Public Boarding Schools: Extending Educational Opportunity to Disadvantaged Children

Bret Asbury
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ABSTRACT

It is beyond question that American public education is in crisis, and nowhere is the inadequacy of our current system more striking than in high-poverty, urban schools populated by disadvantaged minority students. Despite decades of legal, policy, and scholarly efforts aimed at addressing the challenges facing these schools, the academic prospects of poor students are currently as grim as they have been in recent memory. Reformers seeking to address this problem have largely focused on either reducing discrepancies in public school funding or altering public education from within by improving and modernizing classroom conditions. Almost all of these efforts have failed to bring about real progress: more than half a century after Brown, our nation’s most disadvantaged children are still largely deprived of quality educational opportunity.

This Article argues that prior education reform efforts have enjoyed little success because they have failed to address head-on what we believe is the predominant factor in perpetuating educational inequality: the numerous educational challenges disadvantaged students must overcome in their home and neighborhood environments. These well-documented challenges include a lack of household resources, suboptimal parenting practices, and the prevalence of neighborhood crime, violence, and other risk factors, all of which inhibit poor children’s ability to succeed academically.

In recognition of the fact that the societal conditions primarily responsible for these encumbrances are unlikely to change in the foreseeable future, this Article argues for the creation of voluntary, public boarding schools as an option for educating underprivileged children from as early as Kindergarten. Though boarding young children is rare in the United States, it is not uncommon in other countries such as England and China. And as the SEED Foundation and others have demonstrated, there is a meaningful demand for boarding school education among members of poor communities and significant private and public sector support for bold education reform efforts. Recognizing that this proposal nonetheless will likely be met with resistance, this Article addresses a number of potential objections, including the suggestion that it is motivated by a desire to deprive underprivileged children of their cultural identity and that it is not financially feasible.
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“There are certain kids that if you’re serious about ending poverty, you need to have them 24-7.”

-Arne Duncan

INTRODUCTION

It is beyond question that public education in America is in crisis. Nowhere is the inadequacy of this system more striking than in the high-poverty urban schools that predominantly serve disadvantaged minority students. More than half a century after the Supreme Court struck down de jure segregation and rejected the “separate but equal” doctrine of Plessy v. Brown, the actual practical significance of the NAACP’s victories in Brown and its progeny has been the source of substantial, continued debate (See Michael Klaman, Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality (2004); Gerald Rosenberg, Hollow Hope: Can Courts Bring About Social Change? (1991)).

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2 Based on almost any metric our students are struggling. The Programme for International Student Assessment (PISA), the leading agency in comparative international assessment of student performance, issued its most recent report in December of 2010. This assessment concluded that out of 34 countries surveyed, the United States is 14th in reading, 17th in science, and 24th in math. In Ranking, U.S. Students Trail Global Leaders, USA TODAY, Dec. 7, 2010, at __. See Obama, “State of the Union” Address, Jan. 25, 2011 (noting that American “math and science education lags behind many other nations” and expressing concern that many Americans lack the educational attainment necessary to benefit from future job growth), available at http://www.npr.org/2011/01/26/133224933/transcript-obamas-state-of-union-address; Ron Claiborne, “Nation’s Report Card’ Shows American Student Struggling With Reading, Math, ABC News, available at http://abcnews.go.com/US/nations-report-card-shows-american-students-struggle-reading/story?id=12186446#.T1APP3k8WJI (noting that, according to the National Assessment of Educational Progress, “[j]ust 38 percent of 12th graders were proficient in reading, and only 26 percent were proficient in math.”); See generally, Seward Darby, The Crisis in U.S. Education Isn’t Overblown: A Response to Nicholas Lemann, THE NEW REPUBLIC (Sept. 10, 2010) (citing alarmingly high drop-out rates and racial and class-based achievement gaps).
Ferguson in public education, poor minority children all too often are forced to attend schools that are both separate and unequal. These schools are often plagued by high drop-out rates, greater incidences of violence, and abysmal test scores.

Most American parents use their financial resources to spare their children from ever having to set foot in these schools, purchasing greater educational opportunities for their children either by paying to reside in more expensive neighborhoods with superior public schools or sending their children to private schools. The truly disadvantaged are left behind, stuck

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4 Plessy v. Ferguson, 163 U.S. 537 (1896).

5 See Jeannie Oakes, Schools that Shock the Conscience: What Williams v. California Reveals about the Struggle for an Education on Equal Terms Fifty Years after Brown, QUALITY EDUCATION AS A CONSTITUTIONAL RIGHT (Perry et al., eds.) (2010); DOUGLAS S. MASSEY & NANCY A. DENTON, AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS (1993). This state of affairs has led some observers to question the continued import of Brown in providing access to educational opportunity to poor minority children. See GARY ORFIELD AND SUSAN E. EATON, DISMANTLING DESEGREGATION: THE QUIET REVERSAL OF BROWN V. BOARD OF EDUCATION (1997) (discussing metropolitan-wide educational disparities and the resurgence of school segregation as a result of federal courts’ increased willingness to end their supervision of previously segregated school districts); CHARLES T. CLOTFELTER, AFTER BROWN: THE RISE AND RETREAT OF SCHOOL DESEGREGATION (2004).

Due to the vestiges of past segregation, private discrimination, and private choice (e.g. “white flight), black Americans still tend to live in racially-homogenous communities. MASSEY & DENTON, supra. More than a decade into the twenty-first century, millions of black children still attend schools that are nearly just as racially segregated as the schools that had existed in the South prior to Brown.

In addition to these persisting patterns of racial segregation, segregation on the basis of family income has consistently increased over the course of the past 40 years. See Sean F. Reardon & Kendra Bischoff, Growth in the Residential Segregation of Families by Income, 1970-2009, US2010 Project Report (Nov. 2011). Students in struggling urban public schools still attend schools with classmates who are almost exclusively minority and largely economically disadvantaged.

6 This has not gone unnoticed by school choice advocates, who have criticized certain politicians for practicing school choice with their own children while denying the privilege to families to poor to purchase it on their own. See MICHAEL STEELE, RIGHT NOW: A 12-STEP PROGRAM FOR
in schools that at times seem to exist solely to warehouse poor children for as long as possible before releasing them to join the ranks of the unemployed, underemployed, and over-incarcerated urban poor. 7 This

DEFEATING THE OBAMA AGENDA (2010) 68-70 (criticizing President Obama for signing into law a bill that terminated a voucher program for low-income DC children while sending his daughters to the $30,000 per year Sidwell Friends); Michael Lynch, Gore Bashes Vouchers, REASON (Feb. 22, 2000) (describing how then-presidential candidate Al Gore came under fire for opposing private school vouchers for low-income schoolchildren while sending his own to some of the most expensive private schools in the country).

7 Deprived of any meaningful chance of attaining upward social mobility through educational achievement, many of the most disadvantaged students succumb to the brutal cycle of multi-generational poverty. See BRUCE WESTERN, PUNISHMENT AND INEQUALITY IN AMERICA 30-31 (2007) (noting the substantial gap in incarceration between college-educated and non-college-educated men and observing that low-educated black men are more likely to be incarcerated than in labor unions or job training programs). The staggering rise in incarceration rates in low income black communities has had disastrous collateral consequences and has greatly exacerbated racial inequality for recent and future generations of black Americans. See Loïc Wacquant, Deadly Symbiosis: Rethinking Race and Imprisonment in Twenty-First-Century America, BOSTON REV. (Apr./May 2002) (discussing states’ use of “hyperincarceration” of black Americans to “shore up caste division in American society”).

The adverse racial consequences have been so severe that some researchers have likened them to the caste-based apartheid of the pre-civil rights era South. See MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS (2010); ROBERT PERKINSON, TEXAS TOUGH: THE RISE OF AMERICA’S PRISON EMPIRE (2010). But see JAMES FORMAN JR., IN HARM’S WAY, BOSTON REV. (JAN./FEB. 2011) (criticizing this comparison as inaccurate); RICHARD THOMAS FORD, RIGHTS GONE WRONG: HOW LAW CORRUPTS THE STRUGGLE FOR EQUALITY 206 (2011) (arguing that “the incarceration of young black men is not a new Jim Crow even if some of the prejudices of the latter have contributed to the former”).

The extraordinary costs of mass incarceration policy approaches on disadvantaged families and communities have been extensively documented by researchers in recent years. See TODD R. CLEAR, IMPRISONING COMMUNITIES: HOW MASS INCARCERATION MAKES DISADVANTAGED NEIGHBORHOODS WORSE (2007); DONALD Braman, Doing Time on the
manner of educating the urban poor imposes considerable long-term financial burdens and perpetuates the substantial racial gaps in wealth and education.\textsuperscript{8}

Massive efforts aimed at stemming the plight of disadvantaged students and the underperforming schools that serve them have hardly made a dent in this problem.\textsuperscript{10} As we will explain, this lack of progress should not

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\textsuperscript{8} \textit{See} \textbf{MELVIN L. OLIVER & THOMAS M. SHAPIRO, BLACK WEALTH, WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY} (2006); \textbf{DALTON CONLEY, BEING BLACK, LIVING IN THE RED: RACE, WEALTH AND SOCIAL POLICY IN AMERICA} (1999).

\textsuperscript{9} \textit{See} Paul E. Barton and Richard J. Coley, ETS Policy Information Report, “The Black-White Achievement Gap: When Progress Stopped” \textit{available at} http://www.ets.org/Media/Research/pdf/PICBWGAP.pdf; \textbf{Eric A. Hanushek & Steven G. Rivkin SCHOOL QUALITY AND THE BLACK-WHITE ACHIEVEMENT GAP, NBER WORKING PAPER 12651}; \textbf{WESTERN, supra} note 7 (noting that recent generations of black men were more likely to have spent time in jail or prison than to have earned a 4-year college degree or served in the military).

\textsuperscript{10} The black-white achievement gap remains substantial and has stopped closing; the gap between disadvantaged students and students from higher-income homes is now even larger, and growing at a faster rate. \textbf{Sean F. Reardon, The Widening Achievement Gap Between the Rich and the Poor: New Evidence and Possible Explanations}, in \textbf{WHITHER OPPORTUNITY? RISING INEQUALITY, SCHOOLS, AND CHILDREN’S LIFE CHANCES} (2011). Children from poor families are less likely to enter college; those who do are less likely to graduate. In some cities, the majority of students fail to graduate from high school. \textbf{Associated Press, Report: Low Graduation Rates in Many City School Districts} (Apr. 1, 2008) \textit{available at} http://abcnews.go.com/US/story?id=4566292&page=1 (reporting graduation rates of 24.9%, 30.5%, and 34.1% in Detroit, Indianapolis and Cleveland public school districts, respectively). Many of those who do manage to graduate are often still not adequately prepared for college. \textbf{Anna M. Phillips, Three of Four Students Not Prepared for College, City Says, N.Y. TIMES} (Oct. 24, 2011). \textbf{See} \textbf{Martha J. Bailey & Susan M. Dynarski. 2011. Inequality in Postsecondary Education, WHITHER OPPORTUNITY? RISING INEQUALITY AND THE UNCERTAIN LIFE CHANCES OF LOW-INCOME CHILDREN} (Duncan and Murnane, eds.). In light of the substantial and growing wage gap between college graduates and less-educated Americans, this is cause for
be surprising. These reforms, although well-intentioned, have been compromised by their misguided, narrow focus on in-school factors that structure students’ classroom experiences. Our view is that in order to truly provide meaningful educational opportunity for disadvantaged students, reformers must also address the well-documented community and family challenges to learning that so many underperforming students (and their schools) must overcome in order to succeed.11

This Article offers one bold solution by arguing for the creation of public boarding schools as a means of educating disadvantaged children who are enrolled in underperforming schools. We believe that removing disadvantaged children from the considerable risks of their environments is an obvious solution to many of the problems described in the literature on educational underperformance and that doing so would provide a large number of currently underperforming students the most meaningful opportunity to succeed. Though this solution might seem radical at first blush, international models both past and present suggest that boarding school education has long been, and continues to be,12 a by no means great concern. See Tyler Cowen, Graduates’ Pay Is Slipping, but Still Outpaces Others, N.Y. TIMES (March 2, 2012); David Leonhardt, Even for Cashiers, College Pays Off, N.Y. TIMES (June 25, 2011). But see Lawrence Mishel, College is Not Always the Answer, N.Y. TIMES (Mar. 2, 2012) (arguing that the wage increases and benefits associated with college education have been widely overstated).

