

The Great *Selective* Testing Bubble

A Framework for Equality – *the Opportunity to Learn*

John C. Thompson – Parents for Music and Arts

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“Dances of the Imagination do not evolve without The Arts and a whole-child education.”



What is missing here? Go to attachment ‘a’



Who are missing here? Go to attachment ‘a’

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“And as hard as we’re pushing everybody else to change, we’re pushing the department to change even more. There’s just an outpouring of support for the common-sense changes and the unprecedented investments we’re making.” – Arne Duncan, U.S. Secretary of Education, May 3, 2010
< <http://www.nytimes.com/2010/05/04/education/04educate.html>>

Introduction to the Great *Selective* Testing Bubble It Is About to Burst

The concept of federal aid to education first appeared on the Democratic platform of the presidential election of 1944 (Roosevelt v. Dewey). By the election of 1960 (Kennedy v. Nixon), Republicans were warning it would lead to federal domination and control of schools. The U.S. Department of Education (DOE) has recently issued its ESEA *Blueprint for Reform*, the reauthorization of the Elementary and Secondary Education Act of 1965. It includes the recommended changes to the misconceived 2001 experiment known as “No Child Left Behind” (ESEA/NCLB). [RL1, 2]

Secretary Duncan, the #1 problem starts with your misleading “Reform” title. It would have been more accurate and honest to have entitled it *Blueprint for Inequality*, as your fatally flawed makeover in actuality is NCLB on steroids. Students of “disadvantage” are going to be sitting even farther back in your 1954 school bus, while your students of advantage ride in the front, with you in the driver’s seat. Within this text you will learn that political agendas and education do not mix.

Will continued government endorsement of *selective* English and math testing ever justify the causation and existence of segregation in any form? Shall sanctioning the denial of student equal-access opportunities to *fine arts** and balanced K-12 curriculum be allowed to continue? From a moral, educational and economic imperative as well as a constitutional protection issue, the answer is no. **

Please join *Parents for Music and Arts (PMA)* on an allegorical school bus journey of discovery along the bumpy road of inequalities (unequal access) and inequities (unequal funding).*** Our destination: equal-access protection and equitable funding for all **core** curricula and *the opportunity to learn* for every student. We will soon come to a “fork in the road” leading to fundamental reform. You may be surprised.



“Sometimes the solutions to complex problems are hiding in plain sight, but we fail to see them.” –Nick Rabkin, Senior Research Scientist, NORC

**Fine arts* are referred to in this document as *The Arts*, or just “arts.” They are traditionally comprised of instrumental and vocal music, dance, theater and visual arts, which today may include digitized.

**Throughout the text, for additional insight, details and specific examples comparing the disadvantaged to students of advantage, please refer to attachments ‘a, b, c and d,’ as well as cited reference links.

***Brief clarifications for use throughout this document; equal funding alone can never guarantee equal access.



Part 1: Civil Rights Abuses in K-12 Education - Federal and State

“The civil rights movement of the 1950s and 1960s was largely a social struggle for access. The continuing civil rights struggle that has evolved and moved into the 1990s and beyond focuses more on equity.”

–NAACP, “Equity Matters” [RL3]



“The mission of the Office of Civil Rights is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.” – OCR, U.S. Department of Education • *“We are going to reinvigorate civil rights enforcement.”* –Duncan, March 8, 2010 • *“I believe education is the civil-rights issue of our generation...and why arts education remains so critical to leveling the playing field of opportunity. We all know that unacceptable disparities in arts education between low-income and affluent districts continue to persist.”* –Duncan, April 9, 2010 [RL2]

(1A) English and Math Selective Testing Creates Academic Profiling, Segregation, Discrimination and the *Disadvantage Gap*

President Obama recalls, *“you always had an art teacher and a music teacher. Even in the poorest school districts, everyone had access to music and other arts.”* [RL2] That was America before ESEA/NCLB of 2001, with its biased endorsement of *selective* standardized “high-stakes” [RL4.6] testing of English language arts (English or ELA) and mathematics. From 2001 to 2005, almost 71% of K-12 public schools nationally had reduced instructional time and funding resources to *The Arts*, as well as all other non-tested subjects. [RL4-5] We speculate the figure is close to 100% by now.

