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New Policies Shake Up Education Establishment

Winds of change are blowing through many formerly hidebound public school districts around the country as officials experiment with a variety of ideas for how to improve educational outcomes.

Single-sex approach catches on

Single-sex public education is popping up around the country since the U.S. Education Department announced plans to change its interpretation of Title IX, which bars sex discrimination in schools. (See *Education Reporter*, April 2004.) At least 10 single-sex public schools opened this fall in five states — New York, Ohio, Pennsylvania, South Carolina and Texas.

The number of schools offering single-sex classes has jumped from four to 140 over the last eight years. At 36 of those schools, at least one grade will have only single-sex classes this year. (*St. Louis Post-Dispatch*, 8-25-04)

Advocates say the all-boys or all-girls atmosphere can improve learning by reducing peer pressure and preening for the opposite sex and by allowing teachers to focus on the different ways boys and girls learn. The National Organization for Women and the American Civil Liberties Union maintain that sex segregation is always wrong.

Voucher update

As school vouchers gain acceptance in some states, a new study commissioned by the pro-voucher Milton and Rose D. Friedman Foundation found that 63% of Americans favor allowing families “to choose any school, public or private, to attend using public funds.” The Wirthlin Worldwide study stands in sharp contrast to the annual Phi Delta Kappa

poll reporting, based on a differently worded question, that only about 42% of Americans support vouchers. (*Wall Street Journal*, 8-27-04)

Voucher programs received a boost from the U.S. Supreme Court’s 2002 decision that they do not violate the Establishment Clause of the First Amendment to the Constitution, after which Congress acted to establish a voucher program in the District of Columbia. (See *Education Reporter*, March 2004.) Two studies were published this year showing that vouchers actually bring about improvement in the public schools that are forced to compete with vouchers. (See *Education Reporter*, May and July 2004.)

Over this past summer, courts in Florida and Colorado found voucher programs in those states in violation of state constitutional provisions. The Florida case is on appeal. Voucher supporters in Colorado have announced plans to introduce legislation in 2005 to fix a technical aspect of the voucher funding mechanism and thereby make it comply with the court decision.

Uniform trend

Uniforms for pupils continue to gain popularity around the country since the Long Beach, CA district adopted a uniform policy in an effort to curb violence. Crime dropped 22% there in 1994, the first year of the policy. Now, many large public school systems, including those in Chicago and St. Louis, have mandatory or optional uniform policies. At the request of parents, Belleville, IL is currently considering following the example of neighboring Cahokia

(See *New Ideas*, page 4)

National Wave of School Litigation Districts Seek Funding from Activist Judges After Failing to Convince Legislators and Voters

Half of all states now face lawsuits demanding that judges increase public school funding. Typically based on state constitutional provisions mandating public education for all students, such suits represent a new avenue for cash-strapped school districts to gain funding they cannot obtain from the legislature or at the ballot box.

At least 15 states are currently fighting school funding suits and 10 more have been threatened with litigation, according to the American Association of School Administrators. All but five states have witnessed some kind of legal battle in recent years over what constitutes an adequate education, and some states are gearing up for their second or third lawsuit. (*Washington Post*, 6-7-04) Taxpayers are dismayed at the prospect of judges raiding state treasuries to force higher spending for certain schools.

How school funding is distributed varies widely by state and even by district, depending on factors such as property tax revenue, voters’ willingness to approve tax increases, availability of state tax revenue, the demographics of student

populations, and statewide formulas to equalize spending between rich and poor districts.

Lawsuits arguing for education equity between rich and poor districts were filed frequently in the 1980s. The more recent lawsuits, which seek sufficient funding for poor districts rather than parity with wealthy ones, have been facilitated

by the reams of data generated to comply with the federal No Child Left Behind law. Statistics on failing schools are cited by plaintiffs who blame the schools’ poor

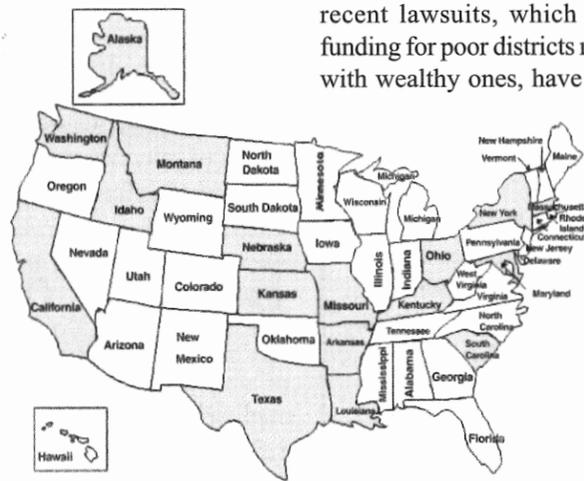
quality on insufficient funding.

