

*Equal Footing Requires Action Before Their First Step*

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Childlaw & Education Institute Forum

Spring 2009

Much political debate has arisen over the right to equal education. Despite persistent legal action, blatant disparities in educational funding remain! Educational funding is dependent on the property and wealth of the child's neighborhood; therefore, children who are raised in disadvantaged areas are left with severely less educational resources than children who are raised in affluent neighborhoods. As a result, various legal claims have attempted to provide children in underprivileged environments with an educational experience comparable to that of children living in high-income environments. This paper will first discuss the legal basis to the right of equal education. However, the bulk of the paper will review research in an attempt to portray what actions are needed to truly provide children with an equal opportunity in the classroom and consequently in life.

The importance of public education and the obligations of the state to make available the opportunity for *all* children to receive a public education on equal terms was established in *Brown v. Board of Education*.<sup>1</sup> Most notably, the court ruled that state laws, which established separate public schools for the sole purpose of separating black and white students, denied black children equal educational opportunities and was therefore unconstitutional. The court's reasoning emphasized the importance of education:

Today, education is perhaps the most important function of state and local governments... It is the very foundation of good citizens... In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has

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<sup>1</sup> *Brown v. Board of Ed. of Topeka*, 347 U.S. 483, 74 S.Ct. 686 (U.S. 1954)

undertaken to provide it, is a right which must be made available to all on equal terms.<sup>2</sup>

Such reasoning is believed, to have provided a foundation for the argument that each child has a fundamental constitutional right to a fair and equal education.

However, in 1973 *San Antonio Independent School District v. Rodriguez*, arose out of funding inequalities between school districts in the state of Texas.<sup>3</sup> The wide disparity of funding in the school district was caused by the state's decision to fund public education mainly through local property taxes. Consequently, the amount of spending per pupil ranged from \$25 to \$333. Although there was an alarming discrepancy in the amount of funding that was being invested into each child's education, the U.S. Supreme Court, found no violation of the U.S. Constitution by a vote of 5 to 4. The Court rested its ruling on two main points (1) Texas' school funding formula, although discriminatory, it discriminated against poor school districts, not poor individuals or people of color, and (2) even though there was a difference in the per pupil funding, no student was being denied a public education altogether.<sup>4</sup> The latter reasoning coupled with the court's blanket assertion that "[e]ducation, of course, is not among the rights afforded explicit protection under our Federal Constitution" put forth the message that each child is simply guaranteed the right to a public education, the quality of which will inevitably vary.<sup>5</sup>

In stark contrast with the *Rodriguez* ruling, in *Abbott v. Burke* the New Jersey Supreme Court found the education's funding system unconstitutional due to the funding disparities in the "poor" districts.<sup>6</sup> The court mandated that school districts ensure equal averages to per-pupil

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<sup>2</sup> *Id.* at 494.

<sup>3</sup> 411 U.S. 1, 93 S.Ct. 1278 (U.S. Tex. 1973)

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 1298.

<sup>6</sup> 153 N.J. 480, 710 A.2d 450 (N.J., 1998)

expenditures amongst poor urban districts and wealthy suburban districts, beginning in the 1997-98 school year.<sup>7</sup> The court went even further by emphasizing the special needs of “disadvantaged” children attending schools in the poor urban districts and required a remedy to address the needs of the “disadvantaged students”.<sup>8</sup>

The overall approach to eradicating disparities in education funding is logical, but much more is needed in order to provide children the chance for optimal academic achievement. Research has confirmed that a child’s learning starts at infancy, and that early learning furthers later learning.<sup>9</sup> In fact, when a child is not provided with necessary stimulus during their first years of life their ability to learn later in life is significantly impaired.<sup>10</sup> Therefore, an equal educational opportunity requires provisions before a child enters the school system. This paper reviews research that has established the benefits of investing in children before they enter the classroom, while highlighting the insufficiency of efforts that begin at school entry and the lasting efforts they have on children.