“The ideal of a public education has always been at the heart of the American promise....Don’t tell me the only way to teach a child is to spend too much of the year preparing him to fill out a few bubbles in a standardized test.” –Senator Barack Obama, July 5, 2007 • *“Almost everywhere I went, I heard people express that curriculum has narrowed, especially in schools that serve disproportionate numbers of disadvantaged....A well-balanced curriculum is too vital to students and our national character to let teaching of arts and humanities erode.”* – Duncan, April 9, 2010 [RL2]

Mr. President and Secretary Duncan, talk is cheap. Your endorsement of *selective* testing is injurious, especially to the “disadvantaged”. Even worse, your unconstitutional policy creates its own class of disadvantageousness, and is expanding the ubiquitous **Unequal-Access Rule: *what gets tested gets taught; what is not tested gets unequal or denied access.*** Our journey takes us to a fork in the road with only two (2) civil rights-acceptable directions: (1) preferably dismantle all standardized high-stakes testing and replace with equal access to curricula and funding equity for all **core** academic subjects, or (2) optionally add standardized testing and equitable funding of all arts programs along with other currently non-tested **core** curricula. However, this optional test-all-fund-all direction must permanently exclude the high-stakes accountability component [RL4.6], which is not in any way acceptable for equal access to well-balanced “whole-child” learning.

“...the more paperwork teachers are asked to do, the less time they have for teaching; the less time for teaching, the less learning occurs...” –excerpt from “The Right to Learn” by Linda Darling Hammond



“Resource equity in public education is indeed the next most important civil rights island to be conquered. By spending public education monies in a fair and equitable manner, we can ensure that minority students are not shortchanged academically.”

-NAACP, “A Call for Action” [RL6]

Either direction chosen will begin closing the *Disadvantage Gap* (attachments ‘b’ and ‘d’). These are students of *socioeconomic* and *academic* disadvantage who, compared to their classmates of advantage, are commonly receiving segregated and deficient educations. ESEA *Blueprint for Reform* is widening the *Disadvantage Gap*, as well as the achievement gap created between the high and low achievers as measured by the Academic Proficiency Index (API). Within **The Great Selective Testing Bubble**, the API also functions as an academic “profiling” index. The following civil rights abuses have been applied to *selective* standardized high-stakes testing:

Profiling identifies and targets a particular group of people. It indicates the extent to which something matches tested criteria or characteristics. In academic profiling, every public and charter school student is separated into predetermined English and math test-result levels. This becomes a label or “subjective classification.” [RL7]

“The student and her friends joked about being in the ‘stupid class,’ so she didn’t bother to work hard at school. ‘I didn’t think I had to try because I was below average anyway,’ the eighth grader said.” –Emily Alpert reporting for the Voice of San Diego, June 7, 2010 [RL7.1]

Segregation & Discrimination targets students of disadvantage who fit the predetermined profile below government minimum standards of English or math “proficient” API levels. Students are being segregated by curricular restriction, remediation and interventions aka “double dosing” and “*stupid class*.” Even after failure of ESEA/NCLB, new *Blueprint* renewal seeks to extend the 2001 experiment with much more dosing of the same.

“It has led to sanity-resistant racist and classist testing practices that pile more reward on the already privileged, while blaming teachers and the children themselves for not correcting the inequalities that are sustained by a persistent avoidance of reality by those with the resources to actually alter that reality...” –Tom Horne, Arizona Superintendent of Public Instruction, excerpt from “Schools Matter” blog, June 13, 2007 [RL7.2, attachments a, b, c, d]

The DOE is partnering with states, hoping that universal *selective* standardized testing and monitoring capabilities will finally raise API English and math testing scores. The states’ “Common Core” standards will also make it easier to hold teachers *personally* accountable with so called “value added” accessing. “Backs against the wall,” they face daily conflict-of-interest pressures to implement **teaching to the test; while students of advantage learn, the disadvantaged are learning how to take tests.** This alone is discrimination (see 2D – pg 10).

