, union-busting, and business-model replications. Already we are starting to see a rippling effect from Barack Obama's path-breaking victory on the consciousness of African-American youth and other minority students. A small, but important brick in the wall has been removed. One small study even reported a short-term boost in measurable learning outcomes traced directly to Obama's victory. Just think what might happen when many or all bricks are removed.

---

## NOTES

- 1 W.E.B DuBois, FUTURE OF THE NEGRO STATE UNIVERSITY, IN THE EDUCATION OF BLACK PEOPLE., 172 (N.Y. Monthly Review Press, 1941).
- 2 See PATRICIA A. WASLEY, LINDA C. POWELL, ESTHER MOSAK, SHERRY P. KING, NICOLE E. HOLLAND, MATT GLADDEN, MICHELLE FINE, SMALL SCHOOLS, GREAT STRIDES: A STUDY OF NEW SMALL SCHOOLS IN CHICAGO, (Bank Street College of Education, 2000).

- 3 M. Klonsky and S. Klonsky, *Small Schools: Public School Reform Meets the Ownership Society*, (N.Y. Routledge, 2008).
- 4 See Designs For Change, *The Big Picture: School-Initiated Reforms, Centrally Initiated Reforms, and Elementary School Achievement in Chicago (1990 to 2005)*, September 2005, available at <http://www.designsforchange.org/pubs.html>
- 5 Judy Cohen and Darnell Little, *Of 100 Chicago Public School Freshman, 6 Will Get College Degree*, CHICAGO TRIBUNE, Apr. 21, 2006, available at [http://ccsr.uchicago.edu/news\\_citations/042106\\_chicagotribune.html](http://ccsr.uchicago.edu/news_citations/042106_chicagotribune.html)
- 6 Consortium on Chicago School Research at the University of Chicago, *Consortium on Chicago School Research Finds Graduation Rates Lower Than Typically Reported*, Feb. 2, 2005, available at <http://www-news.uchicago.edu/releases/05/050202.chicagoschools.shtml>
- 7 Carlos Sadovi, *Chicago High School Test Scores Decline Again*, CHICAGO TRIBUNE, Oct. 5, 2008, available at <http://archives.chicagotribune.com/2008/oct/05/business/chi-cps-test-results/oct05>
- 8 Rosalind Rossi, *Kids Beg For Better Schools*, CHICAGO SUN-TIMES, Jan. 23, 2009, available at <http://www.suntimes.com/news/education/1393518,CST-NWS-deseg23.article#>
- 9 Posting of Ramsin to Gapers Block: Is Chicago In Fact Ready for Reform?, <http://gapersblock.com/mechanics/2008/11/19/is-chicago-in-fact-ready-for-r/> (Nov. 18, 2008) (last visited April 16, 2009).
- 10 Fran Spielman, *CTA President to Run Chicago Public Schools*, CHICAGO SUN-TIMES, Jan. 26, 2009.
- 11 Matt Bartosik, *CTA Prez Move May Put Brakes on Progress*, NBC CHICAGO NEWS, Jan. 27, 2009, available at <http://www.nbcchicago.com/news/local/CTA-Says-Goodbye-to-Huberman-and-Progress.html>
- 12 Paul Socolar, *Suppressed Study on EMO Contracts*, Philadelphia Public School Notebook, May 26, 2007, available at <http://www.thenotebook.org/content/suppressed-study-emo-contracts-posted-notebook-website>; Ron Zimmer, Suzanne Blanc, Brian Gill, and Jolley Christman, *Evaluating the Performance of Philadelphia's Charter Schools*, (Rand Education Working Paper WR-550-WPF, March 2008), available at [http://www.rand.org/pubs/working\\_papers/2008/RAND\\_WR550.pdf](http://www.rand.org/pubs/working_papers/2008/RAND_WR550.pdf)
- 13 Gloria Ladson-Billings, *Presidential Acceptance Speech at AERA National Meeting: From Achievement Gap to Education Debt: Understanding Achievement in U.S. Schools (2006)*, available at [http://www.aera.net/uploadedFiles/Publications/Journals/Educational\\_Researcher/3507/02ERv35n7\\_Ladson-Billings.pdf](http://www.aera.net/uploadedFiles/Publications/Journals/Educational_Researcher/3507/02ERv35n7_Ladson-Billings.pdf)

# SEPARATE & UNEQUAL IN THE SAME CLASSROOM: HOMELESS STUDENTS IN AMERICA'S PUBLIC SCHOOLS

*by* ERIC S. TARS

Over one million children experience homelessness in America every year, and with the growing foreclosure crisis, another two million children will likely experience homelessness in the next year.<sup>1</sup> Homeless children face many of the same problems as poor and racial minority children across the country, indeed poor and minority families are disparately impacted by homelessness. However, in addition to the problems of race or poverty, homeless students' intersectional identity also creates unique issues in accessing education, such as the lack of documentation to enroll in school to the lack of

regular transportation. These issues present barriers above and beyond those faced by other students.

Although the movement to protect the interests of homeless students does not have the constituency of the broader school desegregation or funding equity movements, it has made progress, particularly with the adoption of the McKinney-Vento Homeless Assistance Act (the Act).<sup>2</sup> Similar to the desegregation and equity movements, homeless advocates face challenges implementing and funding laws, and should work collectively to address these problems. This article introduces and describes the educational barriers faced by homeless students and the legal mechanisms developed in response. Drawing parallels between the homeless movement and the desegregation and equity movements, this article concludes with an invitation to begin a dialogue about possible joint solutions to help all the nation's youth enjoy their full right to education.

#### IDENTIFYING AMERICA'S HOMELESS STUDENTS

Today, homelessness is a widespread and growing problem for American families.<sup>3</sup> Even before the current foreclosure crisis, approximately three to four million Americans experienced homelessness each year, one million of whom are children.<sup>4</sup> The economic crisis is expected to have a deep impact on children, with an additional two million children facing the loss of housing due to foreclosure in the next two years.<sup>5</sup> At the same time, as foreclosure and unemployment shrinks schools' tax base, there are fewer resources to meet the increased need.<sup>6</sup>

Homelessness disparately impacts poor and minority communities, compounding many of the challenges children in these communities already face. African-Americans, make up an estimated 45 percent of the homeless population and 8 percent are Native American.<sup>7</sup> Approximately 41 percent of homeless persons are families with children.<sup>8</sup>

The primary cause of homelessness is the lack of affordable housing. Fourteen percent of all households spend more than half of their incomes on housing.<sup>9</sup> Racial minorities constitute a disproportionate percentage of those living in acutely substandard housing or suffering from unmanageably severe rent burdens. More than half of those with worst case housing needs are African American or Hispanic.<sup>10</sup>

It is important to note from the beginning that under the federal Department of Education definition, “homeless” is more than just those families living on the streets, in their cars, or in shelters, but also includes families living “doubled up” with friends or relatives.<sup>11</sup> In fact, the majority of homeless students identified by schools are in doubled up situations, while only a quarter are in shelters and less than 10 percent are unsheltered.<sup>12</sup> Although they have roofs over their heads, these families face many of the same issues of other homeless families, from lack of privacy in their living space to not knowing whether they will have to move again as their hosts’ patience wears out. Additionally, because they often do not self-identify as homeless, it is often more difficult to reach these families with appropriate services. Because of this difficulty, the almost 700,000 students identified as homeless in 2007 is almost certainly an under-count.<sup>13</sup>

#### BARRIERS KEEPING HOMELESS STUDENTS SEPARATE & UNEQUAL

Homeless students face numerous barriers that have a devastating effect on their educational prospects. This includes the stresses of their own uncertain and inadequate living spaces, the difficulties of enrolling and staying in school without a fixed address and the desire of schools to treat homeless students separately from their own population. Illustrating the challenges faced by homeless students, one mother living in a garage with her son stated that he “is depressed a lot. He does his work for class, but very slowly, like he’s thinking. He worries a lot about living like this.”<sup>14</sup>

Almost all homeless families move at least once during the course of a year and approximately one out of five live in three or more different homes.<sup>15</sup> With each move, children must learn to adjust to new environments. Both shelters and doubled-up situations are often overcrowded with entire families sharing a single room, sharing bathroom facilities, and sleeping on couches and floors. As a result of the overcrowded and unhealthy living situations they are more likely to suffer from illnesses.<sup>16</sup> Unfortunately, these illnesses often cause homeless children to miss valuable days of class. Importantly, children often live with the knowledge that these situations are temporary and worry about whether they will soon be without a place to live. They often worry about their parents, who are similarly experiencing stress in relation to those issues as well as higher incidences of unemployment, illness, domestic violence, and drug and alcohol abuse.<sup>17</sup> Homeless children are also likely to be separated from

their parents by either being placed in foster care or being left with friends or relatives while parents search for suitable employment or housing to accommodate the entire family.<sup>18</sup> It is these stresses that homeless children bring to school with them each day as they prepare to learn.

While residential mobility has severe effects, school mobility, or being forced to repeatedly change schools, also takes its toll on homeless students. More than half of all homeless students transfer schools at least once a year, and more than 15 percent transfer three or more times in any given academic year.<sup>19</sup> Students who frequently transfer suffer academically, psychologically and socially. Researchers estimate that it takes a child four to six months to recover academically from each school transfer and as many as 18 months to regain a sense of equilibrium, security and control.<sup>20</sup> Over a period of six years, students who have moved more than three times can fall a full academic year behind students who do not move around.<sup>21</sup> Moreover, while 86 percent of high school students graduate nationally, the graduation rate is only 60 percent for students who changed high schools at least twice.<sup>22</sup>

Compounding these problems, homeless children often experience delays simply trying to enroll in new schools. These delays typically stem from locally-required records requests that demand such items as proof of residency, proof of immunization, birth certificates and academic records. Families tend to lose such documents during the course of frequent and sometimes sudden moves. Doubled-up families are particularly unable to prove residency through items such as lease agreements and utility bills, which usually bear the name of the host family. Students can lose valuable days, and sometimes weeks, of school as parents and schools search for these records.

