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What is the purpose of public education? In an era of standards-based education reform, many would argue that the purpose of public education is to afford equality of educational opportunity as measured by student achievement. A more focused reading of the No Child Left Behind Act of 2001 reveals that the goal of public schooling is to "ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education" (20 U.S.C. §6301). It is this interpretation that is explored by the editors and contributors to *Current Issues in Educational Policy and the Law* as they offer several thought provoking chapters that explore five issues relevant to public education: No Child Left Behind, School Finance and Adequacy, School Choice, Equal Opportunity, and Student and Teacher Rights. Each chapter includes a review of legislation and relevant case law from both the federal and state levels as the authors explore how these issues both contribute to and work against the goals of public education.

In the introduction to the book, Welner and Chi (Eds.) argue that while education policy issues in the United States may be examined from myriad perspectives, the law holds a unique position because of its influence both historically and in the current context of public education. Redfield (2003) wrote that the relationship between the fields of law and education has become increasingly intertwined since education received its own title in the Code of Federal Regulations. As such, this new text examines education policy through a legal lens with each section bridging issues of law and policy, illustrating interactions and highlighting contexts. Specifically, the editors note that policy and law are entwined by the common theme of equality of educational opportunity. The book is largely successful in achieving its stated purpose. The combination of historical perspective, legal interpretation, and expert opinion on the part of the authors provides an intriguing mix of questions for the reader to ponder.

The lead issue in the volume, the federal No Child Left Behind Act (NCLB), is highlighted in Section I. The thesis of Chapter 1, "Tipping the Balance—Examining the Federal-State Relationship Through No Child Left Behind and the Future of Public Education Governance," is contained in its title. The authors (Badoloato, Bucholz and Drake) contend that the historic shift to control by the federal government in educational governance is at a "critical juncture" as NCLB is slated for reauthorization. Trend information based on legal challenges to the law, reauthorization hearings and midterm elections is used to examine current educational governance arrangements, all suggesting "some level of control will be returned to the states even while larger trends point to a continuation of enhanced federal authority" (p. 13). This conclusion is given strength by an analysis using the Borrowing Strength

Model of federalist theory developed by Manna (2006). The chapter includes a short history of federal aid and useful lenses to use in considering the current and future role of the federal government in educational governance.

Kevin Welner & Wendy Chi

"Reconsidering a Fundamental Right to Education in Light of No Child Left Behind" continues the focus on NCLB by examining the tenuous nexus of whether the federal NCLB provides a fundamental right to education (FRTE)--"holy grail of lawsuits attempting to providing full educational opportunity to all students." The authors (Ruckdeschel, Silverstein, and Rabin) trace litigation related to the right to an education and its underpinnings in state constitutions, noting that while 48 states guarantee education in some form, 15 states have established education as a fundamental right. While the expansion of the federal Elementary and Secondary Education Act under NCLB contains a great deal of rhetoric about educating all children to proficiency, the authors point out this language sets up an expectation rather than a guarantee. Yet, they contend the law could open up new avenues for legal challenges based on adequacy or negligence—interesting food for thought. They conclude that students "in the United States have no federal FRTE, but they do have NCLB" and encourage lawmakers to extend and strengthen those aspects of the law during its reauthorization that promote FRTE (p. 39).

Section II, School Finance and Adequacy" addresses a key issue across the states and the top problem in public education identified in the recent Phi Delta Kappa poll of the public's attitudes towards the public schools. Chapter 3, "Funding Public Schools: Striving for Substantive Adequacy (Krebs, Tappert, and Van Iwaarden) posits a new overarching framework for courts to use in addressing adequacy that the authors contend "provides guidance and is well grounded in [Equal Educational Opportunity] EEO jurisprudence (p. 46). It is drawn from the 14th Amendment and a Fifth Circuit case, *Castaneda v. Pickard* (1981), that evaluated the effectiveness of an educational program for removing linguistic barriers to EEO. The authors modify its three-part framework and adopt it to school funding policies. School finance litigation is briefly reviewed by "wave" with each of the three waves evaluated using the authors' adequacy framework. First- and second-wave litigation relied on equity arguments and equal protection analysis, using federal or state constitutions in wave one or two, respectively. Funding equity was the key focus. Wave three, commencing with the historic Kentucky decision, *Rose v. Council of Better Education* (1989), ushered in the reliance on adequacy in addition to equity issues. Adequacy assures each child has a fair and meaningful opportunity to reach high outcomes. The authors point out that beginning in the 1990s, states developed curricular and performance benchmarks related to what all children should know and be able to do upon graduation from high schools. These could be costed-out to determine the sufficiency of the funding system, a rational basis for analysis of adequacy. While the discussion involving the framework suggested is heuristic and yet to be tested, the authors provide an interesting discussion and consideration of some key issues related to the groundswell of school finance litigation that has enveloped the states.