Texas judge wants ‘gap’ closed

A Texas judge declared the state’s school funding system unconstitutional on September 15 after 300 districts brought suit claiming that the state is not providing an adequate education as promised in the state constitution. He also threw out the state caps on property tax rates.

Even though the current system already requires wealthy districts to share portions of their property-tax receipts with poor districts, District Judge John Dietz was persuaded that funding is inadequate because it fails to close the achievement

(See *Litigation*, page 4)



Turnaround Firm Cleans Up St. Louis Schools’ Fiscal Mess

In an experiment that could prove a successful model for other cities, the City of St. Louis school board hired a business turnaround firm in 2003 to spend a year restoring financial sanity to the beleaguered district. When the firm completed its work at the end of June, there was no question but that progress had been made.

In one tumultuous year that began with the surprise disclosure of a \$55 million deficit by the outgoing superintendent, Alvarez & Marsal of New York accomplished the following steps which had eluded previous superintendents:

- Reducing expenses by \$79 million without the loss of a single teacher — a result achieved by closing 16 underutilized schools; privatizing maintenance, payroll

and food services; dismantling the central office and putting the lavish new building up for sale; firing 1,400 employees; and consolidating school bus lines and warehouses



Bill Roberti

- Accounting for textbooks and supplies and selling unnecessary books
- Rationalizing bus transportation routes with a software program purchased years ago but never installed
- Implementing a literacy-based curriculum, improving reading test scores, increasing the number of high school graduates by 11%, and making tangible progress toward full accreditation.

“When it comes to education in St. Louis,” Mayor Francis Slay observed, “no one has ever accomplished as much in as

little time as Bill Roberti” (the interim superintendent from the turnaround firm, who is a former Brooks Brothers executive). (*St. Louis Post-Dispatch*, 7-1-04)

“Financially, the system was flying blind,” explained Vincent Schoemehl, a school board member and former mayor of St. Louis. “We’ve demonstrated that there is a way to connect the cultures of the private sector with the culture of urban education. I would recommend the model to any public entity that needs to refresh itself.” (*Education Week*, 6-23-04)

An assessment by the Council of Great City Schools, while critical of many aspects of St. Louis schools, concluded that St. Louis, in hiring a professional restructuring firm, set itself apart from other

cities that are “captives of their inaction.” The school board made its hiring decision shortly after a new majority reform slate was voted into office.

On the heels of Roberti’s departure, the school board voted to close five more schools — some of which were more than half empty, and two of which had just had air conditioning installed a year earlier. In addition, the board decided in late September to adopt the phonics-based Open Court reading program.

No one would say that St. Louis’s school problems have been solved. Educationally, the district has a very long way to go. But putting its fiscal house in order was a necessary first step.



Vincent Schoemehl

EDUCATION BRIEFS

64% of 2003 high school graduates were enrolled in colleges or universities in the fall, two-thirds of them in four-year institutions, according to the federal Bureau of Labor Statistics. The rate was little changed and remains near historically high rates. However, only 63% of full-time students at four-year colleges graduate within six years (the usual yardstick for measuring graduation rates) — a rate that has remained flat for more than 20 years. Graduation rates remain especially low for black and Latino students. (*New York Times*, 5-26-04) The share of adults with at least a bachelor's degree from college edged up to 27.2% last year, continuing a decades-long rise, according to Census Bureau estimates released in June.

The widely quoted 85% high school graduation rate is misleading, argues Christopher B. Swanson of the Urban Institute's Education Policy Center, who believes the true rate is closer to 68% for public schools and 50% for minorities. (*Education Week*, 7-28-04) The 85% estimate by the Census Bureau counts GEDs and overlooks persons who live in prisons and other institutions. Accounting properly for dropouts is difficult.