Before the Act was adopted, homeless students often transferred multiple times to different schools over the course of their homelessness and were at a given school for only a short period of time. Because of this, many districts kept homeless students in separate classrooms, or even multi-age classrooms located at homeless shelters that resembled the one-room schoolhouse of early rural America.<sup>23</sup> Expectations and resources were low for homeless students in these segregated settings.<sup>24</sup> These schools typically failed to provide the same curriculum, activities, services and resources as regular public schools and often violated health and safety codes.<sup>25</sup> Because these schools cannot provide the same educational services as regular public schools, homeless children risk falling behind their peers academically.<sup>26</sup>

As a result of these obstacles, it is tremendously important to provide mechanisms to assist homeless students in remaining connected to their school. In the words of one formerly homeless student, “Through it all, school is probably the only thing that has kept me going. I know that every day I walk in those doors; I can stop thinking about my problems. School keeps me motivated and encourages me to find a better life for myself.”<sup>27</sup>

#### OVERCOMING BARRIERS THROUGH THE MCKINNEY-VENTO ACT

The McKinney-Vento Act is the primary federal legislation focused on homelessness in America.<sup>28</sup> Originally passed in 1987, the Act included, among other things, education provisions designed to address and alleviate some of the barriers discussed above.<sup>29</sup> The Act’s education provisions were last reauthorized under the 2002 No Child Left Behind Act.<sup>30</sup> As it currently functions, the Act increases stability in schools, provides access to new schools and services, eliminates segregated classrooms, addresses student access and financial needs through supplemental programs and ensures implementation through dedicated personnel.

School stability plays an important role in a student’s academic and social life. One of the primary breakthroughs of the Act is that it not only allows homeless children to remain in one school throughout the duration of homelessness, it ensures that they will be able to access this benefit. Homeless students can continue at their “school of origin,” regardless of a move to different attendance zones, school districts, or even across state lines.<sup>31</sup> School districts are required to provide homeless children with transportation from their temporary homes to and from their school of origin.<sup>32</sup> The only limitations on attendance at the school of origin are the wishes of the parent and the best interests of the child (e.g. two hour bus rides may be deemed against a child’s best interest).<sup>33</sup> This provision not only reduces academic delays caused by school transfers, but it also relieves stress and improves a student’s psychological well-being. Students can find comfort in a stable school environment that features familiar teachers, friends and expectations even as they are experiencing instability and uncertainty in their home life. Studies show that this mechanism results in better outcomes for homeless students.<sup>34</sup>

The Act also provides for immediate and full access to new schools for those homeless families who choose to enroll their children in new schools due to

their own preferences or feasibility concerns that prevent attendance at a school of origin.<sup>35</sup> To alleviate enrollment delays, the Act requires schools to immediately enroll homeless children even if they lack typically required documents such as proof of residency, birth certificates and immunization records.<sup>36</sup> If a child was receiving special education services at their previous school, they must be provided immediately with comparable services in their new school.<sup>37</sup> Under the Act's 2002 reauthorization, homeless students must be allowed to learn in the same environment as other non-homeless students.<sup>38</sup> According to adopted guidelines, schools are required to "adopt policies and practices to ensure that students are not segregated or stigmatized on the basis of their status as homeless."<sup>39</sup> This includes explicit bans on transitional classrooms within the schools and off-site facilities.<sup>40</sup>

In order to address homeless student needs, the Act provides funding and access to certain supplemental programs.<sup>41</sup> It provides states with funding to award grants to school districts that want to address the unique needs of their homeless populations. Districts apply for competitive grants that can be used for transportation, tutoring programs, mentoring programs, psychological counseling, school supplies, after-school academic enrichment activities or for other uses that promote the academic or social growth of homeless children. Homeless students are also automatically eligible for Title I benefits (federal supplemental funding for low-income schools) and free school meal programs.<sup>42</sup> Those students are eligible for Title I benefits even if their school does not otherwise receive Title I funds and districts are required to set aside Title I funds for this purpose.<sup>43</sup>

The Act seeks to ensure implementation by requiring state departments of education and school districts to designate personnel to be responsible for the education of homeless students.<sup>44</sup> State Coordinators of Homeless Education train school district employees on legal requirements and best practices for serving this special population.<sup>45</sup> School district homeless liaisons train school personnel, ensure that students are able to enroll in school or remain in their school of origin, oversee the provision of transportation and supplemental services, develop and maintain special programs and help resolve disputes between schools and families.<sup>46</sup>

MOVING BEYOND SEPARATE & UNEQUAL: PARALLELS AND CONTRASTS  
WITH THE DESEGREGATION AND EQUITY MOVEMENTS

The movement to address the barriers to homeless children's education has claimed some victories, but faces ongoing challenges. At its core, the goals of this movement are the same as that of the equity and desegregation movements: seeking to ensure that all children enjoy their right to achieve their fullest potential through education. The desegregation movement sought to ensure this right by bringing black and white students together in the same classroom. After initial progress under *Brown* and its progeny, this movement was largely thwarted by white flight to the suburbs and the court decision in *Milliken v. Bradley* that stopped integration at school district lines.<sup>47</sup> Schools which instituted voluntary desegregation mechanisms are now struggling to continue their programs under the recent *Parents Involved in Community Schools v. Seattle School District No. 1* decision.<sup>48</sup> The funding equity movement seeks to make the right to education real by forcing states to provide the full cost of an adequate education, accounting for the relative dearth of resources in cities (in large part caused by the white flight described above). While a federal remedy was denied in *San Antonio Independent School District v. Rodriguez*, there have been recent court victories at the state level.<sup>49</sup> However, the equity movement, too, is being thwarted by legislatures' refusal to actually provide the resources compelled by their own court ordered costing-out studies. In particular, the legal requirements for transportation of homeless students, the threat to the ban on segregated schools from charter schools, and the mechanisms for providing funding equity are areas worth further exploration.

Just as transportation was and is key to many minority students accessing better education through desegregation busing, it similarly is essential to homeless students. Because schools draw their populations from largely residentially segregated neighborhoods, the ability of racial minority students to access better schools in white majority areas relies heavily on transportation. After *Brown* found that segregated education violated the United States Constitution, courts and districts tried to determine what the required remedy should be.<sup>50</sup> In *Swann v. Charlotte-Mecklenburg Board of Education*, the Supreme Court unanimously approved a sweeping judicial remedy to the failure of integration efforts – gerrymandering of school districts and the busing of students between inner-city and outlying schools.<sup>51</sup> Then, *Milliken* shut the door to inter-dis-

strict desegregation, allowing residential segregation to resume its functional segregation of the schools.<sup>52</sup> It is significant that the Act achieves for homeless students what *Milliken* prevented for minority students, namely, inter-district busing. Before the Act, many homeless children simply could not get to school. Now, homeless children may not be able to access better schools through busing, because the school of origin and the residence school may be located in impoverished areas and school districts; however, at a minimum, transportation for homeless students back to their school of origin prevents worse outcomes by maintaining the academic stability throughout the duration of homelessness, and requirements to ensure transportation in a new district of residence enables as great continuity as possible.

Therefore, the integrative value *Brown* originally sought can be achieved at least in part by having homeless students together with their stably-housed peers, sensitizing both students and staff to the realities of homeless and poor children. To the extent positive results are obtained in this capacity, those who continue to advocate for expanded desegregation as a solution to educational inequity may benefit from the inter-district precedent set in the Act by demonstrating the value, reaffirmed in numerous Supreme Court cases, of integrated education.<sup>53</sup>

The desegregation movement sought to prevent the psychological effects of segregation and also ensure the equality of resources. The method of combating the under-resourcing of black schools was to require their integration into the mainstream white schools. Even though *Milliken* stopped courts from requiring integration, many school districts adopted voluntary desegregation policies toward those same ends.<sup>54</sup> However, in *Parents Involved*, the Supreme Court prevented school districts from directly using race and ethnic criteria to promote the benefits of school diversity to reduce the harms caused by re-segregation.<sup>55</sup> Thus, as separation has returned to schools, so too has the inequality, with many schools today more segregated than in the 1960s, with available resources similarly divided along racial lines.<sup>56</sup> Many advocates have given up on seeking full integration and funding adequacy for all students, instead opting to put their energy into creating better charter schools operating within these failing school districts.

Similarly, homeless advocates have had to combat the marginalization of homeless students by placing them in separate, inferior classrooms or schools.<sup>57</sup> Many schools established separate, segregated classrooms within the school or

even at shelter sites for homeless students. Sometimes it is intended to cater to the homeless students needs; often it is intended to keep homeless students from disrupting non-homeless classrooms.<sup>58</sup> The 2002 reauthorization of the Act banned separate schools and required full integration of homeless students into mainstream schools and classrooms.<sup>59</sup> As a practical matter, this requirement has been largely successful in that most of these separate schools have been closed; though integrating homeless students remains an ongoing challenge.

However, with the growth of the charter school movement, the question of the “benign segregation” of homeless students has re-emerged.<sup>60</sup> Homeless charter schools would, in theory, target additional appropriate resources to the needs of homeless students. However, this would reduce the incentive for mainstream schools to adequately serve the needs of the remaining homeless students. Although these new charter schools would be theoretically optional for homeless students, history indicates that homeless students will be pressured into attending these special schools, either actively or through the district’s failure to provide adequate services at mainstream schools.<sup>61</sup> Additionally, because such specialized charter schools are often started with a combination of public and private dollars, if they lose some of that funding, the result will be the exact segregated, under-resourced schools the Act sought to prevent. From an advocacy perspective, the charter school movement has had the same effect on homeless education as it has on public schools; it has sapped resources and advocates away from efforts to make all public schools adequate. Before the Act, rather than challenging policies preventing homeless children from receiving a full education, some homeless advocates themselves cited these policies as a reason for separate schools, rather than working to make mainstream schools adhere to the law.<sup>62</sup> Similarly today, proponents of separate schools ultimately draw resources and support away from serving other homeless students in integrated classes.<sup>63</sup> Ultimately, appropriate integration not only serves the needs of homeless students themselves, but sensitizes school staff and students to those needs. Homeless education advocates need to work together with those in the broader education adequacy and desegregation movements to develop comprehensive plans to make the right to education real for all, rather than being divided in advocating for special services for the few.