Silverstein, Anderson and Chance, in "Breaking the Nexus: Four State's Experiences with Reforming School Finance to Increase Student Achievement of Students from All Backgrounds" provide case study data to examine policies and programs designed to address increasing outcomes for at-risk, poor and minority children. The conceptual rational is drawn from the National Research Council's book, *Making Money Matter* (1999). After a brief review of school finance policy and litigation, the NRC's contention that money needs to matter more in bringing all children to high standards by using research evidence in the context of adequacy litigation is reviewed and used to assess how revised school finance policy interacts with school reform to break the nexus in outcomes and student background characteristics. Particularly cost adjustments to funding formula, facilities, technology, early childhood education, class size and teacher quality policies are reviewed and then assessed in the context of four state case studies where litigation has occurred: Maryland, Arkansas, Kansas, and Oregon. The authors conclude with "final thoughts" and state:

As more states face litigation or choose to proactively address issues of school finance through legislative action, close attention should be paid to the 1999 NRC report that recommends research-based school reforms. There is no silver bullet…but states should give careful consideration of how additional funding, when carefully allocated, can help meet the challenges in our schools. (p. 91)

The third section of the book examines school choice in public schools. Each author chronicles the growth of school choice in American public schools from "a general store's worth to an entire shopping mall of educational options" (p. 128). They note that an analysis of current rulings by the judiciary reveals a shift from rulings that ensure equal

rights through state control to the protection of parental liberties through school choice. This fundamental change in philosophy regarding school choice and the role of parents lead the authors to pose poignant questions with regard to parental decision making and equality of educational opportunity, student self-determination and charter school liability.

In criticizing the expansion of school choice, Yettick, Wexler Love and Anderson state that equality of educational opportunity is hindered when parents are either not equally willing or able to access educational opportunity. Their review relies heavily on earlier criticisms of school choice, most notably lack of information to make rational choices, limited parental engagement in the decision making process, and language barriers associated with the interpretation of policy. The authors note that these barriers are prevalent among underrepresented populations and may in effect eliminate the opportunity that the law was intended to provide by causing greater segregation of schools. While not stated explicitly, the chapter infers that although there are documented benefits as a result of increased school choice, many children are left behind in failing schools. A fundamental flaw in this policy is that those children left behind are from underrepresented populations. School policy options that are not aimed at helping all students are counter to current state and national goals.

Bondurant, Tappert, and Yettick ask a fascinating question in regard to student rights with regard to school choice. The authors argue that historically, school choice has centered on state vs. parental rights with regard to decisions about education. They note that both "attempts by the state to indoctrinate students" and "instances of strong parental influence" impact student self-determination and in effect deny children the opportunity to access curriculum and to engage in discussions that present views that may be different than those espoused at home or those that may be necessary to survive in the workforce (p. 125). The authors argue for a shift in policy from the "dichotomous parent-state balance" to a "trichotomous parent-state-child balance" that enables students to take a more active role in school choice (p. 125). This opinion, while counter to the present political will, certainly raises important questions and is worthy of continued conversation.

Finally, Callahan, Krebs, and Bondurant explore liability issues in charter schools. The authors note that the relationship between charter schools and their authorizing agencies have not been fully developed in legislation or the legal system, thus creating several questions in regard to where legal liability rests in multiple areas. The disconnect between charter schools and authorizing agencies is found in the fact that the authorizing agency has little or no supervisory authority over the charter school. As such, the authors question where liability rests. Their review includes such things as personal injury, violations of teacher employment contract (both by the teacher and the charter school), and legal challenges to the process by which states and districts grant charters. The authors provide a brief review of existing charter legislation in the various states in an attempt to frame their review of this emerging topic. The authors note that case law regarding this issue is sparse and suggest more structure to help guide the decision making process in the creation and maintenance of charter schools to avoid future litigation.

Equality of educational opportunity is explored in section four of the book with Rabin, Saenz and MacGillvary exploring how recent court rulings and educational policy have brought the nation back to a state of separate but equal. Their review relies heavily on the recent ruling in *Parents Involved in Community Schools v. Seattle School District* but draws on the historical context of *Brown* and *Plessy* to articulate the point that segregation in American schools is accepted as a given while current education policy focuses solely on student achievement. The authors make use of three values to examine current education policy: liberty, achievement, and integration. Integration is discussed not just in terms of the racial composition of schools but as a value to be celebrated due to its ability to create positive student outcomes such as the acquisition of tolerance, critical thinking skills, and preparation for life in a diverse society. The authors truly cause the reader to pause and consider the real nature of equality of educational opportunity. Is it merely the acquisition of skills that are defined in state-mandated curricula or is it the ability to effectively communicate, problem solve, and work collaboratively in a society that is increasingly diverse? Their review questions the current political context and contends that policies such as tracking, No Child Left Behind, school choice, weighted per pupil formulas, site based management, and a focus on ethnocentric curricula have in effect re-segregated America's public schools. The authors conclude by introducing economic integration as a possible remedy to the solution of segregated schools due to the lower judicial standard associated with socioeconomic status, but they recognize that this solution may not provide the needed change.