Non-citizen parents seek voting rights in school elections. Any parent in Chicago may vote in local school elections as long as they have a child in one of the schools. A bill introduced in July in Washington, D.C. would allow permanent residents to vote for members of the school board, city council and mayor. San Francisco's board of supervisors voted in July to put an amendment on the November ballot to allow any parent with a child in public schools to vote in school board elections. That measure could require an amendment to the California state constitution. Immigrant communities are split over whether to extend voting rights to non-citizens. (*Wall Street Journal*, 9-14-04)

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New SAT May Not Boost Minority Scores After All

The new SAT test to be administered by the College Board to college-bound students beginning in March 2005 may not have much impact on the "race gap" between white and Asian students, on the one hand, and black and Hispanic students, on the other hand, according to college admissions directors and the College Board.

Pressured by the University of California system, the College Board announced changes two years ago to address criticisms that the critical-reasoning focus of the old SAT disadvantaged low-income and minority students. The changes included dropping analogies in the verbal section, adding Algebra II questions to the math section, and adding a writing exam. The hope was that making the test more like an achievement test of classroom learning would enhance the scores of minority students.

However, fewer than a third of black

students take the more-advanced math courses that would help with the new test, as compared with about half of whites and almost two-thirds of Asian-Americans. Moreover, it is not clear that schools will be able to prepare minority students adequately for the writing test.

The SAT score gap between whites and African-Americans averages 202 points out of a possible 1200 points. Between whites and Hispanics, the gap is 133 points. (*Wall Street Journal*, 9-1-04)

One wonders, then, why the College Board was forced to go through the exercise of redesigning the tests. The new writing section will include a 25-minute handwritten essay which, in addition to being very expensive to grade and impossible to evaluate in a uniform, objective manner nationwide, may penalize students with sloppy penmanship and/or politically incorrect views.

Beware of Depressing Reading

Some of the depressing or inappropriate books on school supplementary reading lists this year include:

- Slain rapper and convicted sexual abuser Tupac Shakur's posthumous book of "poems" with titles like "Dedicated 2 Me" and "Dedicated 2 My Heart"
- *Walk Two Moons* by Sharon Creech, a novel about a daughter's search for her missing mother who suffered deep depression after a miscarriage and hysterectomy and was later killed in a bus accident
- *Belle Prater's Boy* by Ruth White, about a missing father who died by shooting himself in the face
- *Because of Winn-Dixie* by Kate DiCamillo, about a girl whose mother drank too much and abandoned her, leaving her to rebuild her life with the help of a dog.

'Everybody dies'

Young adult "problem novels" assigned to her 12-year-old son prompted Barbara Feinberg to write *Welcome to Lizard Motel*, which contrasts the imaginative books she enjoyed in her youth to the award-winning books favored by English teachers now, in which "everybody dies."

Paula Fox's *Monkey Island* (about an abandoned 11-year-old living on the street) and Karen Hesse's *Phoenix Rising* (about

a girl whose father ran off, whose mother and grandfather are dead and whose neighbors are poisoned by radiation from a nearby power plant accident) "are as bleak as a gas station parking lot at 4 a.m.," according to a *New York Times* review of *Lizard Motel*. Newbery Award winners "are notoriously glum." (8-22-04)

Across the pond, Britain's leading literary award for children's books faces a revolt by young readers who say they would prefer good old-fashioned stories to the controversial fare selected by the Carnegie Medal's selection committee of librarians. Children's reading circles set up to stimulate interest in the prize have panned the following recent winners:

- *The Other Side of Truth* by Beverley Naidoo, about a Nigerian brother and sister seeking asylum in Britain
- *Postcards from No Man's Land* by Aidan Chambers, a tale of euthanasia and sexual awakening
- *Junk* by Melvin Burgess, chronicling a descent into addiction.

"Grown-ups usually choose the most 'adult' books out of the selection," complained a 13-year-old critic in a survey conducted by *The Sunday Telegraph* (5-26-02).

Voters Slap Down School District

Voters in the affluent Ladue School District in suburban St. Louis in June voted a resounding 60% against a substantial property tax increase that would have slapped many homes with a 75-100% higher bill compared to 2000.