Concurrent with desegregation efforts, the funding equity movement seeks equality of resources by forcing the government to provide adequate funding for a meaningful education, including an equitable distribution of funding be-

tween rich and poor school districts within a state.<sup>64</sup> However in *Rodriguez*, the Court held that there is no federal right to an adequate education and that so long as there is not an absolute denial of access to education, funding of education should be left to local control. Although this local control resulted in inadequate education, in *Missouri v. Jenkins*, the Court ruled that a judge who had ordered a property tax increase to improve the schools of Kansas City had abused his discretion, preventing judges from forcing the adequate funding of the schools.<sup>65</sup> However, where federal remedies failed, state courts have, in some cases, stepped in to provide a method of equalizing funding and resources for schools. For example, New York's highest court ordered the state to determine the cost of, and then actually fund, a "meaningful high school education."<sup>66</sup>

Similar to the funding equity movement, the Act targeted additional resources for homeless students within the mainstream schools. By making homeless students automatically eligible for free transportation, student meals, tutoring, clothing, and school supplies under both McKinney-Vento funding and Title I funding, the law seeks to ensure that homeless students are given meaningful equal access to their education. A key provision of the law states that schools are required to provide these services regardless of whether or not they receive funding under the Act or under Title I. As with the adequacy cases, the government is essentially told that they must provide these basic services in order to fulfill the state's constitutional or statutory obligation under the right to education. However in practice, only six percent of schools nationwide receive funding under the Act, and schools are prevented from using federal Title I dollars for transportation of homeless students (one of the highest cost areas), meaning the majority of schools must provide services out of their own budgets.<sup>67</sup> As states struggle with the implications of the lawsuits that force them to provide funding for adequate education, many also struggle with costs required for homeless students.<sup>68</sup> Despite the legal requirement to give students these resources, homeless advocates see daily problems with implementation, and must engage in frequent advocacy to uphold students' rights.

As with both the desegregation and adequacy movements, funding for truly adequate services is difficult to obtain from policy-making bodies, meaning homeless children's advocacy requires a constant interplay between the courts and those bodies. Many schools have resisted fully implementing the Act because of the individualized attention required for homeless students, including potentially expensive individual transportation plans.<sup>69</sup> Frequently, schools re-

sist implementation by failing to appropriately identify homeless students (either through neglect or purposeful narrowing of eligibility criteria) and by failing to give them information about their rights. This allows schools to deny services which, similar to adequacy and desegregation, have led to prolific litigation seeking to enforce students' rights, district-by-district, and state-by-state. This litigation often results in consent decrees, which then need to be enforced with the state actors. In terms of overall compliance, it would be useful to have adequate resources devoted to homeless children's education in the first place. Thus, it is critical to further develop relationships with adequacy advocates so that the needs of homeless students are considered when states do costing-out studies under funding equity lawsuit orders and develop budgets to meet the costing-out studies' recommendations.

## CONCLUSIONS

A vast majority of Americans believe that education is a basic human right.<sup>70</sup> With every human right comes a corresponding duty on the government to ensure that right is respected, protected and fulfilled. While lauding the goal of a sound basic education for all, our government, at the federal, state and local levels, has fallen short of fulfilling this goal. The impact of this failure falls disproportionately on poor and racial minority students, and even more so on homeless students who often face the barriers of poverty, race and homelessness combined.

Advocates for homeless education, desegregation, and equity have largely overlapping target populations and missions. All of us work in one way or another to decrease the racial and poverty gap through increasing access to a meaningful education. Despite this fact, those in these movements have worked largely in their own silos of activity. Advocates have, thus, been unable to capitalize on the benefits of integration. This article has sought to be a first step in the direction of a more unified movement, describing the specific challenges and achievements of the homeless education movement for audiences in the desegregation and equity movements. There are many opportunities for integrated work in the future, ranging from shared legal strategies to joint advocacy for additional, targeted funding. More conversations between these parallel worlds of advocacy are necessary to share strategies and combine our strengths to advocate for a less separate and more equal education for all our children.

## NOTES

- 1 Phillip Lovell and Julia Isaacs, *The Impact of the Mortgage Crisis on Children*, FIRST FOCUS, May 2008, 1, available at <http://www.firstfocus.net/Download/HousingandChildrenFINAL.pdf>.
- 2 42 U.S.C. § 11431.
- 3 *Hunger and Homelessness Survey*, THE UNITED STATES CONFERENCE OF MAYORS, A-25 Survey December 2008, available at [http://www.usmayors.org/pressreleases/documents/hungerhomelessnessreport\\_121208.pdf](http://www.usmayors.org/pressreleases/documents/hungerhomelessnessreport_121208.pdf).
- 4 Martha Burt, *What Will It Take to End Homelessness?* URBAN INSTITUTE, 1, Oct. 1, 2001, [http://www.urban.org/UploadedPDF/end\\_homelessness.pdf](http://www.urban.org/UploadedPDF/end_homelessness.pdf).
- 5 Phillip Lovell and Julia Isaacs, *supra* note 1.
- 6 *Id.* at 5.
- 7 The Urban Institute, et al., *Homelessness: Programs and The People They Serve*, INTERAGENCY COUNCIL ON THE HOMELESS, 6, Dec. 1999, available at <http://www.hudhre.info/documents/HomelessProgramsPeople.pdf>.
- 8 *Hunger and Homelessness Survey*, *supra* note 3.
- 9 Stegman et al., *Housing America's Working Families*, URBAN RESEARCH MONITOR, Vol. 5. Is. 5, Nov./Dec. 2000, 1, available at [http://www.huduser.org/periodicals/urm/urm\\_12\\_2000/urm1.html](http://www.huduser.org/periodicals/urm/urm_12_2000/urm1.html).
- 10 *America's Rental Housing – Homes for a Diverse Nation*, JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, 5, 2006, available at [http://www.jchs.harvard.edu/publications/rental/rh06\\_americas\\_rental\\_housing/rh06\\_0\\_intro.pdf](http://www.jchs.harvard.edu/publications/rental/rh06_americas_rental_housing/rh06_0_intro.pdf).
- 11 42 U.S.C. § 11431 (2), *supra* note 2; This definition is broader than that used by U.S. Department of Housing and Urban Development which has been read to exclude doubled-up families. See 42 U.S.C. § 11302 (a).
- 12 *Education For Homeless Children and Youth Program*, NATIONAL CENTER FOR HOMELESS EDUCATION, 8, July 2008, available at [http://www.serve.org/nche/downloads/data\\_comp\\_03-06.pdf](http://www.serve.org/nche/downloads/data_comp_03-06.pdf).
- 13 *Id.* at 6.
- 14 Kari Huis, *'Tidal Wave' of Homeless Students Hits Schools*, MSNBC.COM, March 2, 2009, <http://www.msnbc.msn.com/id/29356160/>.
- 15 *Homeless in America: A Children's Story (Part One)*, Homes for the Homeless and the Institute for Children and Poverty, 10, 25 (1999).
- 16 *Id.* at 4.
- 17 *Id.* at 10, 16.
- 18 *Id.* at 17.
- 19 *Id.* at 12.
- 20 Linda Jacobson, *Moving Targets*, EDUCATION WEEK, April 4, 2001, <http://www.edweek.org/login.html?source=http://www.edweek.org/ew/articles/2001/04/04/29mobility.h20.html&destination=http://www.edweek.org/ew/articles/2001/04/04/29mobility.h20.html&levelId=2100>.
- 21 *Elementary School Children: Many Change Schools Frequently, Harming Their Education*, UNITED STATES GENERAL ACCOUNTING OFFICE, GAO/HeHs-94-45, 1994, available at <http://archive.gao.gov/t2pbat4/150724.pdf>.
- 22 Russell Rumberger, *The Causes and Consequences of Student Mobility*, JOURNAL OF NEGRO EDUCATION, 72, at 6-21 (2003), available at <http://education.ucsb.edu/rumberger/internet%20>

pages/Papers/Rumberger—Cause%20&%20Consequences%20of%20Student%20Mobility%20(JNE%202003).pdf.

23 *Separate & Unequal: A Report on Educational Barriers for Homeless Children & Youth*, NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY, Jan. 2000.

24 *Id.*

25 *Id.*

26 *Id.* at 27.

27 Carrie Arnold, LeTendre Scholar Speech (2002) (on file with author).

28 42 U.S.C. § 11431, *supra* note 2.

29 *Id.*

30 *Id.*

31 *Education for Homeless Children and Youth Program*, Title VII of the McKinney-Vento Homeless Assistance Act as Amended by the No Child Left Behind Act of 2001, Non-Regulatory Guidance, UNITED STATES DEPARTMENT OF EDUCATION, A-4, July 2004, <http://www.ed.gov/programs/homeless/guidance.pdf> (last visited Apr. 15, 2009); “School of origin” is either the last school a homeless child attended or the last school attended while permanently housed.

32 *Id.*

33 *Id.*

34 John Buckner, *Impact of Homelessness on Children: An Analytic Review of the Literature*, in Deb J. Rog, et al., *Characteristics and Dynamics of Homeless Families With Children*, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, Fall 2007, *available at* <http://aspe.hhs.gov/hsp/homelessness/improving-data08/report.pdf>.

35 *Education for Homeless Children and Youth Program*, *supra* note 31 at A-4.

36 *Id.*

37 *Id.* at F-5.

38 *Id.* at A-4.

39 *Id.* at E-2.

40 *Id.* at E-2, E-4.

41 *Id.* at B.

42 *Id.* at M-3.

43 20 U.S.C. § 6313 (c)(3); Schools typically receive Title I grants through their state education agency if they have more than 40% of their students under the federal poverty line, often measured by the number of students receiving free school meals. *See* 20 U.S.C. § 1113 (a)(5).

44 *Education for Homeless Children and Youth Program*, *supra* note 31 at A-4.

45 *Id.* at D-3.

46 *Id.* at F-2.

47 *See generally* *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954); *See generally* *Milliken v. Bradley*, 418 U.S. 717 (1974).

