Preventing Schools from Becoming the Pipeline to Prison
By Susan P. Leviton and Justin Browne

The failure of schools to educate children from low-income families creates a human and national crisis. In addition to the loss of human potential and capital, it also fosters a permanent underclass.

Maryland and the federal government cannot continue to ignore this crisis. Welfare dependence and the incarceration of huge numbers of poor people drain state resources. The vitality of the state and federal economy depends on Maryland schools preparing every available individual for higher education or skilled employment. See Susan P. Leviton & Matthew H. Joseph, An Adequate Education for All Maryland’s Children: Morally Right, Economically Necessary, and Constitutionally Required, 52 Md. L. Rev. 1137 (1993), for an earlier examination of this crisis.


Recognizing these concerns, Congress enacted No Child Left Behind (NCLB), which mandates that educational disparities end.

Despite the tremendous failure of past attempts to educate low-income children, these students are fully
capable of matching the academic success of other students and, in fact, some schools with low-income children are already succeeding. But for poor students to succeed, they require an education that is considerably better than that which middle-class children receive, including more class time, better trained teachers, opportunities for family involvement, more individual attention from adults, access to mental health care, and a curriculum that prepares them intellectually, while emphasizing development of critical language, social skills, and work habits.

This article looks at the educational plight of low-income children and explores the costs of mis-education to these individuals and our state. It then presents a model of educational reform in which law students, lawyers, and a small innovative school in Baltimore City are working together to change the odds.

**The Cost of Not Educating Low-Income Children**

A dream has pervaded this country for over two hundred years. A dream that is etched in our culture and in our national conscience. A dream that any American could, through hard work and dedication, rise to the top and succeed in building a better life for himself or herself and their family.

... We are now in danger of losing the dream. For if you do not possess the basic skills required to survive in today's world, then you can not get into the system, you can not get a job, you can not succeed, and you will spend a lifetime on the outside looking in.

Elizabeth Dole, Secretary of Labor, State of the Workforce Address Delivered to the State Teachers and Principals of the Year 4 (Oct. 26, 1989).

Education was the critical means by which less advantaged children traditionally climbed the economic ladder. The fact that poor children do not have access to the same quality of instruction as their more well-off peers threatens to shatter this ideal of economic opportunity and destroy the democratic concept of fairness and equal opportunity. It also creates a permanent and isolated group of undereducated, under-skilled, and under-employed citizens, which results in increased welfare dependency, drug use, participation in illegal activities, and incarceration. See, e.g., Christine A. Christle et al., School Characteristics Related to High School Dropout Rates, 28 Remedial & Special Educ. 325, 325 (2007). For example, according to the Maryland State Department of Education, in Maryland, 75 percent of the 23,000 inmates in prison are high school dropouts. http://www.marylandpublicschools.org/MSDE/divisions/studentschoolsves/student.services_alt/alternative_programs/Dropout+Prevention+and+Alternative+Programs.htm (last visited Nov. 3, 2008).

Society pays for welfare, police, prisons, and courts in addition to the economic and personal costs of the crimes committed and the opportunities lost. Maryland is paying large and ever-increasing sums of money to support the welfare of jail expenses of adults who often started life as poorly educated children in low-income families. See id.

In the past, well-paying jobs were available for a sizable fraction of the high school dropouts in this country. The manufacturing sector provided opportunities for unskilled workers to attain middle-class incomes. Those days are over. The American economy now relies on service industries, which require sophisticated employees. The vast majority of jobs in the new economy demand higher levels of expertise, particularly those in the sciences, engineering, and mathematics. See Jamie Smith Hopkins & Stephen Kiehl, A New Era, Baltimore Sun, Oct. 19, 2008, at 1; Stephen Kiehl & Jamie Smith Hopkins, Falling Short on Training, Baltimore Sun, Oct. 20, 2008, at 1 (two-part special report).

Today, Maryland high school students cannot obtain a diploma unless they successfully pass high school exams. See COMAR 13A,03.02.09. Without a diploma, they are not eligible for numerous jobs including work as a housekeeper, a maintenance mechanic, or a direct care aid in a Maryland treatment center. http://www.marfy.org/news.htm (last visited Nov. 3, 2008).

Each child who drops out of high school may become one more person unable to contribute effectively to the prosperity of the United States. As one report concluded, "The willful neglect of America's poor children is not only immoral; it is just plain stupid." Sally Reed & R. Craig Sautter, Children of Poverty: The Status of 12 Million Young Americans, Phi Delta Kappan, June 1990, at 1, 3.

**A New Way of Educating Maryland's Urban Poor**

The evidence is now overwhelming that if you take an average low-income child and put him into an average American public school, he will almost certainly come out poorly educated.