Thus, this inequitable system sustains a multi-generational cycle of inequality and perpetuates grave human capital deficits and social decay in poor communities. This comes at great cost to local and national economies, costs that are not fully realized until years later when, as adults, under-educated Americans experience higher unemployment, which in turn leads to greater welfare dependency, and incarceration. See Henry M. Levin and Cecilia E. Rouse, The True Cost of High School Dropouts, N.Y. TIMES (Jan. 25, 2012). We discuss the shortcomings of past efforts to address these inequalities in Part I, infra.

11 We discuss the extensive literature addressing these challenges in Part II, infra.

12 Wealthy Europeans have long sent their children to boarding school from as young as seven or eight-years-old. To cite a somewhat recent example, Princes William and Harry attended the Ludgrove school, an all-boarding school for boys which educates children from ages 8-13. See http://www.education.gov.uk/establishments/urn/110138/ludgrove-school. Boarding school for primary education is also becoming increasingly
extraordinary educational option for young children. In light of the considerable difficulties and hindrances disadvantaged students face outside of the classroom, the growing wealth gap in education, and the lack of proof that conventional reform strategies can produce meaningful results, we believe that the time is right to consider more comprehensive, holistic approaches to educational reform.

This Article sets forth the argument for public boarding schools in four parts. Part I surveys prior educational reform approaches and discusses their relatively disappointing results. These past efforts have focused primarily on changing the classroom conditions in which disadvantaged children spend their days, often by attempting to increase funding for schools that serve low-income students. We argue that this focus has been unduly narrow and therefore ultimately self-defeating. Part II describes the detrimental family and community characteristics that make success in school so difficult for disadvantaged children and explains why prior efforts ignoring or underestimating these factors have been doomed to fail. In discussing these problems, it is not our intention to “blame” poor families for their own struggles or to absolve society for its inadequate efforts to address inequality. But it is our position that efforts to meaningfully target


14 Indeed this dire state of affairs has led some researchers to advocate for far broader, redistributionist reforms. See, e.g., Diane Ravitch, How, and How Not, to Improve the Schools, N.Y. REV. OF BOOKS (Mar. 22, 2012); Helen F. Ladd, 2012, Education and Poverty: Confronting the Evidence, J. OF POL’Y ANALYSIS AND MGMT. While we support these efforts in principle, we believe that these proposed reforms, which include, for example, the wholesale eradication of concentrated poverty and the dramatic expansion of government-provided social welfare services, these grandiose goals unfortunately appear to be politically unfeasible and unattainable. Furthermore, even if these types of reforms were somehow implemented, it would likely take decades for them to take hold and alter the local and familial norms that also make success in school so challenging for so many students. In contrast, we believe that our proposal addresses the immediate need of improving educational opportunities for poor children who currently live in challenging environmental conditions.
educational inequality must recognize these problems and account for them in proposing solutions. Advocates who ignore these issues out of fear of presenting poor minority families in a bad light do their intended beneficiaries a serious disservice. Part III examines two charter school-based reform organizations that address some of the concerns raised in Part II—the Knowledge is Power Program (KIPP) and the Schools for Educational Evolution and Development (SEED) Foundation. This Part argues that while KIPP and SEED have been successful in part by lengthening school days and concomitantly removing children from the risk factors and hindrances of their home and neighborhood environments for lengthy periods of time, their successes have been tempered by their failure to go far enough in this regard. Part IV sets forth a tentative model for a more comprehensive educational opportunity, 7-day boarding schools available to disadvantaged children as early as Kindergarten. This part also addresses some of the criticisms that we anticipate will be raised in reaction to our proposal.

I. LIMITATIONS OF PREVIOUS REFORM EFFORTS

The problems of America’s most underperforming schools and the vast educational disparities between disadvantaged schoolchildren and their more privileged counterparts have been topics of concern for scholars and

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15 The results attained by KIPP and SEED are exceptional—most charter schools have not been similarly successful. Although the charter school movement has emerged as a dominant approach to education reform in recent years, learning gains in charter schools—particularly for black and Latino students—have failed to outpace those of students in traditional public schools. See Stanford University Center for Research on Education Outcomes, Multiple Choice: Charter School Performance in 16 States (2009) (documenting that only a small fraction of charter schools provide superior educational outcomes, and finding that black and Latino children experience slower learning gains in charter schools than traditional public schools); Stanford University Center for Research on Education Outcomes Charter School Performance in Pennsylvania, Center for Research on Education Outcomes (2011) (finding that students in charter schools earn lower scores in math and reading); Stéphane Lavertu & John Witte, The Impact of Milwaukee Charter Schools on Student Achievement, 23 Issues in Governance Studies 1-10 (Brookings Institute) (Mar. 2009) (finding that Milwaukee’s extensive foray into charter school education produced results that were only modestly better, and by some metrics worse, than traditional public schools).
civil rights attorneys for nearly half a century. Yet despite decades of litigation and advocacy, the prospects of children living in disadvantaged communities remain grim. This Part discusses two strategies that reformers have commonly relied upon in recent decades. The first, school finance litigation, proceeds under the premise that the root cause of discrepancies in educational outcomes is a lack of adequate funding. As shown below, due to political resistance, increasingly unfriendly Supreme Court case law, and having produced only limited results, this litigation approach has

16 See DEP’T OF HEALTH, EDUC., and WELFARE, EQUALITY OF EDUCATIONAL OPPORTUNITY 21–22 (1966) [hereinafter COLEMAN REPORT] (undertaking a massive, agenda-changing study on educational inequality); Serrano v Priest, 487 P.2d 1241 (Cal. 1971) (finding that California’s school funding scheme based on local property taxes was unconstitutional). The NAACP began its legal efforts to address race-based inequality in educational opportunity decades earlier. See MARK TUSHNET, THE NAACP LEGAL STRATEGY AGAINST SEGREGATED EDUCATION, 1925-1950 (1987).


Affirmative action in higher education has also been the source of extensive federal litigation (See Regents of the University of California v. Bakke, 438 U.S. 265 (1978); Grutter v. Bollinger, 539 U.S. 306 (2003); Fisher v. University of Texas at Austin, 631 F.3d 213 (5th Cir. 2011)) and the motivating force behind several state-wide initiatives and referenda (see Coalition for Economic Equity v. Wilson, 122 F.3d 692 (9th Cir. 1997); Coalition to Defend Affirmative Action v. Regents of the University of Michigan (6th Cir., 2011). Despite these high-profile political and legal battles over the future of affirmative action in university admissions, in
largely run its course and offers little hope for future progress. The second strategy, focused on school and teacher accountability on the basis of their students’ performances on standardized testing, has come into vogue in recent years, eclipsing litigation as the preferred means of increasing educational equality. Though efforts in this vein are relatively new, the initial data indicate that they too have had limited, if any, success and have the perverse incentive for teachers and schools to manipulate the tests by which they are measured. The following Sections discuss these two efforts in greater detail.

The Inadequacy of School Finance Litigation

Over the past forty years, reform advocates have fought for greater funding for lower-income school districts through litigation. Because most school districts receive the preponderance of their funding through local property taxes, schools in poor areas generally receive substantially less funding per student than those in more affluent districts, sometimes strikingly so. Though the Supreme Court has held that education is not a constitutional right and that unequal funding therefore does not violate the Constitution, litigants have challenged school funding mechanisms in virtually every state, on state constitutional grounds.

recent years barely 10% of black males have graduated from college by the age of 25. Bailey & Dynarski, supra note 10.


20 See John G. Augenblick et al., Equity and Adequacy in School Funding, 7 FUTURE OF CHILDREN 63-78 (Win. 1997); Heise, supra note 18, at 2437. For school finance litigants, these school funding disparities provide convenient, quantifiable measures of the input disparities between school districts.


Prior school funding litigation has sought to provide poor districts greater resources for uses such as improving the physical conditions of school buildings, increasing teacher salaries to attract better teachers, reducing class size, and procuring superior pedagogical aids such as computers, lab equipment, and newer books. Underlying these efforts has been a presumption that improving the physical and pedagogical conditions disadvantaged students experience during school hours both could be accomplished through litigation and would flow naturally from increased funding, leading in turn to improved educational outcomes.

Unfortunately, neither presumption has proven correct. Often, when school-funding litigants have prevailed in court, their efforts have been stymied by spirited backlash and recalcitrance from the state legislatures and suburban communities. The result at times has been minimal increase in the resources


poor schools actually receive.\textsuperscript{24} It should therefore come as no surprise the correlation between legal victories in these states and improving the educational experiences of poor children have been tenuous.\textsuperscript{25}

But even in states where legal victories have actually led to more equitable state-wide funding without shrinking the pot, poor schools have in the main continued to underperform.\textsuperscript{26} Increased funding for struggling

\textsuperscript{24} See, \textit{e.g.}, \textsc{Hanushek} \& \textsc{Lindseth}, supra note 23; Heise, \textit{supra} note 18. The most prominent example of political backlash undermining successful litigation is California, which in the decades after \textit{Serrano} passed an anti-tax referendum, Proposition 13, and went from being one of the most generous spending states on education, per capita, to one of the lowest. Public Policy Institute of California Research Brief #30, \textit{Has School Finance Reform been Good for California} (2000) (discussing the mixed results of plaintiffs’ victory in the landmark California school finance case, \textit{Serrano v Priest}).

The struggles in New Jersey over the implantation of the ambitions Abbott ruling have also been illustrative. See Margaret E. Goertz, \textit{Steady Work: The Courts and School Finance Reform in New Jersey}, \textsc{Strategies for School Equity: Creating Productive Schools in a Just Society} (Marilyn J. Gittell, ed.) (1998) (documenting the political difficulties of school finance implementation in New Jersey); In recent years, the other political branches in New Jersey have made several attempts to contest and modify various aspects of the Abbott rulings, in order to provide less funding. See Chris Megerian, \textit{Gov. Christie’s Legal Team Tells N.J. Supreme Court to Keep Hands off Education Dollars}, nj.com available at http://www.nj.com/news/index.ssf/2011/04/gov_christies_legal_team_tells.html (April 21, 2011).

\textsuperscript{25} Several researchers have questioned this correlation, including \textsc{Hanushek} \& \textsc{Lindseth}, supra note 23; Heise, \textit{supra} note 18; James E. Ryan \& Michael Heise, \textit{The Political Economy of School Choice}, 111 \textsc{Yale L.J}. 2043 (2002); James E. Ryan, \textit{Schools, Race, and Money}, 109 \textsc{Yale L.J}. 249 (1999).