48 *See generally* *Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S. Ct. 2738 (U.S. 2007), (held schools required to prove their voluntary desegregation plans are narrowly tailored to a compelling governmental interest, the most stringent legal standard which is almost never achieved).

49 *See generally* *San Antonio Indep. School Dist. v. Rodriguez*, 411 U.S. 1 (1973), (held there was no federal Constitutional right to a minimum education that would require states to create equitable funding mechanism for school districts with an inadequate tax base to support adequate education); *See generally* *Campaign for Fiscal Equity v. New York State*, 719 N.Y.S.2d 475 (N.Y. 2001); *See also* Access Quality Education, School Funding Litigation, <http://www.schoolfunding.info/litigation/litigation.php3>.

50 *Brown*, *supra* note 47.

51 *Swann v. Charlotte-Mecklenburg Bd. of Education*, 402 U.S. 1 (1971).

52 See generally *Milliken*, *supra* note 47. (In *Milliken*, the parents of black children argued that Detroit schools could be desegregated only by permitting cross-district busing to and from the surrounding mostly white suburban school districts. The Court found that the school district boundaries of the suburban districts were an essential component of local control and autonomy established by the state of Michigan. Those boundaries could be transgressed only if black parents could prove that the suburban districts were guilty of intentionally discriminating against black children in Detroit – a task that was virtually impossible).

53 See generally *Brown*, *supra* note 47; *Grutter v. Bollinger*, 539 U.S. 306, 344 (2003).

54 See generally *Milliken*, *supra* note 47.

55 See generally *Parents Involved*, *supra* note 48.

56 Gary Orfield and Chungmei Lee, *Historic Reversals, Accelerating Resegregation, and the Need for New Integration Strategies*, UCLA CIVIL RIGHTS PROJECT, August 2007, at 3, available at [http://www.civilrightsproject.ucla.edu/research/deseg/reversals\\_reseg\\_need.pdf](http://www.civilrightsproject.ucla.edu/research/deseg/reversals_reseg_need.pdf).

57 *Separate & Unequal*, *supra* note 23.

58 *Id.*

59 42 U.S.C. § 11431 (e)(3), *supra* note 2.

60 Charter schools directed to the needs of homeless and other at-risk students include the Urban Peaks School in Denver, CO, the Baldwin Park school in Los Angeles, CA, and a proposed boarding school for homeless students at North Lawndale Prep charter school in Chicago, IL.

61 *Separate & Unequal*, *supra* note 23 at 36.

62 *Id.* at 34.

63 *Chicago weighs boarding schools for homeless*, Associated Press, May 23, 2008, <http://www.msnbc.msn.com/id/24795197/>.

64 See generally *San Antonio Indep. School Dist.*, *supra* note 49, (held that the commonality of the plaintiffs in being (supposedly temporarily) impoverished did not create a protected class under the equal protection clause. More importantly, while *Brown* proclaimed education to be important, the Court ruled that adequate education is not fundamental right protected by the Constitution).

65 See generally *Missouri v. Jenkins*, 495 U.S. 33 (1990).

66 *CFE v. State*, Slip Op. 15615 (2003), (“CFE II”); *In Campaign for Fiscal Equity, Inc. (CFE) v. State of New York*, 86 N.Y. 2d 307 (1995), (“CFE I”).

67 *Separate & Unequal*, *supra* note 23 at 13.

68 *Id.*

69 *National Law Center on Homelessness & Poverty, et al. v. New York State, et al.*, Civil Action No. 04 0705 (E.D. N.Y. 2004), (Court in denying motion to dismiss held the McKinney Vento Act was enforceable by parents of homeless students. Ultimately, all parties settled and agreed to comply with all applicable state and federal laws relating to homeless students); *Lampkin v. District of Columbia*, 27 F. 3d 605 (C.A. D.C. 1994).

70 *Human Rights in the U.S., Opinion Research with Advocates, Journalists, and the General Public*, THE OPPORTUNITY AGENDA, 3, (2007).

# ADVOCACY AND OBSTACLES IN THE EDUCATION OF HOMELESS CHILDREN AND YOUTH IN ILLINOIS

*by* LAURENE M. HEYBACH

The Law Project of the Chicago Coalition for the Homeless (the Law Project) is in its thirteenth year of service. The Law Project's primary purpose is the development and enforcement of the educational rights of children and youth experiencing homelessness especially in the greater Chicago area. The Law Project grew out of work undertaken by the author and her colleagues in the Homeless Advocacy Project of what is now the Legal Assistance Foundation of Metropolitan Chicago. This year, 2009, thus marks 20 years of legal advocacy in Illinois specifically directed to gaining equal access to education for children and youth experiencing homelessness. This article sets forth some

of the key challenges and successes achieved in Illinois as well as currently important issues.

## BACKGROUND

In 1987, the United States Congress initiated the first comprehensive response to the emerging national problem of homelessness. As part of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act),<sup>1</sup> Title VII-B focused on the stunning dilemma that thousands of children throughout the U.S. were simply unable to access primary or secondary education because they had no permanent address. If lucky enough to acquire shelter or other temporary accommodations while homeless, families had no real choice to remain living near their children's school. They took whatever abode was available. Moreover, with no transportation resources available the children simply could not maintain school attendance.

The Chicago Coalition for the Homeless joined organizations throughout the country in lobbying for the McKinney Act which, among other things, created a broad right to equal access to education, the non-stigmatization of homeless students and a right to remain in the same school district while experiencing homelessness.

No sooner had this victory been celebrated then the hard reality hit: school districts in Illinois, including Chicago were simply not complying. Federal funding was slow in coming and was too little for the increasing size of the problem. Educators and the bureaucracies understood little about homelessness or how to respond to educating children who faced this terrible dilemma. Bigotry, too, had a considerable role.

## WHAT IS LIFE LIKE FOR CHILDREN AND YOUTH EXPERIENCING HOMELESSNESS?

After twenty years of legal work in Chicago for children, youth and families experiencing homelessness, the staff of the Law Project can say unequivocally that the face of homelessness in the greater Chicago metropolitan area is overwhelmingly one of color. Though predominantly African American, clients include Latino families as well. Rarely, do we represent a white family. Na-

tionally too, families of color are overrepresented in the homeless population.<sup>2</sup> This racial disparity in the 21st Century is itself deeply troubling, but a closer look at what homelessness means for the families in our nation who experience it is almost unbearable.

According to the National Center on Family Homelessness (NCFH), children experiencing homelessness are four times more likely to show delayed development and have twice the rate of learning disabilities as their housed peers. They have three times the rate of emotional and behavioral problems compared to non-homeless children. At the tender ages between three and six years, one out of five has emotional problems warranting professional help. Forty-seven percent of school-age homeless children experience anxiety, depression and withdrawal as compared to 18 percent of their housed peers.<sup>3</sup>

Physical well-being suffers as well. Children experiencing homelessness have nutritional deficiencies and go hungry at twice the rate of other children. They are four times more likely to get sick, have four times as many respiratory infections, twice the number of ear infections and are four times more likely to have asthma.<sup>4</sup>

As if this isn't enough of a burden for these children to carry, research shows that they are significantly more likely to face family separation, spend time in foster care and face homelessness as adults. They routinely live with stress and worry that they will have no place to live or sleep and that something bad will happen to their family.<sup>5</sup>

#### MAKING RIGHTS A REALITY FOR ILLINOIS CHILDREN

What advocates knew about the needs of homeless students in the late nineteen eighties —now extensively well-documented — is that constant shifting from school to school, i.e., “school mobility” significantly impairs a child's learning. For the child and parent, it adds to the chaos experienced in losing a domicile, cuts off friendships and meaningful relationships with teachers, coaches and other caring adults and casts the students out of a community in which they had achieved some sense of place and hopefully, safety. For those of us serving these families, the sheer misery felt by children of all ages and their families when they were shut out of schools to which they often had deep

attachments or when they were simply shut out of school altogether motivated us to make change.

In 1990 through a small grant from the Poverty and Race Research Action Council, a study was undertaken by the Homeless Advocacy Project to identify specific issues with the Chicago Public Schools. From the study (Dohn, Bernardine, *A Long Way from Home: Chicago's Homeless Children and the Schools*) sprung first negotiation, then frustration, then litigation. *Salazar v. Edwards*, a class action lawsuit initiated by homeless parents and their children against the Chicago Public Schools (CPS) and the Illinois State Board of Education (ISBE) (responsible under the McKinney Act for ensuring state-wide compliance) was filed in the spring of 1992 in the Circuit Court of Cook County.<sup>6</sup> This litigation galvanized the low-income advocacy community's commitment to make Illinois schools serve its poorest, most vulnerable children better.

Both of the institutional defendants, ISBE and CPS resisted compliance with the McKinney Act, prolonged the legal proceedings from the outset and fought the legal effort to compel change. When the case was dismissed, despite the strength of the federal law and important provisions of the Illinois School Code, the families appealed.

#### CHANGING ILLINOIS LAW

In 1994, a suburban Chicago school district engaged legal counsel to keep three young children experiencing homelessness from continuing to attend its district schools. Thanks to grassroots advocacy, a groundswell of support developed in the media and among Illinois legislators to amend the Illinois School Code to ensure that homeless children's access to education and ability to maintain continuity in school were better protected.

Using the experience gained in representing numerous homeless families, advocates helped shape Illinois House Bill 3244 to address some of the more ambiguous or problematic provisions in the McKinney Act. Enacted in 1994, effective January 1, 1995, the Illinois Education for Homeless Children Act (EHCA): (1) requires school districts to immediately enroll homeless students without requiring the production of records, immunizations, physical examinations or transfer forms; (2) gives parents the power to determine which choice of schools is in the "best interest" of their child including choosing to

remain the child's "school of origin;" (3) provides an unequivocal right to transportation if the child returns to the home school with a directive that school districts agree on sharing costs or split them equally for a child living in one district but returning to the school of origin in another; (4) defines "homeless" consistently with the McKinney Act and even somewhat more liberally; (5) creates a right to a "dispute resolution" process (allowing the child to enroll, attend and receive transportation during any dispute); and (6) creates the right to advocacy assistance for the family or child and the right to file a civil action for enforcement.<sup>7</sup> If the family prevails in the action, "appropriate relief" can be awarded together with attorneys' fees and costs.<sup>8</sup>

With this new law, Illinois emerged as a national leader in solidifying and clarifying the educational rights of homeless students. In 2001, U.S. Congresswoman Judy Biggert took key elements of the EHCA and imported them into the reauthorized McKinney Act.