Arguments marshaled by opponents included the following evidence of runaway spending:

- Annual expenditures per student were conservatively estimated as \$11,761 in

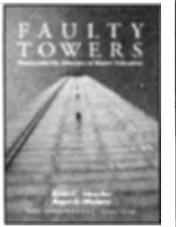
2002-03. (The true current figure is closer to \$16,000.) The state average was \$7,345.

- Average teacher salaries in the district will be about \$54,000 in 2004, and 6% earn more than \$80,000. Fewer than half of the teachers hold master's degrees.
- The student population has been flat over the last ten years, while teacher staffing has increased 20%. The ratio of students to classroom teachers is 13 to 1, compared to a state average of 18 to 1.

Book of the Month



Faulty Towers: Tenure and the Structure of Higher Education, Ryan C. Amacher and Roger E. Meiners, The Independent Institute, 2004, 94 pp. (exclusive of appendix), \$14.95.



This slender paperback is really two books in one: an overview of the role of tenure in American universities and a list of well-argued suggestions for reforming university management, in which tenure does not figure at all.

At least half of the book is devoted to arguing that reformers' focus on the impediments posed by tenure is misplaced. After reviewing reported cases on the subject, the authors contend that the law already allows incompetent or unproductive professors to be fired even if they have the typical contractual protection of tenure. "It is extraordinarily rare for a university to be ordered to reinstate a dismissed faculty member," they conclude.

Somewhat surprisingly, the book reveals that tenure was never intended to guarantee lifetime employment to college professors. Lifetime faculty employment was the norm long before tenure became widespread in the early 20th century. Tenure — which requires specified cause for dismissal — was actually intended to upgrade faculty ranks by introducing the concept of a tenure track with a probationary period of several years, following which the faculty member would move up or out.

Instead of trying to abolish tenure, *Faulty Towers* urges reformers to work on the inefficient norms of public and non-profit university management. Most universities have a democratic model of faculty participation in governance. Faculty members exercise excessive control over who is the president, what other departments should be doing, and how faculty should be compensated. Public colleges employ about 40% more labor than private colleges for the same amount of capital. Bureaucratic resistance to change stymies efforts to reward increase productivity, cut undersubscribed programs, or design new programs that could threaten someone's departmental turf.

What are the solutions? "Binding decisions by faculty committees must be largely ended," so that more power is concentrated in the senior administrators and trustees. Trustees should support administrators who fire incompetent teachers. Greater use of student evaluations and fewer course requirements (many of which simply function as jobs programs for their departments) would help.

State universities should be decentralized, with less governmental regulation, less control by flagship universities which have little incentive to improve other colleges in the same system, more freedom to set tuition, and use of tuition vouchers.

FOCUS: In Defense of Memorization



By Michael Knox Beran

If there's one thing progressive educators don't like, it's rote learning. As a result, we now have several generations of Americans who've never memorized much of anything. Even highly educated people in their thirties and forties are often unable to recite half a dozen lines of classic poetry or prose.

Yet it wasn't so long ago that kids in public schools from Boston to San Francisco committed poems like Shelley's "To a Skylark" and Tennyson's "Ulysses" to memory. They declaimed passages from Shakespeare and Wordsworth, the Psalms and the Declaration of Independence. Even in the earliest grades they learned by heart snippets of "The Midnight Ride of Paul Revere" or "Abou Ben Adhem." By 1970, this tradition was largely dead. Should we care? Aren't exercises in memorizing and reciting poetry and passages of prose an archaic curiosity, without educative value?

Unique cognitive benefits

That too-common view is sadly wrong. Kids need both the poetry and the memorization. As educators have known for centuries, these exercises deliver unique cognitive benefits, benefits that are of special importance for kids who come from homes where books are scarce and the level of literacy low. In addition, such exercises etch the ideals of their civilization on children's minds and hearts.

The memorization and recitation of the classic utterances of poets and statesmen form part of a tradition of learning that stretches back to classical antiquity, when the Greeks discovered that words and sounds — and the rhythmic patterns by which they were bound together in poetry — awakened the mind and shaped character. They made poetry the foundation of their pedagogy. ...

In every epoch of Western history we find educators insisting that their pupils serve an apprenticeship in the work of masters of poetry and rhetoric. Saint Augustine, as a schoolboy in North Africa in the fourth century, studied only a very few Latin classics in school, principally Virgil's *Aeneid*, great chunks of which he learned by heart. ...