Neuroscience research is one area that has evidenced the importance of building a strong foundation early in a child’s life. “The architecture of the brain is composed of highly integrated sets of neural circuits (i.e., connections among brain cells) that are ‘wired’ under the continuous and mutual influences of both genetics and environment.”<sup>11</sup> Early childhood experiences that

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> James J. Heckman, *Invest in the Very Young*, Ounce of Prevention & University of Chicago Harris School of Public Policy Studies, available at: <http://www.pcanebaska.org/includes/downloads/heckman.pdf>.

<sup>10</sup> *Id.*

<sup>11</sup> *The Science of Early Childhood Development: Closing the Gap Between What We Know and What We Do*, National Scientific Council on the Developing Child, Harvard University, 6, (2007).

nurture, exercise and challenge the brain actually thicken the cortex of the child's brain.<sup>12</sup> Conversely, poor early experiences can actually result in reduced IQ scores among genetically "normal" children.<sup>13</sup> For example, continuous family chaos, recurrent physical or emotional abuse, chronic neglect, severe and enduring maternal depression, persistent parental substance abuse, or repeated exposure to violence within the home or community generate persistent elevations of stress hormones.<sup>14</sup> These stress hormones "alter the level of key brain chemicals that consequently produce an internal physiological state that disrupts the architecture of the developing brain."<sup>15</sup> Not only can such stressful situations hinder children's brain development, adding to their stress, these situations tend to inhibit caregivers from being able to provide children with the external stimulus that is needed for them to grow and develop a healthy brain. In fact, "[c]hildren who are exposed to fewer colors, less touch, little interaction with adults, fewer sights and sounds, and less language actually have smaller brains."<sup>16</sup>

A more illustrative concept for an infant, is the "serve and return." "Serve and return happens when young children naturally reach out for interaction through babbling, facial expression, words, gestures, and cries, and adults respond by getting in sync and doing the same kind of vocalizing and gesturing back at them, and the process continues back and forth."<sup>17</sup> Such interactions have such a powerful impact on a child's development because they are occurring during the child "sensitive period" of brain development. The sensitive period occurs during the

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<sup>12</sup> *Learning begins at Birth*, Ounce of Prevention Fund, available at [http://www.ounceofprevention.org/includes/tiny\\_mce/plugins/filemanager/files/Learning%20Begins%20at%20Birth%20%28final%29.pdf](http://www.ounceofprevention.org/includes/tiny_mce/plugins/filemanager/files/Learning%20Begins%20at%20Birth%20%28final%29.pdf).

<sup>13</sup> *Id.*

<sup>14</sup> *see The Science of Early Childhood Development: Closing the Gap Between What We Know and What We Do*, at 10.

<sup>15</sup> *Id.*

<sup>16</sup> *see Learning Begins at Birth*.

<sup>17</sup> *Id.* at 6.

child's first three years of life, at which time each sensitive period is correlating with the formation of specific brain circuits and the development of specific abilities.<sup>18</sup> Therefore, what the child experiences during their first three years of life literally structures the child's brain development.<sup>19</sup> Consequently, once a child passes this sensitive period it becomes more and more difficult for the child to acquire high-level skills.

A child can indeed acquire higher-level skills without the lower level circuits having been properly wired, but such a task is extremely difficult. For example, a lack of language-enriched conversation during a child's sensitive period causes the child to have dramatically smaller vocabularies than a child who had richer early language experiences.<sup>20</sup> In fact, by age 3, the average child in a low-income household knows fewer than half as many words as a child in a high-income household."<sup>21</sup> Therefore, many children enter kindergarten without their early language and literacy needs having been met. Consequently, many low-income kindergartners struggle to match the vocabulary skills of their high-income peers who grew-up in environments with rich language experiences. Given the importance of development in the first three-years of life, it is these children who will likely struggle to "catch up" to their more advantaged peers. In support of this notion, statistics show that a child's language experience before age three is a consistent predictor of their reading ability in third grade.<sup>22</sup>

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<sup>18</sup> *Secure Attachment*, Ounce of Prevention Fund, available at [http://www.ounceofprevention.org/includes/tiny\\_mce/plugins/filemanager/files/Secure%20Attachment.pdf](http://www.ounceofprevention.org/includes/tiny_mce/plugins/filemanager/files/Secure%20Attachment.pdf).