#### *SALAZAR V. EDWARDS: HOPE FOR REAL RELIEF*

In 1995, Plaintiff homeless families successfully appealed the Circuit Court's dismissal of the *Salazar* case.<sup>9</sup> In 1996, an amended complaint was filed detailing widespread noncompliance and asserting new claims under a reauthorized McKinney Act and the new EHCA. Facing a trial, the mandates of the new Illinois law and the potential loss of federal funds if Chicago and Illinois were found not in compliance with the McKinney Act, both ISBE and the CPS entered into a Settlement Agreement. Numerous important provisions were included for CPS to comply with both state and federal law and to annually report on its compliance. The Settlement with ISBE established the first statewide technical assistance program designed to aid school districts in understanding and complying with the mandates of both the Illinois EHCA and the McKinney Act.

By 1999, however, it was clear that CPS had utterly failed to implement even the simplest provisions of the Settlement Agreement. In three years, for example, only about 60 children had ever been accorded adequate bus transportation to their home school. Individual schools turned homeless students away, failed to allow any process for dispute resolution and failed to train staff to properly identify or serve homeless families.

The plaintiff parents and children filed a motion to enforce directed against CPS only. Overwhelming evidence of CPS' non-compliance was established and one of the most extensive injunctive relief orders ever entered by the Circuit Court of Cook County was issued. Again, CPS appealed the ruling.

Frustrated by CPS's willingness to continue protracted and expensive litigation against the very families it was obligated to serve—and the very poorest in the CPS system—plaintiffs took a new tack. Approaching Dr. Blondean Davis, a key executive in the CPS bureaucracy who had testified impressively at trial, plaintiffs urged that CPS change course, settle the case and work cooperatively with advocates to become a national leader in the educational rights of homeless students. A comprehensive Settlement Agreement was entered.

#### CHANGING ILLINOIS POLICY

The overarching mandate of the, re-named, McKinney-Vento Homeless Assistance Act (the McKinny-Vento Act) is the directive for state and local educational agencies to identify and address all “barriers” to the “enrollment, attendance and success” of students experiencing homelessness.<sup>10</sup> This is a powerful engine to drive continued examination of what practices, policies and services work well for educating homeless students. In 1996, as part of the *Salazar* Settlement, ISBE issued its first policy governing the educational rights of homeless students.<sup>11</sup> Though strong in some respects, the policy proved mostly ineffective.

By 2002 Illinois had made relatively modest progress despite the enactment of EHCA: (1) installation of a new, more proactive State Coordinator for the Education of Homeless Children and Youth (required by federal law), but one given little authority vis-à-vis 800 Illinois school districts and (2) establishment of a solid, but small technical assistance program. The success of the litigation in Chicago, however, began to secure real change for the largest group of children experiencing homelessness in Illinois and it did so in the third largest school system in the United States. Nonetheless, many of the other school districts throughout the State either had no specific policies or plans for serving homeless students or gave little attention to compliance with even the basic requirements of federal and state law. The Law Project continued with sporadic and individual litigation in other districts.

From 2003 to 2005 ISBE legal counsel took greater responsibility to enforce the EHCA and the McKinney-Vento Act. ISBE was willing to exercise its authority – albeit sparingly – to ensure enforcement. In December of 2005, after urging by the Law Project and other advocates as well as testimony at a public hearing, ISBE issued a strong new policy on the Education of Homeless Children and Youth.<sup>12</sup>

Among the most important provisions of the new policy are, first, the existence of clear procedures on the handling of a dispute resolution hearing. Such hearings can occur whenever “an issue related to the rights of homeless students” arises. While federal and state law calls for such hearings, these procedures clarify the Illinois process. This now includes the right to appeal a local dispute decision to the State Coordinator with final determination made by the ISBE Superintendent. Second, there is clarification that homeless children and youth who stay “day-to-day in different attendance areas,” such as Public Action to Deliver Shelter, or P.A.D.S. programs where shelter is offered at a different church each night of the week, may choose any of one of the attendance area schools in which to enroll. Third, there is a requirement that school staff aid any student who may not be eligible to attend the school so that the student is promptly enrolled in the correct school instead of simply being turned away.

The ISBE Policy also clearly delineates the responsibilities of the local homeless liaisons. Under federal law, each school district must have a designated “liaison.” The ISBE policy clarified those responsibilities. Another important policy change occurred in 2007 when ISBE adopted an “Equal Opportunities for All Students” regulation,<sup>13</sup> which explicitly prohibited exclusion, discrimination or segregation of any homeless pupil by any Illinois school system.

Finally, again at the urging of advocates, the Illinois State Plan required a description of how Illinois complies with federal law to be submitted to the U.S. Department of Education. It also required that the McKinney-Vento Act funding be revised and strengthened in May of 2007, particularly with respect to preschool for homeless children.

## CONTINUED CHALLENGES IN REPRESENTING STUDENTS EXPERIENCING HOMELESSNESS

The Law Project has handled hundreds of cases in which children or youth experiencing homelessness have been denied one or more of their rights as accorded by Illinois or federal law. Almost always the Law Project is able to secure relief for the family. This suggests that the Law Project's legal tools—after 20 years of advocacy—are quite significant. Over this period of time, school district knowledge about EHCA and the McKinney-Vento Act as well as the needs of homeless families has become much more commonplace. But challenges persist and Illinois is a long way from satisfactory compliance and service under both EHCA and the McKinney-Vento Act. Key obstacles identified through the Law Project's experience are noted below and require continued attention.

*Awareness*

Many districts, including those in the Chicago metropolitan area, continue to lack basic policies and practices to implement the law effectively. One can easily see this by perusing websites of schools and districts or entering school buildings and seeing no materials, instructions, forms or notices regarding the education of homeless students. District personnel in many places erroneously believe that the onus is on the family or youth to identify themselves to the school as “homeless” when, in fact, it is the responsibility of schools and districts to sensitively identify, serve and count the children and youth experiencing homelessness. Often districts express the belief that there are no homeless children or youth in their area and, thus, utterly fail to plan for transportation and services or to train admissions staff and teachers.

More professional development to raise awareness among admissions clerks, staff, teachers and particularly the homeless liaisons should be undertaken by districts themselves. Local communities should be saturated with easily accessible information. Liaisons should be thoroughly informed about and involved with community resources to assist these families.

## *Enforcement*

Based on the Law Project's experience, some school districts engage in conduct which clearly violates the law and only when confronted with parents or youth who are legally represented do the districts honor the students' rights. Pernicious practices include forcing children or youth to immediately leave school when it appears to school personnel that they no longer reside in the district. Under the Illinois School Code, all children have the right to finish the school year in the same school tuition-free once they have lawfully begun the school year.<sup>14</sup> They also have a right to notice and a hearing on the issue of residency with the opportunity to stay in the school until the residency determination is concluded.<sup>15</sup> All homeless children, which includes children who are doubled-up living with other families due to "loss of housing, economic hardship or a similar reason,"<sup>16</sup> have a right to remain in that school and have a right to transportation, if needed, to do so.<sup>17</sup> Moreover, they are to be accorded notice of their rights, including the right to a dispute resolution hearing and a State-level appeal while they remain enrolled.<sup>18</sup> Thus, to force a student to leave immediately is clearly unlawful and yet, in our experience, it is frequently done.

In addition, for those experienced with the issues faced by homeless families and youth, we know, as school staff should, that residency changes can be a red flag signaling homelessness. Rather than assess the situation to identify homelessness, some districts will force these families, while in crisis, to undergo residency hearings. These hearings, unlike the dispute resolution process that should be applied if there is an issue, cast the legal burden on the family to prove residency with documentation and witnesses.<sup>19</sup> The residency hearing officers are often school officials or school firm lawyers. There is no system for assisting the family or referring them to free or low cost legal assistance. Thus, desperate and impoverished families are intimidated, out-resourced and have little recourse.

Under the dispute resolution process, on the other hand, a family is entitled to a fair and impartial hearing officer (Ombudsperson) appointed by the Regional Office of Education. Assistance must be given to ensure that the facts are fully and fairly developed and the family has a right to be referred to free or low cost attorneys or advocates.<sup>20</sup> They are also entitled to assistance and do not bear the legal burden of proof. ISBE has made clear that the residency hearing

process must immediately stop when the family is homeless. Of course, if a family is experiencing homelessness, there should be no hearing of any kind and no exclusion from school. The child has the right to remain for as long as he or she is homeless and until the end of the year in which he or she is housed.<sup>21</sup>

Despite these rules, some districts continue to immediately exclude clearly homeless children. Other pernicious practices include the release by districts of private information protected by the Illinois School Student Records Act,<sup>22</sup> i.e., the family's living circumstances and other identifying information to housing inspectors, landlords and private investigators.<sup>23</sup> Such information can result in the eviction not only of the homeless children but of the family in whose home they are temporarily living.

Numerous similar experiences coupled with the insensitive and ill treatment often accorded the students and families involved, compels us to recognize that there is likely, and sometimes expressly, bias against those who are homeless coupled with racial discrimination. These intractable problems require greater enforcement by the ISBE in accordance with the State's duties under the McKinney-Vento Act to ensure statewide compliance.

#### THE EXCLUSION OF HOMELESS CHILDREN AND YOUTH AND THE TREATMENT OF UNACCOMPANIED YOUTH

In addition to the unlawful and harsh exclusion of homeless students described above (turned away from admissions, wrongfully excluded as non-residents), homeless students are also excluded through truancy and disciplinary proceedings that are draconian and simply inappropriate. Like many advocates for low-income children and families, the Law Project has experienced grossly disproportionate penalties imposed for not atypical adolescent behavior. Expulsion of students for one and two years can destroy that child's chance for a meaningful education. In the context of homelessness, it can literally mean that an expelled unaccompanied youth is left to wander the streets. Homeless students, moreover, as noted above, are coping with enormous emotional and practical difficulties which, if understood by school personnel could be handled much more effectively while continuing to educate the child or youth. Absenteeism, for example, which can be related to the youth's living circumstances should not be penalized but, instead, understood and resolved. Home-

less youth are also excluded when schools do not accord them sufficient credit or permit older students to re-engage with school and complete graduation.