Shakespeare memorized

More than a millennium later, in a grammar school in Stratford-upon-Avon, the mind of the young Shakespeare was formed by similar educational methods. In his book on Shakespeare, Michael Wood observed that the poet "was the product of a memorizing culture in which huge chunks of literature were learned by heart." Such "learning by rote," Wood wrote, "offers many rewards, not least a sense of poetry, rhythm and refinement — a heightened feel for language," as well as an abundance of tales and myths, imaginative resources that are among the "most exciting gifts" a young person can receive. These classic techniques of envelop-

ing kids as young as seven or eight in the works of masters of poetry and rhetoric were transplanted to America, where they were incorporated into the readers and primers used throughout the country in the nineteenth and early twentieth centuries. Well into the 1920s, rhyme-time occupied an important place in New York City public schools. ...

Decline after 1940

But the culture of recitation and memorization that prospered for centuries — and that, in New York, survived successive waves of immigration that stretched schools to their limits — declined rapidly after 1940. Even the rationale for such practices was forgotten. "No one seems to remember the reasons for memorizing or orating great poetry or speeches," says education historian Diane Ravitch, who served as an assistant secretary for educational research in the first Bush administration.

But the rationale is clear and compelling. Long before kids start school, parents begin to teach them language with the primitive poetry of the nursery rhyme. Before a two-year-old can understand the meaning of Little Jack Horner's plum or Little Miss Muffet's tuffet — before he knows what it means to hop on pop or why the pobble has no toes — he delights in the rhythm and rhyme of the verse; and by hearing the music of the verse often enough he comes gradually to understand first the sounds and eventually the words of which it is composed. ... Without knowing it, a child who has learned a scrap of verse has been drawn into the civilizing interplay of music and language, rhythm and sound, melody and words — just as educational theory as far back as ancient Greece posits

What the child discovers, in other words, is not only aesthetically pleasing, but important to cognitive development. Classic verse teaches children an enormous amount about order, measure, proportion, correspondence, balance, symmetry, agreement, temporal relation (tense), and contingent possibility (mood). Mastering these concepts involves the most fundamental kind of learning, for these are the basic categories of thought and the framework in which we organize sensory experience. Kids need to become familiar with them not only through exercises in recitation and memorization, but also, as they proceed to the later grades, by construing, analyzing, and diagramming particular verses. ... And of course memorization is a kind of exercise that strengthens the powers of the mind, just as physical exercise strengthens those of the body.

Enhancing students' syntax

No less important, memorizing poetry turns on kids' language capability. It not only teaches them to articulate English words; it heightens their feel for the intricacies and complexities of the English language — an indispensable attainment if they are to go on to speak, write, and

read English with ease. Susan Wise Bauer, author of *The Well-Educated Mind: A Guide to the Classical Education You Never Had*, argues that memorization "builds into children's minds an ability to use complex English syntax." The student "who memorizes poetry will internalize" the "rhythmic, beautiful patterns" of the English language. These patterns then become "part of the student's 'language store,' those wells that we all use every day in writing and speaking." ...

Enlarging stock of words

It also stocks those bins with a generous supply of the English language's rich accumulation of words. Research suggests that the size of a child's vocabulary plays an important part in determining the quality of his language-comprehension skills. ... Bauer points out that if "a student reads a word in a novel, she might or might not remember it for later use. But when she commits it to memory in proper context (as the memorization of lines of poetry requires), she is much more likely to have it at her 'mental fingertips' for use in her own speaking and writing."

All these benefits are especially important for inner-city kids. Bill Cosby recently pointed to the tragedy of the black kids he sees "standing on the corner" who "can't speak English." "I can't even talk the way these people talk," Cosby said: "Why you ain't. Where you is." To kids who have never known anything but demotic English, literary English is bound to seem an alien, all but incomprehensible dialect. Kids who haven't been exposed to the King's English in primary school or at home will have a hard time, if they get to college, with works like *Pride and Prejudice* and *Moby Dick*. In too many cases, they will give up entirely, unable to enter the community of literate citizens — and as a result will live in a world of constricted opportunity. ...