<sup>19</sup> *Id.*

<sup>20</sup> *see Learning Begins at Birth.*

<sup>21</sup> *Starting Early to Close the Achievement Gap*, Ounce of Prevention Fund, available at [http://www.ounceofprevention.org/includes/tiny\\_mce/plugins/filemanager/files/ClosingTheAchievementGap.pdf](http://www.ounceofprevention.org/includes/tiny_mce/plugins/filemanager/files/ClosingTheAchievementGap.pdf).

<sup>22</sup> *Ready for School: The Case for Including Babies and Toddlers As We Expand Preschool Opportunities*, Ounce of Prevention Fund, available at

In the fall of 1998, the U.S. Department of Education's Office of Early Childhood conducted a longitudinal study involving one-on-one assessments of approximately 19,000 children selected through a "national probability" of kindergartners attending 940 public and private schools.<sup>23</sup> Referred to as "ECLS-K", the study measured knowledge skills, health, and behavior of the children from backgrounds associated with poor educational outcomes. Specifically, the study focused on children from families with one or more of the following characteristics: (1) a mother with less than a high school education; (2) living in a family that received food stamps or cash welfare payment; (3) living in a single-parent household; or (4) had parents whose primary language is was different than English.<sup>24</sup> These family characteristics were used for two reasons. These characteristics are the most commonly identified and studied family characteristics found to affect children's educational outcomes, and surprisingly, nearly half of all entering kindergartners come from families having one or more of these family characteristics.<sup>25</sup>

The ECLS-K found that, *upon entry into kindergarten*, children who had one of the above-mentioned family characteristics had lower reading, mathematics and general knowledge skills compared to children with no risk factors.<sup>26</sup> Further, "nearly half of those with multiple risk factors score in the bottom quartile in early reading and mathematics skills, and general knowledge."<sup>27</sup> The ECLS-K results indicate a clear correlation between the number of risk

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[http://www.ounceofprevention.org/includes/tiny\\_mce/plugins/filemanager/files/ready\\_for\\_school.pdf](http://www.ounceofprevention.org/includes/tiny_mce/plugins/filemanager/files/ready_for_school.pdf).

<sup>23</sup> Nicholas Zill and Jerry West, *Entering Kindergarten: Findings from The Condition of Education 2000*, National Center for Educational Statistics, U.S. Department of Education Office of Educational Research and Improvement, 2, (2001).

<sup>24</sup> *Id.* at 16.

<sup>25</sup> *Id.* at 16-17.

<sup>26</sup> *Id.* at 17.

<sup>27</sup> *Id.* at 19.

factors and the child's likelihood of scoring in a lower percentile. For instance, children with one risk factor are twice as likely than children with no risk factors to have reading scores that fall in the lowest 25 percent of the overall skill distribution.<sup>28</sup> Children with two or more risk factors are about *three times* more likely, than their "no –risk" peers to score low on achievement tests.<sup>29</sup> These achievement test score translate into "children from families with multiple risks typically do not know their letters and cannot count to 20," while their classmates with no risk factors have achieved such tasks.<sup>30</sup> In short, this research evidences the fact that upon entry into kindergarten, children's reading, mathematics and general knowledge skills are fundamentally different.