“This [‘Common Core standards’] is a major public-policy shift. It’s going to have a serious effect, a disparate impact on minorities and other disadvantaged children.” –Williamson Evers, research fellow, Hoover Institution, Stanford University; Los Angeles Times news article “State signs on to school standards,” August 3, 2010



“The ones who bear the brunt of the punitive consequences of high stakes testing are the students. • Similarly, the question is not one of lowered – or even varied – expectations for any population of students, but the misuse of an invalid instrument [test] to reinforce negative and false stereotypes. • High stakes tests will reflect the economic ability of students’ families to provide private tutorials and preparation devices.” –Jennifer Mueller, Kansas Journal of Law and Public Policy, winter 2001 [RL8 – n37, n53, n57, attachments a, b, c, d]

Segregating students of disadvantage from those of advantage comes from the current misuse of *selective* testing. It reinforces negative and false stereotypes, and distorts self images and confidence, reducing motivation to learn and excel alongside students of advantage. [RL7-n57] The resulting narrowed and unbalanced curriculum is an uphill grind and detour road that causes boredom and resistance to test-driven short term learning. Students tend to passively reject or actively disrupt and “act out.” They perceive English and math testing remediation, separation, and unequal access as “punishment.” Because ESEA *Blueprint* on balance favors the advantaged, it will continue to accomplish the opposite of what then-Senator Obama referred to in a campaign speech as “the heart of the American promise” (page 3 quote).

“Senator, I hope I know that the principles of Brown v. Board are still relevant today. The idea of equality under law is a fundamental American constitutional value.”

–Justice Elena Kagen, U.S. Supreme Court, Senate confirmation hearing, June 30, 2010

If **core** academic music and arts programs are available at all, students with the advantage of upper-range English and math testing **scores** are commonly the only ones allowed access. NAACP reminds us in Call for Action in Education, “*the 1954 Brown decision embodied in our law the fundamental insight that ‘separate is never equal.’*” [RL4-5, 6, 7]

“If a school’s use of testing hurts opportunities for minority students, the testing might be successfully challenged in court. Nonetheless, if a discriminatory test was even one factor among many, and a clear disparate impact on minority students is the end result, the educational decision may violate Title VI civil rights laws. If there is proof that a biased test was used purposely to segregate students, the decision to use the test violates the Equal Protection Clause of the U.S. Constitution.” –excerpts from UCLA Civil Rights Project [RL9, attachments a, b, c, d]

*“A child is not a test **score**; assessment is a civil rights issue” [RL4.5], “*The Dangerous Consequences of High-Stakes Standardized Testing*” [RL4.6, 4.7], “*Racial Bias built into tests*” [RL4.8] –Monty Neil, Fair Test*



*“We will not **endorse** or **sanction** any specific curricula and the Department is in fact appropriately prohibited by law from endorsing or sanctioning curricula.”*

–Duncan, April 9, 2010 [RL2]



(1B) Let's Test Our Commitment to Civil Rights and *the Opportunity to Learn*

Secretary Duncan, the stakes couldn't be higher. PMA is obliged to hold you accountable for your blind-faith policies and absurd statements, including the page 5 "*we will not endorse*" quote, which is reminiscent of the old "emperor without clothes" fable. Of course you know that *selective* standardized high-stakes testing with inequitable funding of English and math actually does constitute biased government "*endorsement.*" Your ownership of civil rights violations is transparent.