\textsuperscript{26} Even where legal victories have produced greater financial resources for poor districts, the empirical evidence concerning whether such funding actually leads to substantial improvements is mixed at best. See Heise, \textit{supra} note 18; \textsc{Hanushek} \& \textsc{Lindseth}, \textit{supra} note 23 (finding that substantial infusions of funds into poorer school districts in New Jersey, Kentucky and Wyoming failed to produce appreciable gains); Douglas Coate \& James VanderHoff, \textit{Public School Spending and Student Achievement: The Case of New Jersey}, 19 \textsc{Cato J}. 85, 98 (1999) (finding no evidence of positive effects of increased expenditures on education
school districts won through litigation has not always been spent in ways optimally designed to improve student performance.\textsuperscript{27} Indeed, it is still far from clear which uses of additional funding for struggling schools, if any, can plausibly be expected to substantially improve educational outcomes. Although some reforms made possible by increased funding have shown promise,\textsuperscript{28} they have not come close to bridging the enormous gap between disadvantaged and privileged students.


\textsuperscript{27} \textit{See} Ryan supra note 25, at 266 (making this point and discussing, as an example, the Kansas City School District’s inefficient use of over a billion dollars in funding). States have spent tens of billions of dollars to comply with judicial orders, with overall results that are minimally appreciable. \textit{See} Laurie Reynolds, \textit{Full State Funding of Education as a State Constitutional Imperative}, 60 \textsc{Hastings L.J.} 749, 754 (2009) (quoting an estimate of $34 billion).

Testing, Scapegoating, and Educational Justice on the Cheap

In recent years, a different approach to education reform has come into vogue and dominated much of the public discourse on the topic. This approach essentially attributes educational underperformance not to schools’ financial inputs or student backgrounds but to underperforming or incompetent teachers. This line of reform, exemplified by the passage of the landmark No Child Left Behind Act (“NCLB”), is rooted in the assumption that raising the stakes of testing will incentivize teachers and school administrators to better educate their students. Focusing on school and teacher accountability, many current reformers argue that the solutions to education disparities lie primarily in using high-stakes standardized testing to raise expectations for students, and reward or punish schools and teachers on the basis of their students’ performance on those tests.

Although efforts in this vein have been celebrated both in the mainstream media and by politicians from both parties, including

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30 Recent studies have questioned whether student test scores can accurately measure teacher performance. See Sean P. Corcoran, Can Teachers be Evaluated by Their Students’ Test Scores? Should They Be?, Report for the Annenberg Institute for School Reform, Education Policy for Action Series (Sept. 2010) 28 (concluding that the assumption that teacher performance can be comprehensively, accurately measured by student testing outputs is “not supported by the data.”).
31 This premise, that the incentives created by “high-stakes” testing will lead to better teaching and academic performance has been challenged by educational researchers. See Valerie Strauss, Report: Test-Based Incentives don’t Produce Real Student Achievement, Wash. Post (May 28, 2011); Diane Ravitch, THE DEATH AND LIFE OF THE GREAT AMERICAN SCHOOL SYSTEM: HOW TESTING AND CHOICE ARE UNDERMINING EDUCATION (2010). Several school districts have begun using student performance on standardized tests to identify the best and worst teachers and principals, promoting and paying more to the former and demoting, punishing, or firing the latter. Id.
Presidents Bush and Obama, in several high-profile instances the claimed progress has not withstood scrutiny. What is more, reform efforts measuring school and teacher quality based on student standardized test scores have created perverse incentives for teachers and school administrators to skirt accurate assessment by “teaching to the test” or cheating. School reform measures focusing on teacher accountability and venerating standardized testing such as NCLB have had mixed effects on student achievement, while resulting in serious negative consequences for students.


34 Teachers have incentives to maximize student test performance at the cost of overall student learning, for example, by narrowing the curriculum to exclude subjects that are not featured on the state exams and by implementing rote memorization and testing drills that may provide students with limited overall mastery of the substantive material. See Valerie Strauss, What’s Wrong with Standardized Tests?, WASH. POST (May 27, 2010)

35 See, e.g., Jaime Sarrio, Atlanta’s Testing Scandal Adds Fuel to U.S. Debate, ATL. J. CONST., Jul. 11, 2011, at 1A (describing the test-driven Atlanta public school cheating scandal as “one of the largest in U.S. history” and attributing it to pressure to meet testing targets); Kristen A. Graham and Dylan Purcell, “Compelling” Evidence of Cheating in Many Phila. Schools, PHILA. INQ., Mar. 11, 2012, at A1 (describing the alleged cheating on standardized tests by 56 Philadelphia public and charter schools and noting that due to the implications, the “pressure to perform well on achievement tests is intense”).

36 See Thomas S. Dee and Brian Jacob, The Impact of No Child Left Behind on Student Achievement, J. OF POL’Y ANALYSIS AND MGMT. 418-446 (2011) (finding that NCLB raised 4th graders’ and (to a lesser extent) 8th
many disadvantaged schools. Perhaps the most notable shortcoming of NCLB is that it more or less ignores the affects of student socioeconomic backgrounds on educational achievement—it requires each school to meet the same standards, regardless of the disadvantages that students bring with them to the classroom.

This strand of education reform has considerable appeal to those looking for relatively cheap, simple fixes to complicated, difficult problems. Instead of expending the resources necessary to alleviate disparities in school finance or to address the poverty and the grave social problems that undermine the educational achievement of many poor children, these reformers believe that they can adequately address educational inequality by implementing more comprehensive testing and providing enhanced incentives for teachers. But to the extent that these policies fail to squarely account for the considerable external factors that lead disadvantaged students to educationally underperform, they are unlikely to produce meaningful progress.

Graders’ math achievement while having no discernable effect on reading achievement). These gains have been extremely modest compared to NCLB’s ambitious statutory goals. Id. These underwhelming results are consistent with the concerns of early critics and commentators. See James E. Ryan, The Perverse Incentives of the No Child Left Behind Act, 79 N.Y.U. L. REV. 932 (2004).

See Ladd, supra note 14 (noting that NCLB has led to large numbers of schools being designated as failing, the narrowing of class curricula, low teacher morale, and cheating).

Id. Other prominent education reformers, including the founder of Teach for America have also deemphasized the importance of poverty as an impediment to educational progress. See Paul E. Peterson, Neither Broad nor Bold, 12 EDUC. NEXT (Summer 2012) (arguing that Ladd’s poverty-focused reform efforts are “narrow, niggling, naïve, and negligible” and claiming that “[c]ontrary to Ladd’s claims, the unique effects of family income on student achievement are only modest”). See also Valerie Strauss, A New Poverty-Doesn’t-Really-Matter-Much Argument, WASH. POST (Mar. 16, 2012) available at http://www.washingtonpost.com/blogs/answer-sheet/post/a-new-poverty-doesnt-really-matter-much-argument/2012/03/15/gIQANm6XGS_blog.html?wprs=rss_education (criticizing Paul Peterson and other education reformers for ignoring the effects of poverty on educational achievement); Andrew Hartman, Teach for America: The Hidden Curriculum of Liberal Do-Gooders, JACOBIN (Winter 2012).
This Part has shown some of the reasons that prior education reform efforts have failed to deliver on their promise. Litigation efforts aimed at increasing funding for underperforming schools have largely come up short due to an inability to deliver increased funding or, when they have resulted in greater resources for poor schools, spending that has been unable to produce meaningful improvement in educational outcomes. The more recent movement toward stressing the importance of teacher accountability also appears unlikely to succeed. The following part discusses what we believe is the predominant reason why these efforts, which focus on the classroom experience to the exclusion of students’ household and environmental challenges, have failed.

II. DISADVANTAGES OUTSIDE THE SCHOOLHOUSE DOOR

The limited success of school finance litigation and other popular education reform efforts should not be surprising, given the large body of social science research establishing the importance of non-school factors on disadvantaged students’ educational outcomes. School reform efforts that focus narrowly on conditions behind the schoolhouse door, during school hours, ignore many of the root causes of unequal educational outcomes. The grim but unavoidable truth is that the structural inequalities that affect poor children’s lives outside of school are even more glaring and of far greater consequence than the disparities in resources and teacher quality between their schools and those attended by more affluent children. A number of researchers have found that these non-school factors are more closely associated than school-based factors with educational outcomes.

Due to these factors, the casual relationship between the inputs sought in school finance litigation (that is, more money) or attempts to incentivize teachers to raise test scores and disadvantaged student achievement outcomes is much weaker than many advocates seem to presume.

That schools constitute only part of the problem is illustrated by the extent to which disadvantaged children typically enter Kindergarten significantly behind their more affluent counterparts in terms of school-

39 But see Ravitch, supra note 14; Ladd, supra note 14 (criticizing the “teacher accountability” movement and other reform efforts for ignoring the importance of poverty and segregation on educational outcomes).

40 See Coleman Report, supra at note 16; John E. Chubb & Terry M. Moe Politics, Markets, and America’s Schools (1990); Laurence Steinberg, Beyond the Classroom: Why School Reform Has Failed and What Parents Need to Do (1997).
readiness. Upon reaching school age, the average American child still spends two-thirds of his or her waking hours during the academic year away from school. For many disadvantaged children, this time away from school has deleterious effects on educational achievement that are just as profound as the funding and teacher quality deficiencies with which they must contend during their time at school. These students tend to fall further behind their more affluent counterparts during their time away from school, particularly during summer vacations, than they do during the course of the school year. Hence, even when the schools of disadvantaged children are well-resourced, with small class sizes and new facilities, conditions outside of the classroom still consistently produce wide disparities in educational outcomes. In short, the disadvantages attendant with growing up in impoverished households and high-poverty neighborhoods have profound effects on the educational performances and other life outcomes of disadvantaged youth. This Part elaborates on these points by describing in greater detail the household and neighborhood challenges that many underprivileged children must overcome in order to succeed academically.


43 Douglas B. Downey et al., Are Schools the Great Equalizer? Cognitive Inequality during the Summer Months and the School Year, 69 AM. SOC. REV. (2004). See also Doris R. Entwisle & Karl Alexander, Summer Setback: Race, Poverty, School Composition, and Mathematics Achievement in the First Two Years of School, 57 AM. SOC. REV. 72 (1992) (documenting the large disparities in summer gains between low- and high-SES students); David T. Burkam et al., Social-Class Differences in Summer Learning Between Kindergarten and First Grade: Model Specification and Estimation, 77 SOC. EDUC. 1-31 (2004).

44 To be clear, research suggests that smaller class size is associated with some increase in educational achievement. See Alan B. Krueger, Understanding the Magnitude and Effect of Class Size on Student Achievement, in THE CLASS SIZE DEBATE (ROTHSTEIN AND MISCHEL, EDS.) (2002).
A. Home Life

Many poor families struggle to feed and clothe their children and to take care of basic medical expenses, let alone provide the extras that help children succeed educationally. Students growing up in poor households tend more often to live in overcrowded conditions, with greater residential instability, and greater influx and exit of different household members. They also suffer greater rates of familial violence.

Poor families are disproportionately headed by single parents, who tend to have even lower household financial resources, social capital, and less time to monitor and participate in the development of their children than other poor households. Understandably, the economic pressures of these families lead to greater family stress and maternal emotional distress, which appears to result in increased incidences of child misbehavior. It should therefore come as no surprise that growing up poor has been associated with a wide range of negative educational, employment, and life outcomes.


46 See Llewellyn J. Cornelius, Barriers to Medical Care for White, Black, and Hispanic American Children, 85 J. NAT'L MED. ASS'N 281 (1993).