Not only do early relationships clearly impact cognitive development, they also profoundly influence the social and emotional foundation that support a child's ability and desire for learning throughout life. For instance, early attachment provides the base for all learning.<sup>31</sup> A child's sense of curiosity, willingness to explore, persistence, enthusiasm, pleasure in learning, and independences are difficult inter-related skills that are nurtured and encouraged through the child's responsive, caring relationship with an adult.<sup>32</sup> Research reveals that children who develop a healthy, responsive attachment with a caregiver begin to develop a sense of self and therefore become capable of engaging in new learning opportunities as young as nine months.<sup>33</sup>

Conversely, children who do not receive a caring, responsive relationship often do not develop a strong sense of confidence, as they have not been encouraged to explore their abilities

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<sup>28</sup> *Id.* at 20.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *see Secure Attachment.*

<sup>32</sup> *see Secure Attachment.*

<sup>33</sup> *see Ready for School: The Case for Including Babies and Toddlers As We Expand Preschool Opportunities.*

early in life. As a result, these children tend to have difficulty in becoming interested and engaged in school learning activities. For example, findings from the ECLS-K study show that thirty-six percent of children from multiple risk families were “sometimes” or “never” eager to learn, compared to 20 percent of children from families with no risk factors.<sup>34</sup> Further, “almost half of kindergartners from multiple risk families (44 percent) ‘sometimes’ or ‘never’ pay attention well.”<sup>35</sup> This has been attributed to children’s lack of confidence in themselves. Developmental in order for a child to succeed, a child must have enough confidence to believe he or she can succeed at the task in which they are attempting. If a child consistently feels that he or she is unable to succeed, the motivation to continue will inevitably diminish overtime.

Helping all young children get the foundation they need to realize their full potential is achievable. Utilizing a longitudinal study the Carolina Abecedarian Projects examined the effects of full day, year round, high-quality childcare and parental involvement activities provided to children during infancy through age 5.<sup>36</sup> The sample included 113 children selected based on parental education, the maternal attitudes and I.Q., family income, and family social history. From this sample, infants were randomly assigned to receive the high quality early educational program or no program involvement. The final sample consisted of 57 children receiving the early education childcare and 54 children in the control group. All infants were provided with free nutrition, health care, and disposable diapers during the study. The 57 infants who received the early education childcare, each had an individualized educational plan. The childcare involved and each involved “games,” which were incorporated into the child’s day as a way of

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<sup>34</sup> *see Nicholas Zill et al., at 4.*

<sup>35</sup> *Id.*

<sup>36</sup> *The Carolina Abecedarian Project*, Frank Porter Graham Child Development Center, available at: [http://www.fpg.unc.edu/~abc/assets/pdf/1974\\_abc\\_brochure.pdf](http://www.fpg.unc.edu/~abc/assets/pdf/1974_abc_brochure.pdf).

seeking to enhance social, emotional, and cognitive development, with an emphasis on language skills.<sup>37</sup>

Children were first assessed after completing 18 months of the high quality childcare program. From these studies the researchers obtained measures that demonstrated that the children who participated in the early-education program scored significantly higher on mental tests (average I.Q. score of 105) than did those children not in the early-education program (average I.Q. score of 85).<sup>38</sup> Follow-up cognitive assessments completed again at ages 12 and 15 years showed that the children who participated in the early education program continued to outperform their control group peers in math and reading skills.<sup>39</sup> A follow-up study of the children at the age of 21 years showed that the young-adults who participated in the early education program continued to outperform peers in cognitive assessments.<sup>40</sup> Additionally, children who received the daycare were significantly more likely to still be in school at the age of 21 and to attend a four-year college or university.<sup>41</sup> They were on average, two years older (19 years) when they had a child, and had higher employment rate than children who did not participate in the early-education program.<sup>42</sup> Briefly stated, the Abecedarian study provides scientific research that supports the importance of early childhood education. Findings clearly demonstrate that early education can significantly improve the scholastic success and educational attainment of at-risk children that follows through the age of 21.