Since 2001, this continues to result in the "*sanctioning*" of at least non-tested music and other arts exclusions for students with English or math testing of below "proficient" API rating. *Selective* testing is inherently biased from the start. Students of disadvantage are particularly being profiled, segregated and injuriously denied their opportunity and protection under the Constitution from denial of access to the same well-balanced curriculum that students of advantage may continue to receive.

"Federal assessments are not required for critical thinking, art, history, biology or anything specifically related to participating in democratic society, and NCLB provides incentives to eliminate such curricula from "failing" schools. Increasingly absent from low-income urban schools across the country are creative, flexible curricula that allow students to express themselves outside the arena of whether or not what they say is on the test." –Christopher Knaus: "Still Segregated, Still Unequal" from the National Urban League, 2007 [RL4.4]

(1C) Political Agendas and Education DO NOT MIX

Power and politics is to education as a road bomb is to a bus filled full of school children. Both ESEA *Blueprint for Reform* and *Race to the Top* are biased and power grabbing schemes built on the bubble of *selective* testing. The money "winners" are mostly students of advantage, school districts that "game the system," and robotic *teaching to the test*. Funding often follows politicians' easy fix or self-serving priorities – but educational priorities must follow the Constitution.

*"Under ESEA, states and local school districts have **flexibility** to support the arts."*

–Duncan, August 2009 [RL2, 2.1]

*"ESEA proposal will **allow** states to incorporate assessments of subjects beyond ELA and math."*

–Duncan, April 9, 2010 [RL2.1]

Secretary Duncan, your misleading terms that of "*flexibility*" to support arts and to "*allow*" other testing, as quoted from the above two statements, are attempts to deliver messages of implied equal access to curricula. Just below the surface however, is a confirmation of serious civil rights violations. Kids with U.S. Constitutions in their backpacks will soon be boarding your old school bus, Mr. Secretary.

"I confess. I was a party to denying our kids. We received our test scores from the California Standards test a few weeks ago and we danced for a while because we knew our students had done so well. We now have an Academic Performance Index of 835 which represents a growth of 320 points over the last ten years. And in California, edging above 800 is the name of the testing game. And I wondered: how long can our teachers keep that pace? And now that the AYP bar goes up another 10 points in California...how long can a school keep it up?" To be continued on page 14...



“Every student must have a well-trained teacher according to standards set by California and Federal laws.” – Williams Settlement of 2004, excerpt from UCLA Civil Rights Project • “The time for patience has passed. We cannot wait to fix our school finance system any more than children can postpone their childhood.” – Jo A.S. Loss, President of the California State PTA, May 20, 2010 • “...raises one of the oldest conflicts in the nation – the tension between ‘majority rule’ and a Constitution designed to protect the rights of individuals against the majority.” –Los Angeles Times, August 13, 2010, excerpt from Mike Anton



(1D) California, the Golden State of School Inequalities and Inequities

The *National Standards for Arts Education* recommendations were published in 1994. [RL10] While many states have adopted the standards, almost all are non-tested and completely voluntary as in the case of California. [RL11] To overcome the **Unequal-Access Rule**, all state standards must be mandated and accountable with equality and equity:

- California has been a willful partner with the federal government, in violation of the U.S. Constitution’s Fourteenth Amendment and its Equal Protection Clause of opportunities and freedoms. We may also add at least Title VI of the Civil Rights Act of 1964.
- California has a 30+ year record of multiple discriminatory inequalities and inequitable underfunding of education and lack of highly qualified and effective teachers, notwithstanding the Williams Settlement of 2004. The great majority of K-12 students, particularly those of disadvantage, do not have any opportunity to learn music or other arts from teacher specialists. This is obviously out of compliance with the Settlement and California’s mandated-but-under-enforced education code, as well as federal **core** academic standards. [RL12, 13, also 18.1]
- According to the California Budget Project for 2010-2011, California would have to raise an additional \$15.3 billion above the proposed \$54 billion for K-12 schools, to reach the national average of 4.25 percent. [RL14]
- Some California school districts, particularly underperforming in API and AYP, are reporting that the state is arbitrarily and unequally denying them access to arts federal funding in favor of English and math. California is already testing science, history and social science as well, but not **core** academic music or other arts.
- Neglecting arts curriculum and students in spite of 1500 petitions of opposition, the California state assembly recently voted on bill #AB2446, 76-0, to eliminate the current minimum one-year high school graduation requirement for arts or foreign language. Requiring students to choose between foreign language, career courses or arts will force more denied access to balanced curriculum – especially for the disadvantaged.