Fostering cultural literacy

It is not only the form of poetry — its rhyme and meter — that endows it with unique educative properties. Just as crucial is its content. Poetry's power makes it the ideal medium to introduce kids to their cultural inheritance as members of Western civilization and citizens of a particular nation. The content of the poetry fosters what education reformer E. D. Hirsch Jr. calls "cultural literacy" in the kids who get it by heart, since great poetry is so often a pithy expression of the culture's accumulated wisdom. Not to have certain works of art in your mental inventory — *Macbeth*, for example, or "Ozymandias" or Psalm 23 — is to be shut out, to some degree, from the community of civilized conversation.

Much of what kids used to learn by heart was an explicit statement of the national creed. The schoolboys of classical Athens memorized the Homeric passages that taught the classical virtues. British pupils learned the great Shakespearean expressions of patriotism and national ide-

als: John of Gaunt's speech in *Richard II* describing his country, or Henry V's stirring speech to his troops at Agincourt. ... American kids learned the Gettysburg Address, as profound a statement of the national ideal as anyone ever uttered; and those who remember as adults Lincoln's affirmation of the nation's dedication to the proposition that all men are created equal — and to government of the people, by the people, for the people — never can lose sight of what makes America exceptional.

The tradition of memorization did not survive the progressive revolution in American schools. A century ago, progressive educators first voiced the arguments that would have such an unfortunate effect in U.S. classrooms. To impose classic poetry and rhetoric on young minds was, these theorists maintained, an oppressive act. ...

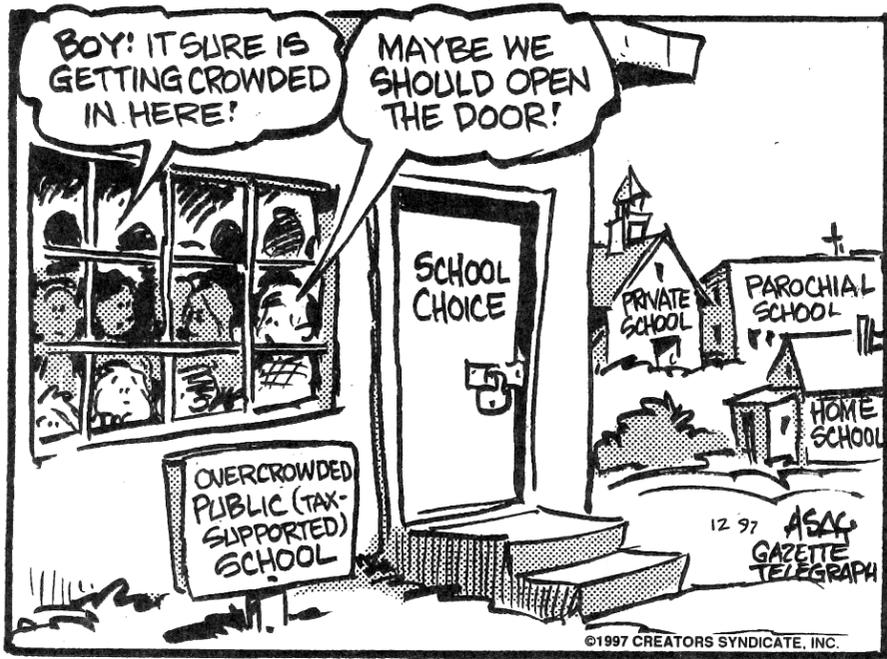
The progressives' efforts to discredit the older techniques are not yet finished. The most recent challenge to recitation and memorization exercises comes from a theory known as "constructivism," the latest fad among progressive educators. ... Memorization, one advocate of constructivism asserts, "is not a thinking activity." ... For progressive educators, to require students to recite "Daffodils" or memorize the Gettysburg Address is a relic of a "drill and kill" culture that inhibits the development of the self and is the educational equivalent of a chain gang.

But the progressives' educational philosophy is only superficially a philosophy of liberty. The progressive exercises in "guided fantasy" and "sensitivity training" that have replaced memorization and recitation do little to free kids' selves. The older techniques, by contrast, are genuinely liberating. They build up in the child a more powerful mental instrument, one that will allow him, in later life, to make good use of his freedom. ...