To those who need the best our education system has to offer, we give the least. The least
well-trained teachers. The lowest-level curriculum. The oldest books. The least instructional time. Our lowest expectations. Less, indeed, of everything that we believe makes a difference.

Comm’n on Chapter 1, Making Schools Work for Children in Poverty 12 (1992).

In every city and state across our country there is a group of inner-city high schools that has been increasingly difficult to reform. Lack of academic achievement in these schools is common knowledge, as is the disparity among racial and economic lines. For example, “a public school that enrolls mostly well-off white kids has a 1 in 4 chance of earning consistently high test scores [whereas] a school with mostly poor minority kids has a 1 in 300 chance.” P. Tough.

The students in these failed urban schools share certain commonalities. Poverty influences how these students approach writing, speak to their teachers and other adults, and how they handle conflict. Thus, these children need school and community-based reforms that extend beyond the usual focus on improving academics.

Researchers have now demonstrated just how deeply ingrained are the intellectual and academic disadvantages poor students have to overcome to compete with their middle-class peers. They have found a sharp and early gap in vocabulary growth between socioeconomic classes. By age 3, children of middle-class parents had vocabularies of nearly 1,100 words. By contrast, poor children had vocabularies of approximately 525 words. The children’s corresponding IQs averaged 117 among the middle-class families and 79 among the poor families.

Moreover, middle-class parents spoke far more words of encouragement than discouragement, while the situation was reversed in poor families. The language exposure that a child receives in early childhood correlates strongly with IQ and later academic success. There is a negative effect on IQ when a child hears fewer words but many prohibitions and discouragements. By comparison, there is a positive effect on IQ when a child hears numerous words, complex sentences, and affirmations.

The middle-class families also spoke to their children as equals and encouraged them to ask questions, challenge assumptions, and negotiate rules. They engaged and enrolled their children in countless activities. The benefit of this approach was that the middle-class children grew up with adults taking their concerns seriously, which translated into confidence in the classroom and elsewhere. This upbringing provides a distinct advantage in school, on standardized achievement tests, and in the work place.

Therefore, in order for schools to succeed in the difficult task of educating poor students to high levels of achievement, they need, not just an equal education, but a better education in order to catch up. Thus, the key to addressing the public education crisis in American urban schools is to provide educational opportunities to the children and their families. Also, once they enter the public schools, there must be an emphasis on adding cultural, curricular, and structural reforms that keep academics at the forefront while also teaching critical language, social skills, and work habits.

According to the researchers and writers of Making Schools Work for Children in Poverty, the schools that are achieving the most success have several characteristics in common. First, they require many more hours of instructional time. Second, they set explicit goals for classroom instruction and use frequent testing to make continual adjustments to the curriculum. They emphasize results, as well as team building and cooperation. Finally, they are generally smaller schools with a higher degree of autonomy, which provides more personalized educational opportunities and a conscious effort to specifically teach the behavioral values and character skills that students need to be successful.

**Putting These Principles to Work**

Like many urban communities, Baltimore City educates the poorest children in the state in some of the poorest physical facilities. Only 50 percent of the classes are taught by “highly qualified teachers.” It is not surprising, therefore, that many Baltimore City schools produce poor educational outcomes.

According to the 2008 Maryland Report Card, there is a mere 60 percent graduation rate in Baltimore City while there is an 85 percent graduation rate statewide. Maryland Report Card, http://www.mdreportcard.org/index.aspx (last visited Nov. 3, 2008) [hereinafter 2008 Report Card]. Baltimore City students lag behind their peers around the state on almost every level of academic success.

Baltimore City, recognizing its underachievement, has implemented a number of changes. First, it broke down poorly performing high schools into smaller learning communities and created several new innovation high schools. It then “themed” these schools around specific learning opportunities and allowed open enrollment so that students, regardless of where they lived or their academic record, would be able to choose which school they

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wished to attend. Finally, the school system implemented a budgetary approach called Fair Student Funding, which provides that each school’s funding allocation follows the student to whatever school he or she attends. The city in 2008 also opened six new secondary transformation schools, serving grades six through twelve, again increasing the portfolio of choices that students and parents are allowed to make.

Founded in 2003, Baltimore Freedom Academy (BFA) was one of Baltimore’s first innovation high schools. Recently it has become a charter school and a transformation school, which will enable it to serve students from sixth through twelfth grades. BFA does not have admission criteria, permitting students to choose to enroll regardless of prior academic record. The student body is 97 percent African-American and overwhelmingly poor.

Students at BFA represent thirty-seven different lower schools and experience the same urban challenges that are present for most Baltimore City students. Baltimore Freedom Academy Foundation, Research Report (2007) (unpublished report, on file with author). Nonetheless, BFA students have outperformed their citywide counterparts on most indicators of school success.