50 SARA McLANAHAN & GARY SANDEFUR, GROWING UP WITH A SINGLE PARENT: WHAT HURTS, WHAT HELPS (1994)


52 See, e.g., McLanahan & Percheski, supra note 49; McLANAHAN & SANDEFUR, supra note 50; Andrew Cherlin, Going to Extremes: Family
In addition to these material hardships, poor children are disadvantaged in comparison to their middle-class and affluent counterparts by their parents’ limited social and human capital. Poor households tend to lack the social capital and networks that other families enjoy and can capitalize upon. They have smaller social networks, less contact with their social ties, and are involved in fewer organizations. In terms of human capital, a long line of research has documented that middle-class and affluent parents tend to adapt parenting styles and tactics that differ sharply from those of poorer, less educated parents, and better prepare their children to succeed in school. Poor and working class parents are less actively involved in and up to speed on their children’s schooling and extracurricular involvements. They are less aware of how their children spend their free time and know fewer of their children’s friends.

Compared to college graduates, less educated parents spend less time engaging in various enrichment experiences with their children,
including reading and taking them to novel places.\textsuperscript{57} Researchers have found that they are also less warm, less verbally responsive, and more likely to use physical discipline with their children.\textsuperscript{58} Studies have also documented important class-based differences in physical discipline and other harsh parenting practices, tactics that are believed to negatively affect child cognitive and emotional development and behavior.\textsuperscript{59} While poor parents often adapt directive, even authoritarian, parenting styles in communicating with their children, middle-class parents more often engage their children in deliberations and discourse that may improve their vocabulary, analytical abilities, and sense of self-confidence and self-entitlement.\textsuperscript{60} This approach appears to foster better educational outcomes.\textsuperscript{61} These class-based disparities in financial resources and parenting practices have led some researchers to argue that attending school with the right type of peers is a better means of enhancing educational opportunity for disadvantaged children than infusing their struggling schools with additional funding.\textsuperscript{62}

Although education reform-minded legal scholars have tended to ignore or tip-toe around these findings, the implications of this voluminous research are clear: conditions and parenting practices that tend to be more prevalent in poor and less-educated households can significantly compound school-based inequalities, further undermining poor children’s prospects for educational success. Without the right support outside of the classroom, poor children will continue to underperform their middle-class peers, regardless of whether they attend schools that are equally funded or have relatively better teachers.

Before moving forward, because we have identified a number of factors that could be construed as painting poor families in a negative light, it is worth emphasizing that it is not our intention to blame poor parents for


\textsuperscript{58} Id.


\textsuperscript{60} HAYS, \textit{supra} note 54; LAREAU, \textit{supra} note 54.

\textsuperscript{61} LAREAU, \textit{supra} note 54.

\textsuperscript{62} See Black, \textit{supra} note 19; Richard D. Kahlenberg, \textit{All Together Now: Creating Middle-Class Schools Through Public School Choice} 47-76 (2001); \textit{See Coleman Report, supra} note16.
educational inequality or to absolve the rest of society of responsibility for the persistent academic achievement of the urban poor. But our intent notwithstanding, some might bristle at our highlighting some of the negative attributes that are associated with poor parents in this Section. This is not without just cause. Over the past several decades, conservative interests have evoked and exploited a number of cartoonish class-based and racial stereotypes about poor parents, particularly black single mothers, to justify the retrenchment of the social welfare state, and in so doing, have acted to strip at least some poor, disproportionately black, women of their dignity and autonomy.\footnote{See \textit{Welfare Queen' Becomes Issue in Reagan Campaign}, N.Y. TIMES (Feb. 15, 1976) at 51 (documenting then presidential candidate Ronald Reagan’s political use of stereotype-laden anecdotes about undeserving welfare recipients); \textsc{Michael Katz}, \textsc{The Undeserving Poor: From the War on Poverty to the War on Welfare} (1989). For ideological critiques of the political and rhetorical use of these stereotypes, see \textsc{Martha L. Fineman}, \textsc{Frontiers of Legal Thought: Gender, Race, and Culture in the Law: Images of Mothers in Poverty Discourse}, 1991 DUKE L.J. 274; \textsc{Khiara M. Bridges}, \textsc{Symposium Volume: New Scholarship on Reproductive Rights, Quasi-Colonial Bodies: An Analysis of the Reproductive Lives of Poor Black and Racially Subjugated Women}, 18 COLUM. J. GENDER & L. 609 (2009); \textsc{Nancy E. Dowd}, \textsc{Stigmatizing Single Parents}, 18 HARV. WOMEN'S L.J. 19 (1995). These issues were brought to mainstream attention in recent years during Bill Cosby’s infamous tirade at an NAACP gala celebrating the 50th anniversary of \textsc{Brown v. Board}. During his remarks, Cosby criticized poor black people for, among other things, wearing dresses “up to the crack,” getting unusual body piercing, having babies at 12 and 13 years of age, getting shot by police while in possession of stolen poundcake, and murdering people over pizza). See Transcript, \textit{Dr. Bill Cosby Speaks at the 50th Anniversary commemoration of the Brown vs Topeka Board of Education Supreme Court Decision} available at http://www.eightcitiesmap.com/transcript_bc.htm.} In the wake of such attacks, progressive scholars have aggressively pushed back in an effort to liberate these parents from various mean-spirited stereotypes, generalizations, and myths.

Unfortunately, in their vigilance to rebut criticisms of poor parents, many scholars have assumed positions on the opposite extreme, supporting a narrative that diminishes the importance of the well-documented negative tendencies and deficiencies that have been conclusively associated with poor parents. Such efforts, though generally well meaning, have had the unfortunate effect of artificially narrowing scholarly and policy analysis of
the mechanisms of urban inequality. In large part due to their pervasiveness, researchers and commentators seeking to address in frank terms the cultural and behavioral problems associated with disadvantaged homes and communities now risk being accused of “blaming the victim” or even being caricaturized as attacking black women and families. A number of reflexive, uncritical challenges to perceived attack on poor and/or black families have been raised in recent years. These have included those in response to efforts to increase marriage rates among poor families, Bill Cosby’s cultural critique of poor black families on the NAACP’s fiftieth anniversary of Brown, and President Obama’s blunt discussion of the fatherhood crisis among black Americans, all of which have drew heated criticism. Although we understand the source of this uneasiness, in this

64 This tendency is evident in the outrage that is still directed to the well-meaning but widely-misunderstood 1965 “Moynihan Report,” an internal Labor Department memorandum, in which Daniel Moynihan discussed racial inequality and black family structure. See JAMES T. PATTERSON, FREEDOM IS NOT ENOUGH: THE MOYNIHAN REPORT AND AMERICA’S STRUGGLE OVER BLACK FAMILY LIFE FROM LBJ TO OBAMA (2010); WILLIAM JULIUS WILSON, THE MOYNIHAN REPORT AND RESEARCH ON THE BLACK COMMUNITY, 621 ANNALS AM. ACAD. POL. & SOC. SCI. 34 (2009). For examples of attacks on Moynihan and his report, see BELL HOOKS, AIN’T I A WOMAN: BLACK WOMEN AND FEMINISM (1981); MAXINE BACA ZINN, FAMILY, RACE, AND POVERTY IN THE EIGHTIES, 14 SIGNS: J. WOMEN, CULTURE & SOC’Y 856 (1989); MELISSA HARRIS-PERRY, SISTER CITIZEN: SHAME, STEREOTYPES, AND BLACK WOMEN IN AMERICA (2011).


67 Obama’s remarks famously drew such wrath in some quarters that it led the longtime civil rights leader Jessie Jackson to utter into a “hot mic” that he wanted to “cut [President Obama’s] nuts off.” See CNN, JACkSON APOLOGIZES FOR “CRude” OBAMA REMARKS (July 9, 2008) available at http://articles.cnn.com/2008-07-09/politics/jesse.jackson.comment_1_obama-campaign-jesse-jackson-black-voters?_s=PM:POLITICS.
context, to the extent that they contribute to the continued misdiagnosis of the barriers affecting poor children, such critiques are ultimately counterproductive.  

The Acute Dangers and Disadvantages of Growing up in Poor Neighborhoods

In addition to the significant household factors that can act to impede disadvantaged students’ academic achievement, there exist a number of neighborhood characteristics that tend to do the same. Not surprisingly, poor families are far more likely than others to live in high-poverty neighborhoods with other poor families. The dangers and disadvantages of living in such neighborhoods are myriad. As psychologist Gary Evans has noted, in a classic academic understatement, children in these neighborhoods subjects are subjected to a “wide array of suboptimal physical and psychosocial conditions.” Children in high-poverty neighborhoods are vulnerable to many serious risk factors that threaten their physical safety, let alone their ability to succeed in school. Neighborhood poverty has been associated with greater incidence of child neglect and

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68 See Mario Small et al., Reconsidering Culture and Poverty, 629 ANNALS AM. ACAD. POL. & SOC. SCI. 6-27 (May 2010) (warning that “ignoring culture can lead to bad policy”). Indeed, the recognition of the risks of overlooking the role of culture in perpetuating poverty and inequality has motivated an increasing number of sociologists to turn to this issue in recent years. See id.; Lareau, supra note 54; Alford A. Young Jr., New Life for an Old Concept: Frame Analysis and the Reinvigoration of Studies in Culture and Poverty, 629 ANNALS AM. ACAD. POL. & SOC. SCI. 75-101 (May 2010); Stephen Vaisey, What People Want: Rethinking Poverty, Culture and Educational Attainment, 629 ANNALS AM. ACAD. POL. & SOC. SCI. 75-101 (May 2010).

69 The threshold for “high-poverty” or “concentrated poverty” neighborhoods has usually been set at a 40% poverty rate of neighborhood poverty. See Paul Jargowsky, Poverty and Place: Ghetto, Barrios, and the American City (1997); Lincoln Quillian, Migration Patterns and the Growth of High-Poverty Neighborhoods, 1970-1990, 105 AM. J. SOC. 1-37 (1999).

abuse. Crime and violence are far more prevalent in such neighborhoods, and understandably, so is fear for personal safety. These threats have profound consequences for the social organization of life in these communities; members of the community, particularly adolescent males, must adapt defensive strategies and tactics to protect themselves from victimization. Families must divert energies from maximizing children’s educational outcomes to prioritize their safety and avoidance of crime and violence. Children growing up in these conditions often feel compelled to adapt defensive strategies that protect them from crime but further increase the chances that they will underperform educationally, fail to take full advantage of all opportunities, or run into other problems. In poor, urban neighborhoods, children spend more time

71 Bret Drake & Shanta Pandey, Understanding the Relationship between Neighborhood Poverty and Specific Types of Child Maltreatment, CHILD ABUSE & NEGLECT 1003-1018 (1996).


73 See Katz et al., Moving to Opportunity in Boston: Early Impacts of a Housing Mobility Program, Q. J. ECON. (2001) (noting that children in program’s experimental group were less likely to be victims of crime and that parents reported better mental health).


75 HARDING, supra note 72; ANDERSON, supra note 74.

in cross-age social groups with older peers who may be more likely to expose them to unlawful and non-age-appropriate behaviors that may have detrimental effects on their educational outcomes.\textsuperscript{77} Even ambitious, college-oriented children who reside in these neighborhoods come into contact with students with less ambitious educational goals; these peer influences may result in lower educational outcomes,\textsuperscript{78} behavioral problems\textsuperscript{79} or, in the well-publicized beating death of Chicago high school student Derrion Albert, consequences far more tragic.\textsuperscript{80}

A number of factors in these neighborhoods together function to reroute children away from success in mainstream educational and economic institutions. Structural developments in the late twentieth-century, including deindustrialization,\textsuperscript{81} the rise of punitive mass incarceration-based criminal justice policies,\textsuperscript{82} and the flight of white and middle-class blacks to the suburbs,\textsuperscript{83} have dramatically altered the fabric of life in the neighborhoods where disadvantaged minority children reside. These changes have weakened poor neighborhoods’ attachments to mainstream labor markets by ushering in greater concentrated poverty and rampant joblessness.\textsuperscript{84} Children in these communities live in what sociologists have referred to as “social isolation,” with a shortage of adults who have

\textsuperscript{77} Harding, supra note 72.
\textsuperscript{80} See Cathy J. Cohen, \textit{Democracy Remixed: Black Youth and the Future of American Politics} (2010); PBS \textit{FRONTLINE: The Interrupters} (2011) (award-winning documentary discussing the murder of Albert Derrion and vividly documenting the way that violence permeates the lives of all children in these neighborhoods).
\textsuperscript{81} William Julius Wilson, \textit{The Truly Disadvantaged: The Inner City, The Underclass, and Public Policy} (1987).
\textsuperscript{82} Western, supra note 7; Alexander, supra note 7.
\textsuperscript{83} Wilson, supra note 81.
\textsuperscript{84} Id.
succeeded through educational achievement and (legal) work, and a greater preponderance of negative role models.  