Memorizing strengthens, frees

This kind of memorization does not impose upon young minds a single dogma, nor does it exalt, as the Islamic madrasa does, a single text above all others. If anything, it is the progressive liturgies — with their "diversity" drills and cult of self-esteem — that embody a narrow and intolerant ideology, one that imprisons kids in the banal clichés of the present and puts much of the past off limits, as though the moral and spiritual inheritance of Western civilization were somehow taboo. The literary culture at the heart of these exercises in memorization, by contrast, is a record of how men and women have, in various times and places, struggled to understand themselves and make sense of their natures. Such culture does not repress or enslave: it enlarges and strengthens and frees.

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New Ideas (Continued from page 1)

and East St. Louis, IL.

Advocates say uniforms are cheaper, improve discipline, reduce peer pressure and keep students focused on school. Opponents complain of trampling on students' individuality. The American Civil Liberties Union of Illinois has expressed concern about the "message" of conformity implied in a uniform policy. (*St. Louis Post-Dispatch*, 9-9-04)

Florida 'basic schools'

In an effort to comply with the No Child Left Behind Act, a Florida district opened three "basic schools" in August to focus on reading and math instruction. Using portable classrooms on existing campuses, the schools are designed to give students a transfer option required by federal law when their regular school misses annual improvement goals for two consecutive years. Classes are smaller and offer more individualized attention to students and parents. (*Education Week*, 8-11-04)

Outside management

One of the hottest new techniques is contracting with a private firm to manage part or all of a school system. Private firms typically have more latitude and incentive to use methods that work than public-sector education bureaucracies and teachers unions. Moreover, public school administrators traditionally have a background in teaching, not business management, resulting in a tendency toward unbusinesslike practices in some large urban school systems. Using private firms grounded in business methods has brought much-needed fiscal discipline and/or educational results to some districts, notably Philadelphia and St. Louis. (See article on St. Louis's successful experience with a turnaround firm on page 1.)

Philadelphia's public schools were taken over by the state two years ago. Edison Schools, a for-profit venture launched in 1992, was hired to manage 20 of the city's most-disadvantaged schools and is now credited with helping the city school system to post double-digit gains in reading and math proficiency and a tripling of the number of schools meeting federal No Child Left Behind standards.

"I've been in politics for 24 years and have never seen a system that has been remade as this one has," said state repre-

sentative Dwight Evans (D-Philadelphia). "What we've done here is force people to rethink the model for how education is delivered here." (*Wall Street Journal*, 8-25-04)

Charters focus on struggling pupils

Charter schools — public schools operating with separate management and without some of the restrictions applicable to regular schools — received some bad press recently when the American Federation of Teachers trumpeted federal Education Department statistics supposedly showing that charter students perform worse on average than traditional public school students nationwide. However, the fine print revealed that the test score gap between charter and public schools disappears when race is taken into account — and charter schools enroll a higher proportion of minority and struggling students.

Most states allow charter schools to form only where students are having difficulties, and charter schools are in many cases then asked to accept the most challenging students. (*opinionjournal.com*, 8-18-04) Thus, comparing the performance of charter schools to that of public schools nationwide is misleading.

Harvard economist Caroline Hoxby calls the American Federation of Teachers comparison of 4th-graders in a handful of states "not at all persuasive." In her own nationwide study, she found that charter students were 3.8% more likely to be proficient on their state's reading exam and 1.2% more likely to be proficient on their state's math exam than students in the nearest regular public school. These differences rise to 5% in reading and 2.8% in math when charter schools are compared to the nearest public school with a similar racial composition. In states where charter schools are relatively well-established, such as Arizona, California and Colorado, the difference is 7% to 11%. (*Wall Street Journal*, 9-29-04)

Research by Tom Loveless of the Brookings Institution indicates that over time charter students tend to make greater gains than students in regular public schools. It is telling that the waiting list for charter schools in Chicago has grown so long that most charters there have stopped actively recruiting. (*chicagotribune.com*, 8-18-04)

Litigation (Continued from page 1)

gap between white and minority students.

"Texas needs to close the education gap. But the rub is that it costs money to close the educational achievement gap," the judge said. An attorney for the plaintiffs observed that these remarks were unique in the history of Texas school finance litigation, which previously focused on the equitable distribution of money rather than actual student achievement. The state is appealing the decision. (*Education Week*, 9-22-04)

One problem with this analysis is that no amount of additional funding has ever closed the racial achievement gap on a large scale anywhere in the country.