Students in the high school have an average attendance rate of 90 percent while the citywide rate of high school attendance is 83 percent. 2008 Report Card. The graduation rate of BFA in 2007 was 96 percent while the citywide rate was 60 percent. Id. Additionally, BFA mostly outperforms citywide high school assessment averages. http://baltimorefreedomacademy.org/announcements/ (last visited Nov. 3, 2008). Another example of BFA’s great success is the high percentage of students who attend college. Over 90 percent of the graduating class of 2007 was admitted to four-year colleges. Id.

In the spring of 2007, BFA was recognized as one of the top five performing schools in Baltimore City. And “BFA is the only school without entrance criteria to receive this distinction.” Id. Also, in 2008, U.S. News & World Report recognized BFA as one of the nation’s best high schools.

Baltimore Freedom Academy achieves its success by encouraging the positive transformation of urban youth and their communities. To achieve this mission, the school is themed around law related education, advocacy, leadership, and community activism. The University of Maryland School of Law became one of the BFA’s partners in 2003. Students from the University of Maryland School of Law contribute to these efforts by taking an active role in teaching and mentoring BFA students.

The University of Maryland School of Law Juvenile Law, Children’s Issues and Legislative Advocacy Clinic

The Juvenile Law Clinic at the University of Maryland School of Law has for the past twenty-five years worked with children in crisis by trying to get them better educational programs, nurturing homes after they have been abused or neglected, and appropriate services once they become involved in the juvenile justice system. After many years of having law students work with children in crisis, the Clinic began a discussion of how we could do our work better. It was extremely frustrating to represent children when they had already suffered a long history of abuse, violence, and criminal activity and were at a point where it was unlikely they could escape the cycle of arrest, incarceration, and drug abuse.

We realized that it would be an exciting experience if we could work with youngsters in a school setting before they got in trouble — to help them see that they could use language to negotiate for themselves and others and to resolve many of the problems within their families and their communities.

Our goal was to work with a small, innovative high school where students would learn about law, leadership, and problem solving. The clinical law students would get a unique opportunity to explore educational policy and school reform up close and personal. They would also have the opportunity to work with Baltimore’s youth — to try to make an impact on a child’s life before the child is broken or too entrenched in the system.

Because we were interested in producing community leaders, we engaged in research and discussions about how to foster leadership among the students, as well as maximize their academic achievement. Since a strong sense of identity is required for one to step forward and make a difference, educational materials that focus on helping students examine their own identity is required to develop strong leaders. Also, students must believe that they have the ability to succeed without compromising themselves.

We learned that students believe that intelligence is fixed — and poor and/or black students are more likely to feel that they are less smart than others. To get students to work hard — and eventually to be leaders — teachers must discuss academic progress and its relationship to hard work (as opposed to fixed abilities). It is also important for teachers to show students the progress they make when they work hard.
In many ways, we have discovered that law students and BFA students actually require quite similar skills and tools to be successful. In both programs, which emphasize learning by doing, we focus on the importance of hard work, how to build relationships, and the role law plays in different communities and our society overall. In Clinic classes and BFA classes we have explored the significance of identity, confronted issues of race and class, discussed hidden rules, and investigated ways to develop leadership abilities. In courses dealing with a variety of subject matters, law students have been teaching high school students to think critically and to question, as well as to use language — both oral and written — persuasively to express their needs and to advocate for others.

Despite the similar goals of the law school and BFA, their respective students often come from very different places. While BFA serves predominantly poor, African-American students from Baltimore City, the law school is quite racially diverse — its students represent more than half of the fifty states plus three international countries, and many of its students are the children of doctors, lawyers, and business people. http://www.law.umaryland.edu/about/facts.html (last visited Nov. 3, 2008). While there are no admission criteria to enter BFA, the law school is very selective.

Recently, the law firm of DLA Piper joined us as a partner in this project with the goal of helping to blur one of the socioeconomic dividing lines that separate these two groups of students. DLA Piper runs a free legal services clinic for the BFA school community. The premise of this clinic is that we can begin to level the playing field for BFA students by helping their parents deal with the various legal issues that confront them. We hope that parents with effective legal help at their fingertips will be in a better position to support their children’s educational efforts.

Through these experiences, we have tried to broaden the perspective of both law students and BFA students. We believe that to be successful, students must not only have the traditional advocacy skills, but also the commitment, confidence, and cultural competency to allow them to utilize successfully those skills to push for social change.

After six years and many challenges, the outcomes are beginning to show that the BFA students are on the road to becoming academic achievers and future leaders of our community. This model, therefore, has become a beacon of hope that we can overcome the educational crisis in America and provide the necessary opportunities for lower-income individuals to participate in our ever-changing economy.

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