As a result, living in such neighborhoods leads to greater incidences of self-limiting behavior, including dropping out of high school and teenage motherhood. Researchers have linked problem behaviors of disadvantaged youth, including delinquency and criminal activity, drug and alcohol use, non-marital fertility, and absence from school, to the behavior of older family members. Children are similarly influenced by the problem behavior of their neighborhood peers.

Considering these household and neighborhood disadvantages in total, it should be clear that school reform efforts that merely tinker with students’ classroom experiences during the customary school day inevitably will be unable to promote true equality. Efforts that aim to bring about educational parity but fail to address the meaningful impediments, negative influences, and well-documented disadvantages that poor children often

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87 Scott J. South & Kyle D. Crowder, Neighborhood Effects on Family Formation: Concentrated Poverty and Beyond, 64 Am. Soc. Rev. 113-132 (1999). Harding, Counterfactual Models, supra note 86; Crowder & Teachman, supra note 86.


90 Id.
face in their households and neighborhoods are doomed to failure. To truly provide disadvantaged children with opportunities to succeed, it is necessary to consider ambitious, far-reaching measures focusing on immersing them in positive environments and shielding them from the negative influences with which the must contend in their household and neighborhood settings.

III. KIPP AND SEED

The Knowledge is Power Program (KIPP) and Schools for Education Development (SEED) Foundation have picked up on this observation. Employing innovative educational models, KIPP and SEED have become leaders in the education reform movement over the past decade and have had a number of successes. This Part discusses the KIPP and SEED models of educating underserved populations in order to show the improvements that can take place when students spend longer periods of time in positive academic environments and to lay the foundation for our discussion of the feasibility and desirability of public, 7-day boarding schools starting in Kindergarten.

A. Background and Results

The Knowledge is Power Program (KIPP) bills itself as “a national network of free, open-enrollment, college-preparatory public schools with a track record of preparing students in underserved communities for success in college and in life.”\textsuperscript{91} The 109 existing KIPP schools stretch across 20 states and the District of Columbia and serve more than 32,000 students.\textsuperscript{92} By actively engaging students and parents in the educational process, expanding the time and effort students devote to their studies, and reinforcing students’ social competencies and positive behaviors, KIPP schools endeavor to dramatically improve students’ academic achievement.\textsuperscript{93} The ultimate objective of each KIPP school is to prepare its students to enroll and succeed in college.\textsuperscript{94}

The Schools for Educational Evolution and Development (SEED) Foundation “partners with urban communities to provide innovative educational opportunities designed to prepare underserved students for

\textsuperscript{92} See id.
\textsuperscript{93} Christina Clark Tuttle et al., Student Characteristics and Achievement in 22 KIPP Middle Schools, at xi (Mathematica Pol’y Res., Inc., 2010).
\textsuperscript{94} Id.
success in college and beyond.”

The SEED model “integrates a rigorous academic program with a boarding program that teaches life skills and provides students with a safe and secure environment” and it “includes academic, residential, mental health, physical health, social, and enrichment programs.” Though boarding students is core to its model, SEED stresses the importance of cultivating positive relationships with families and community leaders, in part as a means of strengthening students’ support structures and out-of-school communities.

SEED currently operates two schools, one in Washington, D.C., and the other in Baltimore, MD. The SEED School of Washington, D.C., is a public charter school and the nation’s first college-preparatory, tuition-free boarding school. The school educates more than 320 students in grades six through twelve. The SEED School of Maryland, located in Baltimore, is a statewide, public college-preparatory boarding school. The school is projected to serve up to 400 students in grades six through twelve.

KIPP and SEED are similar in a number of ways. First, both operate under a set of enumerated principles that differentiate them from traditional public schools. KIPP’s principles, for example, include High Expectations, Focus on Results, and More Time (in the form of “an extended school day, week and year”), while SEED’s include Positive Culture of High

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96 Id.
97 Id. Though students live at SEED from Sunday evening through Friday afternoon, going home most weekends, SEED believes that even resource-poor families and communities can contribute to children’s learning and development. Therefore, SEED schools actively encourages robust parental involvement.
101 Id. SEED Maryland currently enrolls 308 students in grades six through nine.
102 KIPP’s Five Pillars, its core set of operating principles, are as follows:
1) High Expectations. KIPP schools have clearly defined and measurable high expectations for academic achievement and conduct that make no excuses based on the students’ backgrounds. A culture of
Expectations, Integrated Student Support, and 24-hour Learning Environment. 103 Second, both KIPP and SEED seek to prepare members of achievement is created and reinforced through a range of formal and informal rewards and consequences for academic performance and behavior.

2) Choice & Commitment. No one is assigned or forced to attend a KIPP school, and everyone must make and uphold a commitment to the school and each other to put in the time and effort required to achieve success.

3) More Time. With an extended school day, week, and year, students have more time in the classroom to acquire the academic knowledge and skills that will prepare them for competitive high schools and colleges, as well as more opportunities to engage in diverse extracurricular experiences.

4) Power to Lead. The principals of KIPP schools are effective academic and organizational leaders who have control over their school budgets and personnel. Principals are free to swiftly move dollars or make staffing changes, allowing them maximum effectiveness in helping students learn.

5) Focus on Results. KIPP schools focus on high student performance on standardized tests and other objective measures. Students are expected to achieve a level of academic performance that will enable them to succeed at the nation’s best high schools and colleges.


103 SEED’s operational “Beliefs” are encapsulated in the following principles:

Principle #1: College-Bound Culture
Principle #2: 24-hour Learning Environment
Principle #3: Positive Culture of High Expectations
Principle #4: Integrated and Engaging Program to Foster Love of Learning
Principle #5: Individual Student Support
Principle #6: Focus on Data and Continuous Improvement
Principle #7: Recruiting and Nurturing Outstanding Educators
Principle #8: Family and School Partnership
Principle #9: Community Relationships

Beliefs, About SEED, http://www.seedfoundation.com/index.php/about-seed/beliefs (last visited Feb. 1, 2012). A description of these Principles can be found at the Appendix to this Article.
underserved communities for college. In other words, both programs target the same types of students we seek to educate. Third, KIPP and SEED schools place a great deal of emphasis on providing a structured environment conducive to academic achievement and have a comparatively low tolerance for misbehavior.

Though not free from criticism—and recognizing that some criticism is inevitable—KIPP and SEED have been indisputably successful in

104 See FAQ, About KIPP, http://www.kipp.org/about-kipp/faq (last visited Feb. 1, 2012) (noting KIPP’s targeting of underserved communities and that “more than 85 percent of KIPP students are eligible for the federal free or reduced-price meals program, and 95 percent are African American or Latino”); see also FAQs, About SEED, http://www.seedfoundation.com/index.php/about-seed/faqs (last visited Feb. 1, 2012) (noting that over 98% of SEED students are minorities, 91% have no family member who has attended college, 75% are Title I eligible, 80% live with a single parent or with neither parent, and 12% of SEED graduates have special education needs).

105 The first of KIPP’s Five Pillars, High Expectations, provides that KIPP schools shall “make no excuses based on the students’ backgrounds” and that staff are to “create and reinforce a culture of achievement and support through a range of formal and informal rewards and consequences for academic performance and behavior.” Five Pillars, supra note 102. SEED’s third principle, Positive Culture of High Expectations, provides “SEED students and staff are expected to relentlessly pursue excellence and to consistently exhibit the SEED core values of responsibility, respect, self-discipline, compassion and integrity.” Beliefs, supra note 103.

106 KIPP and SEED have been subject to a great deal of criticism, in large part arising out of the fact that the schools they operate are not traditional public schools. Some have alleged that the magnitude of their successes are likely exaggerated on account of the schools’ high attrition rates and their “creaming” the most promising public school students. See Jones, supra note 120, at 43 (observing that SEED DC’s high attrition rate renders its “much-lauded college acceptance rate less impressive”); Jeffrey J. Henig, What Do We Know about the Outcomes of KIPP Schools, The Great Lakes Center for Education Research & Practice Policy Brief, Nov. 2008, at 16 (describing high attrition rates at a number of KIPP schools and noting that it is likely “exaggerating the findings of relative gains made by KIPP cohorts”); cf. e.g., Ravitch, supra note 14; Martha Minow, Lecture, Reforming School Reform, 68 FORDHAM L. REV. 257, 258 (1999) (warning that “[v]ouchers and charters also risk perpetuating inequality by excluding and segregating children with special needs, skimming from public schools
raising achievement levels for thousands of students. SEED’s accomplishments are the simpler to describe: 91% of SEED students who those families motivated enough to take advantage of voucher and charter programs...”).

Charges relating to creaming and high attrition rates are not unique to KIPP and SEED. In recent years, a wide variety of choice-based attempts to improve the educational opportunities and experiences available to some disadvantaged children have been met with severe criticisms that accuse such programs of harming students who will be left behind, unable to take advantage of new opportunities. See Who Chooses? Who Loses? Culture, Institutions and the Unequal Effects of School Choice (Bruce Fuller & Richard F. Elmore eds., 1996); Bruce Fuller, Inside Charter Schools: The Paradox of Radical Decentralization (2000; James Forman, Jr. Do Charter Schools Threaten Public Education? Emerging Evidence from Fifteen Years of a Quasi-Market for Schooling (suggesting that charter schools may undermine the public’s support of other public schools); 2007 U. Ill. L. Rev. 839 (discussing these criticisms as applied to charter schools); Joseph P. Viteritti, Reaching for Equality: The Salience of School Choice, 14 J. L. & Politics 469 (1988) (discussing these criticisms as applied to school voucher programs); Minow, supra note 106 (warning that school choice programs may harm existing public schools by taking away funding and other resources). On some level, skepticism about choice policies is understandable, given the past usage as a means for southern schools to escape racial desegregation. See Christopher Bonastia, Why the Racist History of the Charter School Movement Is Never Discussed, Alternet, available at http://www.alternet.org/education/154425/why_the_racist_history_of_the_charter_school_movement_is_never_discussed?page=4 (2012). See also Stephen Wasby et al., Desegregation from Brown to Alexander: An Exploration of Supreme Court Strategies (1977); Griffin v. County School Board, 377 US 218 (1964) (finding this segregationist use of school vouchers to replace public school as unconstitutional under the equal protection clause). That these policies have been enthusiastically embraced by some libertarians who make no qualms about their aspirations to eventually do away with the public school system entirely adds fuel to the fire. But in its more rigid form, this criticism becomes counterproductive as in so wielding it, proponents make the good the enemy of the perfect.