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<sup>37</sup> *Id.*

<sup>38</sup> *Early Learning, Later Success: The Abecedarian Study*, Chapel Hill: University of North Carolina, FPD Child Development Center, (1999) *available at:* <http://www.fpg.unc.edu/~abc/ells-04.pdf>.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

Research has established that the ability to understand language, solve problems, and get along with other people is largely influenced by experiences that occur in infant and early childhood.<sup>43</sup> In addition, psychologists have long known that “at-risk” children often do not reach the same educational level of children from wealthy parents. Brain research provides one plausible explanation for this. It should be noted, however, that children who grow in “at risk” environment, indeed are capable of learning, despite the many obstacles that must be overcome to do so. The Abecedarian study provides one example of how children can be assisted to successfully overcome such obstacles. Educare of Chicago is another example of an effort that assist children with succeeding in school and life.

Educare of Chicago is a state-of-the-art facility that provides “at-risk” children from zero to five with full-day, full-year high quality, outcome-based learning environments. One of Educare’s high-quality provisions include small class sizes; therefore better staff-to-child ratios allowing for teacher’s to work individually with each child.<sup>44</sup> Educare of Chicago also focuses intensely on enhancing children’s language and comprehension skills through storytelling, singing, and enriching conversations.<sup>45</sup> These efforts and many more have shown imminent effects in that: Children of Educare of Chicago score better on measures of language, vocabulary, and concept skills compared to their peers.<sup>46</sup>

Educare of Chicago also utilizes a “continuity of care” approach. In other words, children stay with the same teacher for their first three years, thus helping the child establish a healthy, secure attachment to an adult. Therefore, despite their strong emphasis on enhancing children’s

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<sup>43</sup> *see Starting Early to Close the Achievement Gap.*

<sup>44</sup> *Educare, A Catalyst for Change*, Ounce of Prevention Fund, *available at:* [http://www.ounceofprevention.org/includes/tiny\\_mce/plugins/filemanager/files/Educare%20Catalyst%20of%20Change\\_%2008.pdf](http://www.ounceofprevention.org/includes/tiny_mce/plugins/filemanager/files/Educare%20Catalyst%20of%20Change_%2008.pdf).

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

cognitive skills, Educare also places grave importance on the development of social-emotional skills. Correspondingly, nearly 80 percent of teachers in the Chicago Public Schools and nearly 90 percent of the children's parents report that children who are Educare graduates have the social and emotional skills and behaviors needed to successfully engage in the classroom.<sup>47</sup>

In light of the research that has been reviewed, programs such as Educare of Chicago should continue to be implemented to foster educational equality. In addition, programs such as Educare of Chicago should become universally available to all children. As a result, "at risk" children would encounter a school experience alongside their more advantaged peers, allowing for a more diverse learning environment. A sliding fee scale bases on the family's income could be implemented, alleviating any fiscal burden on low-income families. However, foster educational equality by providing "at-risk" children with services needs to remain the focus. A universal program would also allow parents from diverse backgrounds to become engaged with one another, as parent interaction is another component of Educare of Chicago.

In order for early investment to be most effective, high-quality education is imperative. Thus, it is important that *all* children receive high-quality education coupled with specific early intervention services for "at-risk" children. Although the U.S. Supreme Court ruled in *San Antonio Independent School District v. Rodriguez* that the United States Constitution does not explicitly nor implicitly state a fundamental right to public education, the court did acknowledge the importance education has on the lives of America's and their success as citizens of our country.<sup>48</sup> The need to address educational inequalities is critical. We have a fundamental moral responsibility and critical need to invest in our country's future. When we do not provide our children with the early experiences they need to succeed in life, we fail our children and

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<sup>47</sup> *Id.*

<sup>48</sup> 411 U.S. 1, 93 S.Ct. 1278 (U.S. Tex. 1973).

ultimately we put our country's future at risk. Effective childhood policies and practices inevitably will not eliminate all social and economic inequalities. However, they will increase the chance for more children to reach their full potential, and each child undoubtedly deserves a fair chance.