In a slightly more politically controversial chapter, Love, Bucholz, and Chance consider the issue of equality of educational opportunity by examining access to higher education for undocumented aliens. The authors attempt to use the dual lens of *Plyerv. Doe* and the proposed federal Development, Relief, and Education for Alien Minors (DREAM) Act to argue for equity of access to higher education for children of illegal aliens. More than any other chapter in the text, this chapter devotes much attention to both case law and federal legislation to provide the historical context for the author's argument that access to education should not be limited to K-12. Their argument is premised on the notion that a college degree is a prerequisite to fully participate in both the economy and civic life in much the same way that a high school diploma was a requirement for past generations. That statement is slightly flawed and not supported by labor statistics that would suggest that some training is certainly required beyond high school to compete in today's economy. However, that training need not be in the form of a college degree. While the chapter does begin with some degree of bias, the authors fairly recognize both sides of the argument. For example, the authors first rely on the tenets of *Plyer* in advocating that children of undocumented aliens should not be punished for the illegal actions of their parents in arguing for increased access to higher education. However, they also fairly report that this standard may not apply to college aged students since they are now adults and are aware that they are residing in the United States illegally. The chapter begins by strongly endorsing the notion of increased access to higher education, but the authors conclude that this goal may not be achieved in the foreseeable future due to the political climate in the country.

The final section of the book explores student and teacher rights with chapters devoted to zero tolerance policies, teacher speech and the relationship between church and state in public education. MacGillivary, Medal, and Drake provide an extensive review of the development of zero tolerance policies in American public schools. They briefly recognize the benefits of zero tolerance policies such as clearly defined expectations, compliance with due process laws, and a downward trend in weapons violations on school campuses nationwide. However, the authors devote the vast majority of the chapter to the unintended consequences of these policies such as increased suspensions and expulsions, negative changes in the climate of schools, and severe consequences for minor violations. The chapter rightly states that there are tremendous racial disparities in the way that zero tolerance policies are implemented that mirror patterns in the justice system. These patterns certainly have severe consequences in the long run for students who are dismissed from school for violations of zero tolerance policies that include delinquency, incarceration, failure to complete high school, and limitations for economic success. While clearly establishing the deleterious effect that zero tolerance policies have on underrepresented populations, the authors fail to provide the other side of the argument with regard to improved conditions for other children so that they may have better access to a quality education. Little or no case law exists, according to the authors, with regard to zero tolerance policies which limits the effectiveness of the chapter. The authors conclude by offering alternatives to zero tolerance policies that would enable children to complete their education. The most promising would appear to be an increase in alternative education.

Teacher freedom of speech rights are examined by Van Iwaarden, Medal and Callahan in a fascinating chapter on how the requirements of the No Child Left Behind Act for increased teacher professionalism may actually impede rights of free speech. The authors compare case law from *Pickering* and *Hazelwood* to distinguish teacher roles as practitioner and citizen and chronicle how speech inside the classroom and outside the classroom has historically been regarded by courts. They introduce the current opinion in *Garcetti* which they argue may muddle the distinction between in-school and out-of-school speech and very effectively use this ruling to consider new roles required by teachers in an era of increased teacher professionalism and site-based management to postulate how these new roles combined with the court ruling may actually lead to more teacher reprimands, dismissals, and a decrease in teacher speech rights. It is ironic, according to the authors, that at a time when we expect teachers to be more active participants in school reform initiatives, the courts may have limited what they can say in these discussions.

Lastly Saenz, Badolato and Ruckdeschel examine the "eroding" separation of church and state in the final chapter of the book. The authors conclude that the court now allows a closer relationship between religion and public schools than at any other time in our history. Unlike earlier chapters in the book that focus on one topic, the authors make their point by examining six policy initiatives that they state may provide "contentious constitutional and political battlegrounds": faith-based organizations, school vouchers, scholarships, curricular issues (such as religion and science and abstinence), pledges and prayers, and religious displays. The broad scope of the chapter prevents it from having the same focus as earlier chapters in the book and the questions posed by the authors are not nearly as

poignant. However, the authors do provide an analysis, albeit biased, of the costs and benefits of these policies. They form similar conclusions with regard to school choice and the unintended consequences of segregation and isolation of minority students, and a decrease in exposure to a broad curriculum. The authors caution that it is important for practitioners to focus on previous Supreme Court interpretations of the difference between the teaching "of religion" and the teaching "about religion." The consequences of the latter are that this practice may lead to greater isolation, favoritism of Judeo-Christian interests, and state funding of religious indoctrination.

Overall the book presents an important contribution to debate and discussions about the future of education in the United States. The authors challenge the readers to consider new directions, review the past and posit new theory for the future, while raising interesting and formidable issues related to key topics in policy and law.

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