Though alluded to in the prior footnote, the charge of “creaming” is unfounded, for as a practical matter, the urban public schools that are the cite of the alleged creaming have already been “creamed,” in the sense that the vast majority of families with sufficient financial resources have long
enter ninth grade graduate from college; 94% of SEED graduates have been accepted to a 4-year college (the same percentage enrolling in college within 18 months of graduation); and three times as many SEED graduates complete college compared to their peers.\textsuperscript{109} KIPP’s success is more complicated due to its more diverse and dispersed portfolio of schools (109 elementary, middle, and high schools throughout the country). But at every level, KIPP’s approach seems to be working. By the end of Kindergarten, 63% of KIPP students outperform national peers in reading and 47% in math.\textsuperscript{110} By the end of eighth grade, the numbers jump to 67% and 54%, respectively.\textsuperscript{111} Of greater relevance, 98% of KIPP eighth-grade classes outperform their local districts in reading (while 90% do so in math).\textsuperscript{112} Most impressive of all, 100% of KIPP high school classes out perform their local districts and states on end-of-year state exams in English (though only 81% do so in math).\textsuperscript{113} In terms of college, “89% of students who completed a KIPP middle school five or more years ago have matriculated to college,”\textsuperscript{114} and “33% of students who completed a KIPP middle school since opted not to send their children there. See Jennifer Jellison Holme, \textit{Buying Homes, Buying Schools: School Choice and the Social Construction of School Quality}, \textit{Harv. Ed. Rev.} Vol. 72 No. 2 Summer 2002; Joe Nathan, \textit{Heat and Light in the Charter School Movement}, \textit{Phi Delta Kappan}, 79, 499–505 (1998); Joseph P. Viteritti, \textit{A Way Out: School Choice and Educational Opportunity. Brookings Rev.}, 17(4), 36–39 (1999).


\textsuperscript{110} \textit{2010 KIPP Report Card}, at 16, http://www.kipp.org/reportcard/2010 (last visited Feb. 1, 2012). The Report Card provides data that tracks the growth and development of the KIPP network, collected from each locally-run KIPP school during the school year. Among other things, the Report Card features individual school results, enrollment and demographic data, and results of state criterion-referenced and national norm-referenced tests.

\textsuperscript{111} \textit{Id.} at 18.

\textsuperscript{112} \textit{Id.} at 19.

\textsuperscript{113} \textit{Id.} at 20. The percentages for Social Studies and Science are 100% and 73%, respectively.

\textsuperscript{114} \textit{The Promise of College Completion: KIPP’s Early Successes and Challenges}, at 8, http://www.kipp.org/about-kipp/results/college-completion-report. Nationally, 62% of all students only 41% of low-income students enroll in college, meaning that KIPP students are entering college at more than twice the rate of comparable students across the country. \textit{Id.}
ten or more years ago have graduated from a four-year college.” Though this latter figure might not seem impressive at first blush, it exceeds the national college completion rate of all students across income levels and is four times greater than rate of college completion rate of comparable students from low-income communities.

B. Implications

Our boarding school model builds on the approaches of KIPP and SEED, and it in many ways represents the next logical step in reforming public education for low-income children. Both KIPP and SEED have shown that low-income children can thrive in a structured, rigorous, intentional, and comprehensive learning environment. Both have also done well to underscore the importance of student and staff accountability by articulating and enforcing high standards for all members of the school community, including a rejection of social promotion and, when necessary, removing incompatible community members. Most important of all, both have taken head-on the challenging out-of-school environmental circumstances with which so many of their students must contend by embracing a longer school day, week, and year (KIPP) and a 24-hour learning environment (SEED).

Though building upon them, our proposal is distinct from the KIPP and SEED models in two meaningful ways. First, unlike SEED, our point of educational emphasis is primary education rather than middle and high school. As others have shown, early childhood care and education play a vital role in lifelong student outcomes, and a recent study highlighted the

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115 Id. at 4.
116 Id.
117 See, e.g., W. Steven Barnett, *Long-Term Effects of Early Childhood Programs on Cognitive and School Outcomes*, THE FUTURE OF CHILDREN, Winter 1995, at 25 (showing, “through a detailed, critical review of research that public investments in quality early childhood care and education can produce important long-term improvements in the intellectual and social development of disadvantaged children”); EARLY CHILDHOOD MATTERS: EVIDENCE FROM THE EFFECTIVE PRE-SCHOOL AND PRIMARY EDUCATION PROJECT xiv (Kathy Sylva et al. eds. 2010) (noting the lasting effect of preschool education in the UK on future schooling and the impact it can have on alleviating the effects of social disadvantage); Arthur J. Reynolds et al., *School-Based Early Intervention and Child Well-Being in the Chicago Longitudinal Study*, 82 CHILD WELFARE 634-35 (2003) (discussing studies that “have demonstrated the short- and long-term positive effects of
particular importance of education from Kindergarten through third grade.\(^{118}\) One can therefore surmise that the negative household and neighborhood environmental factors discussed at length above—including residential instability, lack of parental engagement and supervision, harsh parenting practices, and indifference to academic achievement\(^{119}\)—have their most meaningful impact on the potential academic achievement of younger children. We advocate boarding school for children as young as Kindergarten as a form of early intervention in light of these observations. Second, going beyond KIPP and SEED, we advocate a 7-day boarding model and a lengthened school year, rather than merely 5-day boarding and/or more time spent in school. While the 5-day boarding model has many benefits, the social and emotional challenges of shuttling between two drastically different environments on a weekly basis counsel against it,\(^{120}\) especially for children so young.\(^{121}\) The following Part fleshes out our proposal and addresses some of the arguments against it that we anticipate.

118 Raj Chetty, et al., How Does Your Kindergarten Classroom Affect Your Earnings? Evidence from Project STAR, NBER Working Paper No. 16381 (2010), at 37, available at obs.rc.fas.harvard.edu/chetty/STAR.pdf (showing that students “randomly assigned to higher quality classrooms in grades K-3 earn more, are more likely to attend college, save more for retirement, and live in better neighborhoods”).

119 See supra notes 53-61 and accompanying text.

120 In an article about SEED Washington, D.C., Maggie Jones records some of the challenges of 5-day boarding. “Black inner-city boys,” she observes, “particularly have to wrestle with the question of whether it is ok to be smart. And if it is, then they have to figure out how to wear that—or not wear it—when they return to their neighborhoods on the weekend.” Maggie Jones, A Different Kind of Prep School, N.Y. Times Mag., Sept. 27, 2009, at [ ]. She continues, “To survive that back and forth, many SEED students learn to code switch. A SEED student knows he can’t swagger through the hallways in baggy jeans, the rapper Ludacris blaring out of his iPod, while he avoids eye contact and a handshake with Mr. Adams. But if he takes too much of SEED back to the neighborhood basketball court—the big words and pressed shirts—he could have troubles of a different sort.” Id.

121 This is not to suggest that the objective is complete separation of children from their families. We take seriously the potential familial costs of 7-day boarding school for young children, and Part IV.A offers a number
IV. A PROPOSED PUBLIC BOARDING SCHOOL MODEL

Though KIPP and SEED have had a number of notable successes in a relatively short period of time, we believe that their many accomplishments have arisen as much out of the extent to which they have successfully been able to remove their students from negative household and neighborhood environments as out of their innovative pedagogical approaches. The model set forth below builds on this supposition. In short, though KIPP and SEED have taken meaningful steps in the right direction by removing students from negative household and neighborhood environments for longer periods of time than do traditional public schools, school reform efforts could and should go further. Our belief is that the gains in student achievement that have arisen out of longer school days, a longer school year, and weekend classes (KIPP) and a 5-day boarding model targeting middle- and high-school aged children (SEED) would be magnified for low-income students were they to attend a 7-day boarding school from an early age. Though we recognize the significant costs inherent in the model we propose, we believe that 7-day boarding school should be placed on the menu of options policymakers consider in attempting to educate the underserved. This Part describes the model we envision and addresses the primary criticisms of it that we anticipate: Cultural Deprivation, Cost Feasibility, and Marginalization of the Poor Family.

A. Age, Selection, Family Relations, and Duration

Our proposal incorporates three broad principles. First, public boarding schools should focus on early education. As noted, this is in contrast to the SEED boarding schools, which enroll students from grades six through twelve. Second, the schools we envision would not be selective, but rather designed to serve the public as a whole. Third, though the impetus for our proposal is an acknowledgment of the extent to which household and neighborhood hurdles make educational achievement difficult for some students, our point of emphasis is on educating children effectively rather than proposed mechanisms for ensuring that children remain attached to their families such as on- and off-campus visits and weekends at home.

122 See Part III, supra.
123 See supra note 120 and accompanying text (noting the possibility that SEED students’ lives would be easier if the school offered 7-day rather than 5-day boarding due to the challenges inherent in regularly having to alternate between two very different social and cultural environments).
124 We address a number of these concerns in Section IV.B, infra.
than separating them from their families and communities. We address these points in turn.

As discussed above, poor children typically begin their educational careers significantly behind their more affluent peers in terms of school-readiness. Though this discrepancy can be attributed to any number of factors, a child’s household and neighborhood environments play a significant role. Pairing these observations, we believe that in order to have the greatest possible impact, our putative public boarding school should seek to enroll students at the outset of their education. Though many poor students have already fallen significantly behind by this time, earlier intervention strikes us as neither feasible nor desirable.

In terms of admission criteria, we advocate a strictly voluntary, open enrolment model in line with those of KIPP and SEED. It is not our intention to create a magnet school focusing on the most school-ready of children from within a given community, but rather a neighborhood boarding school that is open to all. We nonetheless believe it is essential

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125 See supra note 41 and accompanying text.
126 See supra Section II.A for a discussion of the barriers to educational achievement many poor children must overcome at home, including overcrowded conditions, residential instability, limited parental human and social capital, relatively less parental involvement, and parenting practices that stifle rather than promote cognitive and emotional development.
127 See supra Section II.B for a discussion of neighborhood factors with which many poor children must contend, including high crime rates, social isolation, and a greater incidence of self-limiting behavior exhibited by those around them.
128 It should be noted that here and throughout this Section our point of emphasis is the general desirability of public boarding schools for young children and the broad principles we believe support their implementation, rather than any of the specifics set forth herein. For example, we are not married to our suggestion that the schools begin at Kindergarten, but do think it essential that they seek to enroll students early in their education (e.g., prior to third grade).
129 Should open enrolment produce more students than available slots, we would move to a lottery such as those employed by KIPP and SEED.
130 To be sure, given our voluntary model, parents seeking to send their children to the boarding school we contemplate would have to take steps to enroll their children. Though it has been suggested that the requirement of an opt-in is a form of skimming, this is not for us a major concern. See supra note 106 (describing the weaknesses of the skimming critique of efforts aimed at school choice).
that school administrators wield the authority to dismiss students who over time prove themselves to be behaviorally or emotionally unfit for the educational environment we seek to create. Such authority would have to extend far beyond that customarily afforded to public school administrators, but would at the very least be subject to a formal appeals process and opportunities for readmission.

Notwithstanding the need to separate children from negative neighborhood and household environments in order to promote academic achievement, we recognize the importance of providing opportunities for students to spend time with their families—we in no way endeavor to sever ties between the children we seek to educate and their families. Accordingly, though we advocate a 7-day boarding model, we think it is essential that parents have an unlimited right to visit their children on weekends and, should the parents desire, during a brief visitation period each day.\footnote{Cf. Milton Hershey School, Your Guide to the MHS Visitation Policy, available at www.mhs-pa.org/assets/Upload/Files/MHS_Visitation_Policy__Oct2011_002593.pdf (describing the visitation policy of the Milton Hershey School, which permits its students only weekend daytime visits, visits home during vacations, and up to five weekend visits per year).}

In accordance with our broader mission, weekday visits would be entirely on campus, and weekend visits could be either entirely on campus or a combination of an on-campus visit and a brief departure away from campus (perhaps for a meal or a trip home or to church).