The McKinney-Vento Act's overarching purpose is to engage homeless students in school. States and districts are bound to identify and address those things which act as "barriers" to the "enrollment, attendance and success" of these vulnerable students. Districts should review and revise policies which affect the ability of homeless students to have access to school and obtain an equivalent education.

### *Access to Preschool*

The McKinney-Vento Act expressly covers preschool-aged children in its protections.<sup>24</sup> The State clearly bears responsibility for ensuring the equal access of homeless preschoolers to preschool services.<sup>25</sup> The inherent instability of these families, however, can mean that preschool classrooms are filled first with other students; that pre-enrollment processes (screening and assessment in advance of enrollment) do not reach and do not work for homeless preschoolers. In Illinois, the ISBE and the Early Learning Council are engaged in a multi-year process to provide preschool education in every community for every Illinois 3 and 4 year old whose parent desires it. The benefits of preschool education for brain development, health, social adjustment, learning and employability are prodigious. Children denied that opportunity, it is fair to say, begin their education already lagging. Many school districts offer preschool but have limited availability. Many non-profits are being funded by the State through an ISBE grant-making process to offer "Preschool For All". It is crucial then that homeless families in every community know about and obtain enrollment in these programs; that the programs provide immediate enrollment and transportation as well as skilled support for the children and parents. Equally important is that funding be made available to enable these services.

### *Funding Locally and Nationally*

Federal funding under the McKinney-Vento Act has never reached its authorized appropriation of \$70 million dollars. Typically, Illinois receives no more than \$4 million annually to implement services in almost 800 school districts. Title I federal funding, which intends to improve the academic achievement of the disadvantaged, is to be utilized as well. Nevertheless this falls far short of

what would be needed, ideally, to serve Illinois families. In the 2007-2008 school year, CPS alone identified 10,642 homeless students. For this current year, numbers are increasing significantly: 23 percent more students were counted as of December 31st, 2008 than in the same month in 2007. State-wide, including CPS, more than 26,000 homeless students were identified last year. ISBE has projected that as many as 60,000 low-income children throughout the state are experiencing homelessness. For schools to employ well-skilled liaisons who work collaboratively with all community agencies and resources, provide adequate outreach and notice, work effectively with families and provide transportation, counseling, tutoring, activities, uniforms, fee waivers and other appropriate McKinney-Vento Act services, significantly more funding is needed.

In FY 2009, the Illinois State Board recommended for the first time that state dollars be directed specifically for the education of homeless children and youth. This \$3 million was appropriated by the General Assembly and is currently being distributed to schools. Yet ISBE's fiscal year 2010 budget recommendations contain no suggested appropriation. Clearly, more resources must be brought to our schools.

## CONCLUSION

Many of the racial and class conflicts in the United States for the past hundred years have been played out at the schoolhouse door. This Symposium asks the question is education today "Separate and Unequal?" As advocates for homeless children, we must respond "yes." However, full implementation of the McKinney-Vento Act, which we see preeminently as a civil rights law, can lead us to a higher path.

---

## NOTES

1 P.L. 100-77 (1987).

2 National Center on Family Homelessness, *The Characteristics and Needs of Families Experiencing Homelessness*, Jan. 31, 2009, available at [http://www.familyhomelessness.org/pdf/Characteristics\\_Needs\\_Homeless\\_Families.pdf](http://www.familyhomelessness.org/pdf/Characteristics_Needs_Homeless_Families.pdf).

3 *Id.* at 5.

4 *Id.* at 4.

5 *Id.* at 6.

- 6 *Salazar v. Edwards*, 92 CH 5703 (Cir. Ct. of Cook Co., IL 2000) (Settlement Agreement and Stipulation to Dismiss).
- 7 105 ILCS § 45 (1995)
- 8 105 ILCS § 45/1-1 (1995) *et seq.*
- 9 *Salazar*, *supra* note 6.
- 10 42 U.S.C. §§ 11431(2) (2008); 42 U.S.C. §§ 11432(g)(1)(I) and (g)(7)(A) (2008).
- 11 § 45, *supra* note 7.
- 12 Illinois State Board of Education, Policy of the Illinois State Board of Education on the Education of Homeless Children and Youth Overview, *available at* <http://www.isbe.state.il.us/homeless/pdf/policy.pdf>.
- 13 23 Il. Admin. Code 1.240 (2005).
- 14 105 ILCS 5/10-20.12(a) (1999).
- 15 *Id.*
- 16 42 U.S.C. §11434a(2)(B)(1) (2008).
- 17 42 U.S.C. §§ 11432(g)(1)(J); (g)(2)(A); and (g)(3) (2008).
- 18 42 U.S.C. §§ 11432(g)(3)(E)(ii) and (vii); (g)(6)(A)(iv) and (v) (2008).
- 19 105 ILCS 5/10-20.12b(c)(c-5) (1999).
- 20 105 ILCS 45/1-25 (1995).
- 21 105 ILCS 45/1-10(a)(1) (1995).
- 22 105 ILCS 10/2(e) CAN'T FIND YEAR
- 23 See Legal Advisory of the ISBE, *Homeless Education: Violation of Zoning Ordinances or Local Housing Authority Rules*, Aug. 10, 2000.
- 24 42 U.S.C. § 11431(1)
- 25 42 U.S.C. §§ 11432(f)(4) and (g)(1)(F)(i)

# HOMELESS EDUCATION: UNVEILING THE TRUTH BEHIND BEATING THE ODDS

*by* CARY M. MARTIN

## MY STORY

“**Y**ou’re lucky you’re so smart because statistically you’re not supposed to be here.” Her attempt to pass along a complement was ineffective. She was reacting to my law school graduation speech in which I candidly shared how education broke the cycle of poverty that plagued my family. Instead of making me appreciate my intelligence, her statement caused me to relive the pain of having to convince myself that I was capable of becoming self-sufficient when it was clear that most deemed it impossible. Throughout my journey towards self-sufficiency, I battled against internalizing the hopelessness

that society often implants onto the victims of poverty. After having won the hardest part of that battle by earning my Juris Doctor from Northwestern University School of Law, I am still forced to respond to a society that thinks I “am not supposed to be here.”

From her perspective, and from the perspective of many others, my future should have been predetermined by the negative statistics associated with my background. Those statistics are unwillingly mounted on the backs of those who share my story. The above statement, which represents a pervasive view, implies that those who have succeeded despite having experienced devastating life circumstances, simply slipped through the cracks due to extreme intelligence or other genetic traits. I am even more troubled that her perspective implies that those who did not escape poverty were not equipped with the traits that would enable them to persevere.

My own personal history with poverty began with my mother, who grew up in the system as a ward of the state in Illinois. As a young adult she became a single parent when my father lost his job and joined the army shortly thereafter. When my father left, my mother’s mental illness was triggered by our slow descent into chronic poverty. Our family became homeless after my mother lost her Section 8 subsidy. Unfortunately, when our father returned from the army he was diagnosed with paranoid schizophrenia and was unable to adequately support our family. We were homeless for about 3 years until the state of Illinois revoked guardianship from my parents when I was thirteen years old, thus repeating the cycle that my mother fought desperately hard to break. As a ward of the state, I lived in two group homes and three foster homes.

The statistics associated with my background are overwhelming, depressing and discouraging. Children in poverty are much more likely than other children to suffer developmental delay and damage, to drop out of high school and to give birth during teen years.<sup>1</sup> A 1994 study of young adults who have been discharged from foster care found that 54 percent had completed high school.<sup>2</sup> In a 2005 study of foster care alumni in Oregon and Washington, 1.8 percent of those interviewed completed a bachelor’s degree compared to the general population rate of 24 percent.<sup>3</sup>

These negative statistics are often misinterpreted when the children who are born into poverty are blamed for their inability to beat the odds. However, this misinterpretation perpetuates social injustice.<sup>4</sup> The statistics do not reflect a

lack of intelligence, drive or self-motivation among homeless youth. Instead, they reflect the failure of our society to adequately accommodate this population. When we begin to accept accountability for these statistics, as a society we will collectively remove the systematic barriers that prevent disadvantaged children from receiving an adequate education.

From my perspective, it is evident that poverty is a circumstance and not a character trait. Children are born with various gifts, advantages and talents and these gifts are wasted when we fail to help ourselves by failing to help others. Thus, while intelligence certainly helps one to break the cycle of poverty, as it did in my case, it is impossible to break that cycle without having access to innumerable resources. In terms of my own success, the most important aspect of my story is that I did not pull myself up by my bootstraps. I received help from countless individuals, organizations and government funded programs. Upon completing my educational endeavors, I was the recipient of food stamps, free medical care, subsidized housing, educational grants and various other public benefits.