On May 11, a state judge ordered Kansas to close all its public schools until the state obeys the court's demand to change the way taxpayers' money is spent on education. This ruling is being appealed, and the state supreme court quickly ordered that schools open as usual this fall pending the outcome of the appeal. (*Associated Press*, 5-19-04)

In Alaska, the teachers union joined parents and districts in filing a suit August 9 claiming inadequate funding. (*CNN.com*, 8-17-04)

On August 25, Spokane public schools joined a planned lawsuit with many other Washington State districts, which have hired the law firm of Bill Gates's father, Preston Gates & Ellis, to seek more special education funds. Previous state court rulings found a constitutional duty to fund special education properly, and since 1994 the legislature has increased per-student funding by 30%, but apparently that isn't enough to satisfy Spokane and other districts. (*Spokesman Review*, 8-26-04)

In New York State, a judge has ordered the state to revamp its funding system and come up with an additional \$4 billion to \$10 billion in school aid over the next three to five years. (*CNN.com*, 8-17-04) In addition, 17 New York districts have expressed interest in joining Utica's suit filed July 23 to seek increased funding. A Utica official warned that without additional money, 190 jobs would be eliminated.

On April 26, a Massachusetts judge issued a 300-page advisory ruling to dictate the future of education in the Bay State and said the court would retain jurisdiction to make sure its orders are obeyed. Attorneys for some of the poorest school districts in South Carolina are suing the state legislature for billions of dollars in education funds. Nebraska, Kentucky, Louisiana, Missouri, Montana, Ohio and Maryland face similar school-funding suits.

'Educational adequacy' as goal

"Educational adequacy" complaints have largely replaced desegregation lawsuits as the focus of legal efforts to ensure equality of opportunity between different social and ethnic groups, according to the *Washington Post* (6-7-04). As federal courts have retreated from ordering busing to promote integration, state courts have started to question whether state governments are living up to their constitutional responsibilities to meet their students' educational needs. Courts have

sided with plaintiffs about 70% of the time in funding-adequacy lawsuits in recent years and ordered the states to come up with extra money, education analyst Steven Smith told the *Post*.

Critics contend that it is up to state legislatures, not courts, to decide the appropriate level of public education. Moreover, spending has not been shown to correlate with educational outcomes. For example, sharply increased school spending in New Jersey over the past four years generally failed to raise academic achievement.

California Governor Arnold Schwarzenegger and American Civil Liberties Union attorneys representing 1 million low-income students agreed in August to settle a case complaining of a chronic lack of textbooks and supplies, crumbling buildings and freezing classrooms. Assuming legislative approval, some \$188 million would be budgeted this year to address the problems. (*sfgate.com*, 8-11-04)

In Missouri, several hundred districts have sued to challenge the state's school funding formula. Democratic Governor Bob Holden wanted to raise taxes for public schools but was defeated in the August primary by Claire McCaskill, who pledged in August to persuade lawmakers to revise the state's complex school funding formula without raising taxes. If they don't, she warned, the courts could step in and rewrite the formula without legislative input. (*Kansas City Star*, 8-25-04)

Occasionally a district lawsuit backfires. Lake View, AR was the source of a suit that led the state supreme court to declare Arkansas' school-funding system unconstitutional. In response, the legislature this year ordered 57 school districts (including Lake View) with fewer than 350 students to either consolidate with or annex into other districts. (*Associated Press*, 8-20-04)

Idaho court draws the line

Litigation to compel increased funding of public schools that stretched over 13 years finally proved too much for the Idaho supreme court. After a 2001 lower court decision that the funding was inadequate and unconstitutional, the legislature passed an unusual statute authorizing judges to raise taxes for schools, a device to enable the legislators to avoid the political consequences of voting to raise taxes. Seven lawsuits were filed asking judges to raise taxes.

In late August, the Idaho supreme court unanimously voted to strike down the statute. Chief Justice Linda Copple Trout wrote that the statute created "a legislative process in which taxing authority is given directly to a separate branch of government — the judiciary — whose powers and purposes were not meant to involve the taxation of Idaho citizens."

Previous high-profile court actions to raise taxes for school systems in other states helped inspire drafters of the Republican Platform adopted in New York City this year to state: "The self-proclaimed supremacy of these judicial activists is antithetical to the democratic ideals on which our nation was founded."