Because successful engagement of parents is a core aspiration,\footnote{Our approach in this regard is again akin to SEED’s. See supra note 97 and accompanying text (noting that “SEED schools actively encourages robust parental involvement”).} we also believe it is essential that there be regular opportunities for parent-teacher conferences, showcases in which parents can come to campus to observe student achievements, and meaningful opportunities for parents to have a voice in school operations through a robust parent-teacher association. Though again the impetus for our proposal is a concern about parents who are unwilling or unable to meaningfully support to their children’s education, we endeavor to ensure that any parents who so desire can be substantive participants in the conversation surrounding their children’s education. Finally, we endeavor to provide children opportunities to spend some weekends at home. The main qualifications of this privilege would be that students desiring to go home on weekends be in good academic standing and that they satisfactorily complete all required schoolwork while home. So long as these conditions are met, we have no
problem with regular trips home for students who are performing well at our schools.

Though ideally our proposed schools would extend from Kindergarten through high school, we recognize that thirteen years of taxpayer-supported, tuition-free boarding school might not be feasible at the outset. But given SEED’s experience, it is clear that there exists enough public will and funding to support public boarding schools that stretch over seven years. In that regard, we believe that to the extent that Kindergarten through twelfth grade public boarding education might not be feasible, underserved students should be given the opportunity to attend boarding school from Kindergarten through at least sixth grade. This approach is consistent with research highlighting the importance of early education in shaping life outcomes. Again, however, we reiterate our belief that the most successful approach to remedying the numerous problems schools face in educating children from challenging household and neighborhood environments would be to place them in boarding schools from Kindergarten through twelfth grade. But some boarding school is better than none, and to the extent we are willing to devote public and private dollars to board children who otherwise could not afford boarding school, targeting younger students rather than older ones is our preferred strategy.

Because removing children from difficult household and neighborhood environments is the impetus for this Article, even assuming a lengthened school year like KIPP’s, one question that will inevitably arise is what to do with our schools’ children over the summer, when they

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133 See supra notes 99 and 101 and accompanying text (noting that SEED schools begin in sixth grade and end in twelfth grade, covering seven years of education). SEED also benefits from a great deal of private funding. See infra Subsection IV.B.2 for a discussion of how SEED, KIPP, and other like-minded organizations are funded.

134 See, e.g., Chetty et al., supra note 118, at 4 (describing a finding that students in higher quality K-3 classes are “significantly more likely to attend college”); Barnett, supra note 117, at 25 (referencing the long-term improvements in intellectual development associated with quality childcare and education). This is also consistent with recent research finding that teacher quality is most important in early grades. See Annie Lowrey, Big Study Links Good Teachers to Lasting Gain, NY TIMES (Jan. 6, 2012) (noting that having quality teachers in earlier grades appears to affect life outcomes more than having quality teachers in later grades).

135 See Five Pillars, supra note 102 (describing KIPP’s Five Pillars, one of which describes a commitment to an “extended school day, week, and year”).
would presumably return to the very environments from which our boarding school model seeks to insulate them. In light of the vast literature on the extent to which summer vacation can undermine the learning that takes place during the academic year, this is a good question. In answering it, we advocate voluntary enrolment in one or more edifying summer camps, as well as week-long academic and skills workshops interspersed throughout the (shortened) summer vacation.

B. Arguments Against Public Boarding Schools for Poor Children

1. Cultural Deprivation: The American Indian Precedent

Some might broadly object to a boarding school model for educating young children from marginalized environments by associating it with the misguided attempt by the U.S. government to educate and assimilate American Indian children in state-sponsored boarding schools during a roughly fifty-year period beginning around 1875. This effort was premised upon the assumption that Indian children were from a savage culture and that though the children themselves were blameless, they simply could not become productive and useful Americans without stripping them of their cultural identity. In the name of assimilation, off-

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136 See supra note 43 and accompanying text.
137 By “voluntary” we mean that enrolment in camp over the summer would not be a requirement of remaining enrolled in school. That said, the ideal structure would be opt-out rather than opt-in, meaning that by default students would enroll in camp over the summer, even as the right not to would be preserved.
138 With regard to staffing summer workshops, it is here worth noting that KIPP requires that its teacher work 3 weeks each summer. FAQ, About KIPP, supra note 104.
140 Richard Henry Pratt, founder of the Carlisle Indian Industrial School and the leading figure in Indian education for a quarter of a century, observed, “It is a great mistake...to think that the Indian is born an inevitable savage. He is born a blank, like the rest of us. Left in the surrounding of savagery, he grows to possess a savage language, superstition, and life.” Lorene Sisquoc, Introduction to BOARDING SCHOOL BLUES: REVISITING AMERICAN INDIAN EDUCATIONAL EXPERIENCES 13, 51 (Clifford E. Trafzer & Jean A. Keller eds.) (2006).
141 See id. (“Pratt and other reformers believed that Indian people had the ability to learn and grow intellectually, but in order to bring this about,
reservation boarding schools\textsuperscript{142} stressed the importance of rejection of Native American culture and religion and separation from family and community members.\textsuperscript{143} Conditions were often grim: many such schools were characterized by neglect, malnutrition, overcrowding, disease, and not infrequent student deaths.\textsuperscript{144} Though there are admittedly certain surface similarities between our proposal and the clumsy, racist attempts of earlier

Pratt wanted to segregate Indian children from their parents and cultures, gradually integrating them into the white world in a controlled fashion.”). Contrary to the then-popular slogan that “the only good Indian is a dead one,” Pratt subscribed to the principle “Kill the Indian in him and save the man.” ADAMS, supra note 139, at 51-52. \textit{See also} Lorie M. Graham, \textit{Reparations, Self-Determination, and the Seventh Generation}, 21 HARV. HUM. RTS. J. 47, 51 (2008) (noting that children are the most “logical targets of a policy designed to erase one culture and replace it with another,” as they are the most “vulnerable to change and least able to resist it”).

\textsuperscript{142} Off-reservation boarding schools are to be distinguished from reservation day schools and reservation boarding schools. Though the U.S. government supported all three types of schools at various times, off-reservation boarding schools proved to be the most controversial and enduring, twenty-five of them opening between 1879 and 1902. ADAMS, supra note 139, at 57. For a discussion of the two types of reservation schools, see \textit{id.} at 28-36.

\textsuperscript{143} \textit{See} ADAMS, supra note 139, at 55 (describing the growing consensus that “Indian children would have to be removed from the reservation environment altogether if they were going to be effectively assimilated”); \textit{see also} ROBERT A. TRENTERM, JR., \textit{THE PHOENIX INDIAN SCHOOL: FORCED ASSIMILATION IN ARIZONA, 1891-1935} xi (1998) (noting that at its founding and first forty years, The Phoenix Indian School’s “main goal was to remove Indian youngsters from their traditional environment, obliterate their cultural heritage, and replace that background with the values of white middle-class America”).

\textsuperscript{144} \textit{See} Lewis Meriam et al., \textit{The Problem of Indian Administration}, Feb. 21, 1928 11-13 (noting the “grossly inadequate” care of Indian children in boarding schools, which included a diet “deficient in quantity, quality, and variety,” overcrowding in dormitories, inadequate supplies of soap and towels, and elevated rates of tuberculosis and trachoma); \textit{see also} ADAMS, supra note 139, at 130 (discussing death rates at Indian boarding schools generally as well as the incidence of measles, influenza, mumps, trachoma, tuberculosis, and scrofula).
policymakers to educate American Indian children in boarding schools, our model is materially distinct in three ways.

First, the boarding school model we envision would be 100% voluntary. We do not suggest mandating boarding school education for children based on their parents’ ethnicity, income, education level, or whether one or more of their parents is in prison or jail. Parents seeking to educate their children at our school would simply fill out an application, and the school’s student body would be composed entirely of volunteers. As important, in contrast to the American Indian schools of the late Nineteenth and early Twentieth Century, parents of our students would be free to visit their children regularly, to in many instances bring their children home on weekends and during vacations, and to withdraw their children at any time for any reason whatsoever.

Second, whereas the stated objective of American Indian boarding schools was to eliminate cultural influences and assimilate children to white middle-class norms, our objective is agnostic with respect to culture. Our focus is exclusively on academics, and as discussed above, we encourage robust parental involvement and participation in our schools. Our premise is that the parents of the children we seek to educate are through no fault of their own ill equipped to sufficiently promote their children’s academic achievement, and we seek to empower and work with parents rather than to marginalize or isolate them. Where parents are willing and able to assist in shaping the particulars of their children’s education, we welcome their input.

Third, our proposal is not race-specific—attendance in our schools would be open to students of all racial backgrounds. Our objective is to provide an alternative for children currently enrolled in underperforming schools who, for whatever reason, lack the domestic and environmental enhancers that are most often associated with academic achievement. To be sure, many of the enrollees in our schools are likely to be black or Latino, but only because the most underserved schools tend to be populated by such students; our putative students’ race or ethnicity is not at the core of our proposal. This stands in stark contrast to the much-maligned and deeply problematic prior efforts to educate only American Indians in publically-financed boarding schools.

2. Feasibility

Readers who are willing to concede that our model is meaningfully distinct from, and not as problematic as, the disgraceful American Indian boarding school experiment conducted by the U.S. in decades past might

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145 See supra note 141 and accompanying text.
still question its feasibility. Though actual cost estimates vary,\footnote{One study estimates that “[p]er-pupil costs for a boarding school are three times that of a day school.” Susan Mayer et al., \textit{Close to Home: Community Boarding Schools and Disadvantaged Children and Youth} 21, Chapin Hall Center for Children at the University of Chicago (2003), http://www.chapinhall.org/research/report/close-home. Per pupil costs at Samuel Dewitt Proctor Academy, a public boarding school in West Trenton, NJ that lasted only four years, were $14,400. But this figure is artificially low due to two years of rent forbearance by the New Jersey legislature. \textit{Id.} A more realistic estimate of the per-pupil public cost would be between $30,000 and $35,000 per year. This estimate is in line with the current public funding of SEED Washington, DC, and the estimates of the per-pupil costs of fledgling public boarding schools in Ohio and Florida. \textit{See infra} notes 151-153.} it is clear that the expense of operating a public boarding school far exceeds the expense of operating a traditional public school, and as one study observed, “the difficulty of securing the necessary operating funds to run a boarding school remains the most significant challenge.”\footnote{\textit{Id.} at 23.} Nonetheless, KIPP, SEED, and a number of other organizations have shown in recent years that there is significant public and private funding available for bold, ambitious, and ultimately successful education reform efforts.

For example, prior to opening, in addition to the $26 million it managed to procure to build its physical plant,\footnote{\textit{See} Brown, \textit{supra} note 13, at 113. This consisted of approximately $14 million in tax-free bonds and $12 million in donations. \textit{Id.}} the SEED School of Washington, DC, secured funding from the District of Columbia of $1.74 for each $1.00 of basic charter school funding, as well as additional sums for facilities and special allocations.\footnote{Mayer et al., \textit{supra} note 146 at 21-22.} Thanks to these adjustments, SEED initially received more than $20,000 per student from the District of Columbia,\footnote{\textit{Id.} at 22.} and it continues to be extraordinarily well-funded by public dollars today.\footnote{\textit{See SEED School Operating Revenues} (2011) (showing that SEED D.C. receives $34,000 per student per year from the D.C. and federal governments and SEED Maryland receives $35,000 per pupil per year from Maryland) (on file with author); Sam Feldman, \textit{Meet SEED, DC’s One-of-a-Kind Public Boarding School}, http://greatergreaterwashington.org/post/7702/meet-seed-dcs-one-of-a-kind-public-boarding-school/ (last on file with author).} To be sure, SEED D.C. is something of an anomaly with
respect to the degree of its legislative success, but the establishment of a second SEED school in Maryland through similar legislative maneuvering and recent pro-public boarding school legislation enacted in Ohio\textsuperscript{152} and Florida\textsuperscript{153} suggest that public support for residential education is not confined to our nation’s capital. In short, there is no reason to think that the inherent cost of a tuition-free boarding school makes it prohibitively expensive or infeasible.