#### PROTECTING HOMELESS EDUCATION: THE MCKINNEY ACT

When I started law school, I discovered that many of the programs from which I benefited were mandated under state and federal laws. After my first year at Northwestern, I interned with the Law Project of the Chicago Coalition for the Homeless (The Coalition), which helps to implement and enforce the Stewart B. McKinney Homeless Assistance<sup>5</sup> (McKinney Act or Act). The Act is the only major federal legislative response to homelessness and homeless education.<sup>6</sup>

The McKinney Act is fascinating in both its purpose and its scope. Its purpose reinforces the obvious—that education is the most important tool that enables one to break the cycle of poverty. However, the authors of the Act acknowledge that simply having access to an educational institution does not guarantee academic success. In addition to ensuring that homeless students are enrolled in school, McKinney Act funding must also be used to ease the many burdens and inconveniences that afflict homeless students on a daily basis.<sup>7</sup> For example, the McKinney Act requires that schools provide direct services to homeless students such as free meals and free transportation,<sup>8</sup> and it requires that homeless student are immediately enrolled into school even if they are unable to

produce medical records or proof of residency.<sup>9</sup> In addition, the McKinney Act requires that a separate office be established within every state educational agency solely for the purposes of implementing the McKinney Act<sup>10</sup> and that school personnel do not stigmatize homeless children.<sup>11</sup> Furthermore, schools must provide outreach to homeless families who are unaware of their rights under the McKinney Act.<sup>12</sup>

On a more personal note, certain provisions and principles of the McKinney Act enabled me to utilize my own educational opportunities more effectively. I was excited that my story proves that suitable government funded programs can contribute to the success of homeless youth. However, my excitement quickly turned into frustration and disappointment after I discovered the limitations of the McKinney Act. Only 6 percent of school districts nationwide are receiving McKinney Act funding, although every school district must ensure that homeless students are identified, enrolled, and receiving the services mandated.<sup>13</sup> Obviously, it is impossible for schools to implement many of the McKinney Act provisions without receiving appropriate funding. Moreover, many schools knowingly violate provisions of the McKinney Act due to limited resources, lack of knowledge and, in some cases, discrimination against homeless students.<sup>14</sup>

In light of the above limitations of the McKinney Act, I have become eager to share my story as it relates to the multiple forms of assistance that fueled my success. Increasing access to resources, similar to the resources that I have received under the Act, would create additional opportunities for those who are currently fighting to escape poverty. Set forth below are the provisions of the McKinney Act that aided my own success, followed by specific examples from my experiences as a homeless youth.

#### BROADER DEFINITION OF HOMELESSNESS

Under the McKinney Act, the term “homeless children and youths” means individuals who lack a fixed, regular, and adequate nighttime residence and includes: (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement; (ii) children and

youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; and (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.<sup>15</sup> If students meet the above definition of homelessness, then they are automatically eligible to receive the benefits prescribed under the McKinney Act.<sup>16</sup>

The McKinney Act definition of homelessness is extremely significant because it does not require that youth live on the streets in order to be considered homeless. Most parents who have lost their housing are not visible to the public eye because they will often seek other locations such as motels, and temporarily staying with others in order to protect their children from the streets and keep their families together.<sup>17</sup> Other federal laws limit the definition of homelessness to individuals who live in the streets or in a shelter, which prevents many homeless families from receiving assistance under those laws.<sup>18</sup>

When my family experienced chronic poverty, we never actually lived on the streets or in a shelter, but we were still considered homeless under the Act. When my mother first lost her Section 8 subsidy, we were temporarily doubled up with other families. These families consisted of my mother's friends, her former foster parents and even one of my teachers. Once the temporary living situations failed, we lived in a partially vacant office building without access to a bathroom or kitchen. After we lived in the office building for about a year, we lived in a hotel for approximately two years where there was a bathroom, but again no kitchen. As a ward of the state, I was also considered homeless under the McKinney Act while awaiting foster care placement. Because I met the above definition of homelessness, I was able to access many resources mandated under the Act, which are further described below.

#### SCHOOL OF ORIGIN

Under the McKinney Act, the local educational agency serving each child or youth to be assisted under the Act must, according to the child's or youth's best interest continue the child's or youth's education in the school of origin for the duration of homelessness: (i) in any case in which a family becomes homeless between academic years or during an academic year; or (ii) for the remainder of the academic year, if the child or youth becomes permanently

housed during an academic year.<sup>19</sup> Under the Act, the term “school of origin” means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.<sup>20</sup>

This provision highlights the importance of ensuring that students have a consistent learning environment. Homeless families frequently move due to limits on shelter stays, limited access to safe and affordable housing or employment, or to escape abusive partners.<sup>21</sup> If homeless students are forced to change schools every time they move into a different school district, then their education could be severely disrupted. A national study of third-grade students found that frequent school changes were associated with nutrition and health problems, below-grade-level reading scores and frequent grade retention.<sup>22</sup> A different study, which tracked children from early childhood to young adulthood, found that school mobility reduced the odds of high school graduation.<sup>23</sup>

While I was homeless, I was able to attend my school of origin as required under the McKinney Act. During 7th and 8th grade, I attended the same elementary school while living in three different school districts, and I attended the same high school while living in five different school districts. As a youth, having access to a stable learning environment was a necessary component to my academic success. School essentially became my safe haven as it was often the only stable environment that I encountered. Staying in my school of origin also helped me to establish relationships with teachers who were committed to helping me reach my full potential.

In high school, staying in the same school prevented me from self-destructing. During this time, I became a nomad within the city of Chicago as I constantly moved to different foster homes. When a foster placement was unsuitable, the Department of Children and Family Services (DCFS) would find a new placement. When it was time to move, I threw my belongings into several trash bags and waited for my caseworker to drive me to the next home. At one point, I doubled up with my sister and with friends until my caseworker found a new placement. As a result of the constant disruption in my living arrangements, my grades plummeted as my emotional and physical health deteriorated. At the beginning of my sophomore year, I had three F's, two D's and twenty absences.

My teachers never gave up on me, despite my severe academic setbacks. They collaborated with my caseworkers to discuss solutions for improving my grades. They provided me with emotional support when I had difficulties functioning in class due to my frequent moves. My guidance counselor became my advocate as she helped me navigate the bureaucracy of DCFS when certain placements failed. She even helped me complete my financial aid and college applications. When I finally turned my grades around and got accepted into the University of Illinois in Urbana-Champaign, my teachers celebrated my success.

Research has shown that “quality relationships with adults can provide children with resilience in facing adversity. Resilient children—those who seem to thrive through tough times—often report an adult who took a special interest in them.”<sup>24</sup> In my case, had it not been for the positive relationships with my teachers, I would not have developed the resilience that I needed in order to persevere. However, it does take time to develop those relationships and it took two years for my teachers to even become aware of my situation. Staying in my school of origin allowed me to develop and sustain those positive relationships, which aided my transition into college.

#### DIRECT SERVICES

Under the McKinney Act, each homeless child or youth assisted under the Act must be provided services comparable to services offered to other students in the school, including the following: (i) Transportation services; (ii) Educational services for which the child or youth meets the eligibility criteria; (iii) Programs in vocational and technical education; (iv) Programs for gifted and talented students; and (v) School nutrition programs.<sup>25</sup> In addition, each state and its local educational agencies must adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian, to and from the homeless student’s school of origin.<sup>26</sup>

Under this provision, homeless students are entitled to receive free transportation to their school of origin as well as access to educational and nutritional programs that are provided to other students. While I was homeless, I relied on the free meals guaranteed under this provision because my mother could not afford food on a regular basis. Often times, the only food we ate came from the school free breakfast and lunch programs. Of course, being able to eat made it

easier for me to concentrate, as it is nearly impossible to retain information on an empty stomach.

The unstable living conditions and limited financial resources facing homeless youth can also make getting to and from school very challenging, if not impossible. This provision eliminates the transportation costs of homeless students who are attending a school outside of their district. As discussed above, I lived in various school districts while attending my schools of origin and relied heavily on receiving free transportation. Schools reap the benefits of higher test scores when homeless students are given the appropriate support to excel. For example, an evaluation of a pilot homeless student transportation program in Washington State found that homeless students staying in their school of origin achieved better scores and better high school grades than those who changed schools.<sup>27</sup>

#### NO SEGREGATION

Under the McKinney Act, each state must submit a plan to provide for the education of homeless children and youths within the state and such plan must include assurances that the state educational agency and local educational agencies in the state will adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of their homeless status.<sup>28</sup>

Under this provision, homeless students cannot be segregated from the other students solely because of their homeless status. This provision recently gained attention when Chicago school officials submitted proposals to open boarding schools for homeless youth.<sup>29</sup> Those in favor of these proposals argue that separate boarding schools would provide homeless students with adequate housing and would eliminate the social isolation that they often experience due to their unstable living conditions.

Despite these potential benefits, the separation of homeless students could lead to devastating effects. In my case, being separated from other students would have subjected me to an inferior education by eliminating the relationships that I developed with classmates from various socioeconomic backgrounds. Those relationships helped me to realize that every family, regardless of their socioeconomic background, experiences a wide range of hardship. Many of my

peers were dealing with severe issues even though they came from middle to upper-middle class families. Some of those issues included substance abuse, physical, verbal and sexual abuse, domestic violence, family deaths, eating disorders and various other challenges that in some cases paralyzed their academic success. In learning about the life experiences of others, I gradually felt less angry and less socially isolated as I realized that I was not alone in my struggle to obtain a better life. As I became more open with my story, some of my peers became my surrogate family as we learned to support and love one another by connecting our stories. This process of connecting with others has been one of the most important aspects of my personal healing and professional success.

My peers also benefited from my story as they became aware of the many social ills that afflict those who are born into poverty. It was mind boggling for my close friends to watch my family descend into poverty due to my parents' mental illnesses. Through my story, they saw that it was nearly impossible for people suffering from mental illness to access government programs intended to assist with poverty. They even witnessed the failures of DCFS as I was bounced around from home to home over short periods of time. Essentially, my experiences provided my peers with a window into a world that millions of children experience and they discovered that there is no real dividing line that keeps the worlds separated. As a result, some of my peers even became more impassioned to make a difference.

Segregation could also lead to further disruptions in the education of homeless youth. Since homelessness is often a temporary and/or recurring state, it would be difficult to implement a standard through which homeless students are reintegrated with other students. Any standard of reintegration could cause additional disruptions in the education of homeless youth because it contradicts the benefits associated with reducing school mobility. Delaying reintegration, instead of making integration easier for homeless students at a younger age, could make the transition into college even more difficult.

There are other less imposing mechanisms for addressing the problems associated with the integration of homeless students. For example, teachers could implement curricula designed to raise awareness and create sensitivity. Educating students about homelessness could provide homeless children with supportive environments.<sup>30</sup> Government funding could also be used to eliminate factors that cause homelessness instead of being used to create boarding schools for homeless youth. Taking children away from their parents can add to the

damage that homeless families have already endured, and any program that serves homeless children should make family preservation one of its goals.<sup>31</sup>

## CONCLUSION

My story is one among millions. A study done by the National Law Center on Homelessness and Poverty states that approximately 3.5 million people, 1.35 million of them children, are likely to experience homelessness in a given year.<sup>32</sup> However, those 1.35 million children should all be entitled to the joy and prosperity that an education would undoubtedly bring into their lives. My story proves that children who are born into poverty are not hopeless. We are born with gifts and dreams, which are often destroyed by the systematic barriers that prevent us from escaping poverty. The McKinney Act is a wonderful example of a law that attempts to lift many of those barriers. However, it needs more funding and greater commitments from individuals, organizations, educational institutions and our government in order to reach more students. When we help ourselves by helping each other, then success stories of various forms will multiply and society will reap the benefits of generations that are given an equal opportunity to succeed.

---

## NOTES

- 1 RUBY K. PAYNE, PH. D. A FRAMEWORK FOR UNDERSTANDING POVERTY 4 (aha! Process, Inc., 1996).
- 2 BARBARA J. DUFFIELD ET AL. EDUCATING CHILDREN WITHOUT HOUSING: A PRIMER ON LEGAL REQUIREMENTS AND IMPLEMENTATION STRATEGIES FOR EDUCATORS, ADVOCATES AND POLICYMAKERS 39 (ABA Commission on Homelessness and Poverty 2007).
- 3 National Working Group on Foster Care and Education, *Educational Outcomes for Children and Youth in Foster and Out-of-Home Care* (2007) available at <http://www.abanet.org/child/education/National%5fEdFactSheet%5f2008.pdf>.
- 4 Duffield et al., *supra* note 2, at 14.
- 5 Pub. L. No. 100-77
- 6 National Coalition for the Homeless, *McKinney-Vento Act, NCH Fact Sheet #18*. (2008) available at <http://www.nationalhomeless.org/publications/facts/McKinney.pdf>.
- 7 42 U.S.C. § 11301 et seq., Secs. 722(a)(C)(3) and 722(g)(4).
- 8 42 U.S.C. §11301 at Sec. 722(g)(4).
- 9 42 U.S.C. §11301 at Sec. 722(g)(3)(C).
- 10 Duffield et al., *supra* note 2, at 12. The McKinney Act requires that “every state educational agency establish an Office of State Coordinator for the Education of Homeless Children and Youth. This office is charged with critical responsibilities with respect to the implementation

of the Act, including providing technical assistance, resources, coordination, data collection and overseeing compliance for all local educational agencies in each state.”

11 42 U.S.C. §11301 at Sec. 722 (g)(1)(J)(i).

12 Duffield et al., *supra* note 2, at 19. The Act requires Local Educational Agencies to be proactive in identifying “homeless” youth within the broad definitions of the Act which includes youth who are attending school, as well as those homeless youth who are not attending school.

13 Patricia Julianelle, *The McKinney-Vento Act and Children and Youth Awaiting Foster Care Placement*. National Association for the Education of Homeless Children and Youth 2 available at [http://www.naehcy.org/dl/mv\\_afcp.pdf](http://www.naehcy.org/dl/mv_afcp.pdf).

14 The Coalition’s Law Project represents families, children and youth without housing to ensure their educational rights are protected. See <http://www.chicagohomeless.org/what/education>.

15 42 U.S.C. §11301 at Sec. 725.

16 Duffield et al, *supra* note 2, at 8.

17 Child Welfare League of America, National Association for the Education of Homeless Children and Youth, *National Health Care Matter of Definition: Responding to Homelessness Among Families, Children, and Youth for the Homeless Council National Policy and Advocacy and Council on Homelessness*, Volunteers of America 2 available at <http://www.npach.org/newdefinition0725.pdf>.

18 National Coalition for the Homeless, *Homeless Families with Children, Fact Sheet #12 1* (June 2008) available at <http://www.nationalhomeless.org/publications/facts/families.pdf>

19 42 U.S.C. §11301 at Sec. 722(g)(3)(B).

20 42 U.S.C. §11301 at 722(g)(3)(G).

21 National Coalition for the Homeless, *Education of Homeless Children and Youth, NCH Fact Sheet #10* (June 2008) available at <http://www.nationalhomeless.org/publications/facts/education.pdf>

22 U.S. GENERAL ACCOUNTING OFFICE, *ELEMENTARY SCHOOL CHILDREN: MANY CHANGE SCHOOLS FREQUENTLY, HARMING THEIR EDUCATION* (1994).

23 R. HAVEMAN & B. WOLFE, *SUCCESSING GENERATIONS: ON THE EFFECTS OF INVESTMENTS IN CHILDREN*. New York: Russell Sage Foundation (1994).

24 LINDA J. ANNOOSHIAN, *MOVING TO EDUCATIONAL SUCCESS: BUILDING POSITIVE RELATIONSHIPS FOR HOMELESS CHILDREN*, 80 *Educating Homeless Students: Promising Practices* (Bookrights 2000).

25 42 U.S.C. §11301 at Sec. 722(g)(4).

26 42 U.S.C. §11301 at Sec 722(g)(1)(J)(iii).

27 D. CARLSON, S. REDER, N. JONES & A. LEE, *HOMELESS STUDENT TRANSPORTATION PROJECT EVALUATION* Seattle Washington State Transportation Center (December 2006) available at <http://www.wsdot.wa.gov/research/reports/fullreports/665.1.pdf>

28 42 U.S.C. §11301 at Sec. 722(g)(1)(J)(i).

29 The Associated Press, *Boarding schools for Chicago’s homeless?*, May 23, 2008, <http://www.msnbc.msn.com/id/24795197/print/1/displaymode/1098>.

30 Annooshian, *supra* note 24, at 89.

31 RALPH DA COSTA NUNEZ, *THE NEW POVERTY, HOMES FOR THE HOMELESS* 128 (1996).

32 National Coalition for the Homeless, *How Many People Experience Homelessness? NCH Fact Sheet #10* (June 2008) available at [http://www.nationalhomeless.org/publications/facts/How\\_Many.html](http://www.nationalhomeless.org/publications/facts/How_Many.html)

# Afterword

*by* MARGARET EGAN, SYMPOSIUM EDITOR

A meaningful education should be an unquestioned right in a free, modern and advanced society. However, the reality is that for most children, the public education system in America is failing. The *Public Interest Law Reporter* Symposium and Issue, “Separate and Unequal? The Socio-Economic Realities of Public Education in America” sought to expose the realities of the poor state of public schools, particularly urban public schools. We did just that.

Our presenters and authors have dedicated their lives to creating schools that every child needs – and deserves. Since *Brown v. Board of Education*, however, there has been a gradual re-segregation of schools. While this re-segregation may not always be explicitly race-based, there is little question that its roots are based in a cruel socio-economic reality. As our presenters and authors discuss, those students in failing schools are disproportionately minority students.

In fact, all of our presenters literally went into the hallways and classrooms, in Chicago and around the nation, to show you what has occurred since *Brown*.

There was discussion of the effects of reform at Chicago Public schools, the failures of the current public school funding structure in Illinois, the specialized needs of the poorest students, the practical progeny of the *Brown* decision and, finally, the potential mechanisms for reform. During these presentations, each of our panelists explored both the problems and the potential solutions in these critical areas.

Education has particular resonance here in Chicago. The Chicago Public Schools have been a source of great experimental reform. Some argue that the system's efforts to close failing schools in favor of charter schools has allowed many more children to obtain that meaningful education. Others suggest that these reform efforts help too few and ignore too many vulnerable students. Rather than closing some schools and forcing unlucky students into failing schools, many argue that funding should be increased to improve all schools both inside and out.

Is more funding always the answer? Or is proper funding the solution? PILR provides you with the arguments. Yet, as it stands, particularly in Illinois, the public schools' funding formula disproportionately favors children living in wealthy districts. As a result, children in wealthy districts have access to better teachers, administrators, counselors, equipment and opportunity. Is that proper?

Meanwhile, children in poor districts struggle to access most critical services. Few serious advocates for childhood education can disagree that the funding formula must be reformed so that children living in poor neighborhoods and those with specialized needs also have an opportunity at a meaningful education. When students struggle to satisfy their basic needs – such as food, health care, safety and transportation – the challenge to receive a basic education is much, much greater.

A student in the South Bronx wrote, “America the beautiful, who are you beautiful for?”<sup>1</sup> As the new presidential administration begins to craft and implement their education policy, PILR and the authors in this issue share the hope that advocates, policy makers and principals will be able to work with the administration to create real change in our public schools – change that helps educate all of America's children.

---

<sup>1</sup> JONATHAN KOZOL, *SAVAGE INEQUALITIES: CHILDREN IN AMERICA'S SCHOOLS* 112 (HARPER PERENNIAL 1991).

# Submitting an Article to Loyola's *Public Interest Law Reporter*

*Public Interest Law Reporter (PILR)* publishes feature and news articles written by staff writers and outside authors. *PILR* invites the submission of articles, news and comments relevant to the public interest. Submissions may be shorter articles (750-1,000 words) or longer articles (1,500-2,000 words). Please conform citations to *The Bluebook: A Uniform System of Citation* (17th ed. 2000).

## **Submissions may be sent to:**

Managing Editor  
Public Interest Law Reporter  
Loyola University Chicago  
25 East Pearson, Room 1347  
Chicago, IL 60611  
Submissions may be e-mailed to: [PILR\\_Law@luc.edu](mailto:PILR_Law@luc.edu)

## **Copyright:**

A statement transferring copyright to Loyola will be required for articles that are accepted for publication. We will supply the necessary forms for transfer.

## **Subscription Information**

The *Public Interest Law Reporter* is published three times annually. Our publication schedule is Winter, Spring and Summer.

Subscriptions are available for \$15.00 per year, \$9.00 per year for students, and \$6.00 per single issue or back issue.

Subscription orders should be sent to the address listed above. Please make checks payable to *Loyola University Chicago*. We currently are unable to accept credit card orders.

## **Questions?**

Please direct any questions to the Managing Editor at [PILR\\_Law@luc.edu](mailto:PILR_Law@luc.edu).