Moreover, a strong case can be made that spending effectively targeted public dollars educating low-income students is fiscally conservative. Investing in these students at a young age will provide them with the skills and habits to become productive, tax-paying adults and will help them to avoid future public assistance such as welfare and the Job Corps. What is more, the $35,000 per year per student that SEED currently receives from the District of Columbia pales in comparison to the more than $87,000 per inmate per year\textsuperscript{154} that states spend on average for juvenile incarceration. From a dollars and cents perspective, a public that is willing to spend so great a sum sending children to prison and jail should be open to the possibility of spending less than half that amount to send children to school. The recent boarding school legislation enacted in Maryland, Ohio, and Florida supports this conclusion.


\textsuperscript{153} Ann M. Valdes, \textit{Boarding School in Fla. Budget?}, PALM BEACH POST, Aug. 15, 2011, at 1A (noting the difficulty of funding a public boarding school for at-risk youth mandated by Florida lawmakers, which would cost $30,000 per student per year).

All of that said, the key to our putative boarding school’s success might ultimately lie in the private sector. In recent years, KIPP, SEED, and a number of other organizations have shown that corporations, individuals, and foundations can be exceedingly generous when it comes to funding ambitious efforts aimed at education reform. Since 2000, for example, KIPP has received over $60,000,000 from two different donors, $5,000,000 or more from eight foundations, and over $1,000,000 from thirteen additional donors. In its most recent fiscal year, the SEED foundation, which currently operates just two schools, received four gifts in excess of $1,000,000, fourteen more in excess of $100,000, and another thirty-two in excess of $25,000. Going forward, SEED will be able to count on the support of Cincinnati’s Farmer Foundation, which has pledged to raise $40 million to cover SEED Ohio’s construction and startup costs.

Beyond KIPP and SEED, other organizations endeavoring to promote educational opportunity have successfully raised significant private funds. Prep for Prep, an organization that prepares promising New York City students of color for independent and boarding school education, raises its entire $10,000,000 annual operating budget from private contributions. And the Harlem Children’s Zone, an organization offering education, social-service, and community-building programs to children and families, received nearly $225,000,000 from corporations, foundations, and individual donors in its most recent fiscal year. These numbers indicate that there is enormous private interest in supporting educational opportunity for those who otherwise might not have it. Because our proposal is animated by the same concerns and aspirations as KIPP, SEED, Prep for Prep, and The Harlem Children’s Zone, we are optimistic that it would be able to garner meaningful private support.

155 See The KIPP Foundation: National Partners, http://www.kipp.org/about-kipp/the-kipp-foundation/national-partners. Dozens more have given at least $50,000. Id.
157 Brown, Boarding School Gains CPS’ Support, supra note 152.
3. Is This Proposal an Attack on Marginalized Families?

Even assuming that public boarding schools for young children are feasible financially and possibly an efficient use of taxpayer dollars in the long run, one might fairly question their desirability as a solution for underperforming schools. To be sure, the notion of sending a young child to a seven-day boarding school is a non-starter for many parents, and for some it will seem unjust to offer a good education only in exchange for removing a child from his or her home. Critics making this point might characterize our proposal as falling into the trap of blaming the victim, focusing on the perceived shortcomings of certain parents rather than the failures of society to provide them with the opportunities and skills that would allow them to effectively support their children’s academic achievement.

We recognize and take seriously criticisms of this kind, and we too lament the confluence of societal and environmental factors that have led to the current state of affairs. We do not as a general matter advocate the separation of low-income children from their parents and acknowledge that boarding school is not an acceptable alternative for many, perhaps most, parents. But we also know that parents want their children to have a meaningful opportunity to succeed, and as things currently stand, there are many parents who recognize that their current situation does not permit them to offer their children this opportunity. For these parents, tuition-free boarding school for their young children could be a godsend. The Milton Hershey School and Girard College, private boarding schools for low-income children that begin at Kindergarten and first grade, respectively, illustrate this point, as both have competitive admissions processes, and the two schools combined currently enroll over 2300 children in a boarding school setting. Though many might balk at the notion of sending a 5-, 6-, or 7-year-old child away for school, it is clear that there exists a not insignificant demand for the setting and services a public boarding school can provide.

Nonetheless, some might question our motivations. Critics with ideological concerns may be predisposed to regard our proposal as just the most recent entrant in a long-standing tradition of demonizing the parenting

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160 These include deindustrialization, mass incarceration, and the flight of whites and middle-class blacks to the suburbs. See supra notes 81-85 and accompanying text.


practices of the poor and/or people of color, that at bottom our objective is to take black and brown children away from their families. Though we have gone to great lengths to show that our proposal’s point of emphasis is placing children in a position to succeed rather than taking them away from their families, this potential critique deserves consideration.

While it may be true that the “devaluation of Black motherhood has been reinforced by stereotypes that blame Black mothers for the problems of the black family,” we do not view our proposal as being of a piece with this tradition. Providing the opportunity for some parents to send their children to boarding school is nothing like removing children from their homes based on state criteria that may not be culturally neutral. Were we seeking to impose mandatory boarding school for certain classes of students, this critique might be more salient. But our proposal unambiguously relates to offering a new choice aimed at solving a persistent and well-documented set of problems rather than disparaging poor families in an effort to break them apart, hence our eagerness to partner with parents, liberal visitation policy, and provision of opportunities for children to go home on weekends. In short, we think that our proposal is a pragmatic solution to dealing with the shortcomings of our current approach to educating the underserved.

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163 Dorothy Roberts explains that historically, the “state has…been more willing to intrude upon the autonomy of poor Black families, and in particular of Black mothers, while protecting the integrity of white, middle-class homes.” Dorothy E. Roberts, Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy, 104 HARV. L. REV. 1419, 1441 (1991). See also Julianne Hing, Jezebels, Welfare Queens—And Now, Criminaly Bad Black Moms, COLORLINES: NEWS FOR ACTION (Aug. 8, 2011) available at http://colorlines.com/archives/2011/08/the_criminal_justice_systems_hit_and_run_of_black_moms_in_the_us.html (quoting sociologist Nikki Jones as stating that “American policies have essentially been a hit and run on black women that leave them in circumstances where they’re managing day to day and then getting punished for their very victimhood.”).

164 Id. Roberts, supra note 163, at 1441.

165 See id. (“Black childrearing patterns that diverge from the norm of the nuclear family have been misinterpreted by government bureaucrats as child neglect. For example, child welfare workers have often failed to respect the longstanding cultural tradition in the Black community of shared parenting responsibility among blood-related and non-blood kin.”) (citations omitted).
In closing, we underscore three takeaways that we deem most essential. First, the public boarding schools for young children that we advocate would be a short-term solution. Ideally, over time, the household and neighborhood impediments to academic achievement that we discuss in this Article will no longer exist, and traditional public schools will be able to effectively provide for the educational needs of all students, regardless of income. Second, and relatedly, our proposal should not be construed as an alternative to the structural reform that many have advocated as a means of improving the negative household and neighborhood environments to which we respond in suggesting this boarding school model. In a more just society, there would be no need to suggest public boarding school as an option for low-income young children, but we offer our proposal as a response to environments as they currently exist, rather than in relation to an as yet realized aspiration—in suggesting a boarding school option, our focus is on how best to educate young children who are born into circumstances that currently severely limit the potential for academic achievement. Third, given the gravity of the situation and the fact that prior efforts have proven largely unsuccessful, to the extent policymakers are serious about providing opportunity for the underserved, why not give boarding school a try? Its potential benefits are numerous and more than justified, both financially and in terms of social justice. And if it does not work, it will not be without company.

CONCLUSION

There is a consensus that public schools are failing to effectively educate children of the most truly disadvantaged. This Article has argued that the majority of efforts aimed at addressing this problem have suffered from a misguided focus. Though in-school factors such as class size, learning materials, and curriculum are important, social science data indicate that domestic and environmental factors may be of far greater consequence in inhibiting academic achievement. Based on this observation, this Article has argued that in an effort to close the achievement gap, policymakers should consider public boarding school as an option for educating young children from underserved environments. Though boarding schools are unorthodox and expensive, given the demand for boarding school education among poor parents, the proven desire, in both the private and public and private sectors, to finance bold efforts aimed at closing the achievement gap, and the SEED’s success in creating public boarding schools for older students, now is the time to consider making boarding school for young children an option available to parents. But in the best case, they could prove to be the most efficient source available for reversing generations of poverty and uplifting an otherwise hopeless class.
Principle #1 – College-Bound Culture
SEED schools use a standards-based, college-preparatory model that provides children with the academic, organizational, and professional life skills and supports that enable each child to attend and succeed in college. In addition to a rigorous educational program, SEED commits to a structured college counseling program, starting in middle school and continuing through high school, with frequent and varied college exposure and spiraled instruction in how to navigate the college process.

Principle #2 – 24-hour Learning Environment
SEED’s boarding school model deepens student learning. SEED commits to keeping every child safe and secure, to using the gift of time to know and nurture each student’s passions, and to providing seamless, consistent and fulfilling academic and life experiences. SEED also takes pride in providing responsive administrative services and a well-maintained physical campus, all of which reflect the SEED core values and college-preparatory mission.

Principle #3 – Positive Culture of High Expectations
SEED students and staff are expected to relentlessly pursue excellence and to consistently exhibit the SEED core values of responsibility, respect, self-discipline, compassion and integrity. SEED will uphold these values, provide clear communication about school expectations and protocols, and support all members of our community so that they can contribute positively and learn to be reflective about their own growth. SEED believes that all members of our community should be celebrated for their growth and achievements.

Principle #4 – Integrated and Engaging Program to Foster Love of Learning
SEED staff are committed to the belief that every child can succeed with the right resources. SEED schools help each child find his or her passion through a relevant academic curriculum, after school enrichment, student leadership opportunities, and authentic experiences during the school year and summer.

Principle #5 – Individual Student Support
Each SEED student is unique and deserves individual attention to their needs. SEED commits to intentional student orientation programs, targeted student support services and coordinated communication between students, parents and practitioners.

Principle #6 – Focus on Data and Continuous Improvement

\[^{166}\text{Beliefs, supra note 103.}\]
SEED schools use frequent and varied assessments and data analysis to show students their own progress and to keep practitioners focused and accountable. On a broader systemic level, SEED commits to comprehensive technology integration and using school-wide data management plans and systems to inform decision making.

**Principle #7 – Recruiting and Nurturing Outstanding Educators**

All of the adults within the SEED community are teachers and role models. SEED schools commit, first, to hiring exceptional adults, and, second, to coaching, training and supporting them so that they can better guide the achievement and success of all SEED students.

**Principle #8 – Family and School Partnership**

Active partnerships with parents/guardians are essential to the success of SEED students. With clear and regular communication and on-campus events, opportunities to contribute to school governance, and through educational workshops, SEED collaborates with our families to enable them to best support our students and the school mission. Each SEED campus is a welcoming environment for students, families, staff and visitors.

**Principle #9 – Community Relationships**

SEED schools are contributing members of the community and believe that the community has essential resources to augment the educational experience of SEED youth. Through community service and strategic outreach, SEED is committed to establishing relationships with organizations and individuals who have the time and/or means to enhance the college preparation process for our youth.