Part 2: Civil Rights Abuses in *Local* K-12 Education

“And the Fourteenth Amendment starts out by saying that everyone who’s born here is a citizen of the United States and no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Then it demands states to respect due process, equal protection, and a whole bunch of other restrictions. And so what that means is that starting in 1868 when the Fourteenth Amendment was ratified, states were held to national civil rights standards so they cannot take your guns away or ban newspapers or force you to follow a religion that conflicts with your values.” –from the Glen Beck Show, Fox News, June 29, 2010, excerpt from Alan Gura, constitutional law attorney

(2A) Free-Speech Right to Petition and Assemble Is Under Siege

The following is an accounting of alleged ongoing student civil rights and parent freedom of speech abuses in one local 18,000-student school district during the 2009-2010 school year. In response, the local city council found it necessary to vote and unanimously approve the following historic resolution on February 3, 2010:

“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK, CALIFORNIA, IN SUPPORT OF INDEPENDENT PARENTS FOR MUSIC AND ARTS (PMA) AND THEIR MISSION TO ADVOCATE THAT EVERY ALHAMBRA UNIFIED SCHOOL DISTRICT STUDENT SHOULD RECEIVE A COMPLETE AND WELL-ROUNDED EDUCATION THAT INCLUDES EQUAL ACCESS TO MUSIC AND THE OTHER ARTS.”

The local Pasadena Star News reports February 4th and 21st of 2010 on the resolution and allegations that Alhambra (CA) USD administrators are engaging in ongoing multiple violations of the U.S. Constitution’s First Amendment. This includes the interfering with off-campus independent distribution of petitions advocating equal access to curricula, compounded by their actions designed to inappropriately influence parents’ right to assemble independently. It is further alleged that there may be a conflict of interest and conspiracy to deny students the most cost effective and timely access to classroom resources. [RL15, 16] AUSD receives federal funding for students of disadvantage. [RL17]

“No nation with successful schools ignores everything but basic skills and testing.” –LA Times, March 16, 2010, by Diane Ravitch, education historian, author of “The Death and Life of the Great American School System” • *Tests should be a means, not an end in-and-of themselves.*” –Jennifer Mueller, Kansas Journal of Law and Public Policy, winter 2001 [RL8-n22]

“NCLB has continued a separate and unequal educational system while shifting the debate from unequal schools to how to measure such schools....Expansion of definitions of academic skills beyond math and English....Important subjects such as art, music, history, biology, speech and social studies must be included in the fabric of schooling....Expansion of assessment to include multiple measures of academic success. Research has shown that in order for assessment to effectively guide school efforts, it must reflect a wide range of student skills and provide a foundation from which to teach.” –Christopher Knaus: “Still Segregated, Still Unequal” from National Urban League, 2007 [RL4.4]



(2B) No Classroom Time Left for Music and Arts or Equal-Access to Curriculum

Even as ESEA defines all arts as **core** academic subjects, many local school district administrators still consider arts access to be optional, and almost all are dependent on the money stream of *selectively* tested and inequitably endorsed subjects. For example, an experienced music teacher during a meeting of July 31, 2009, asks if the administration is willing to apply for available federal Title I funds for *The Arts*. The current Alhambra (CA) USD Assistant Superintendent - Educational Services, well known to be an endorser of English and math testing along with a non-tested arts exclusion policy replies, “*Arts have not been included. Our plan of funding has already been submitted.*” [RL4-5]

“Leave it to the British to teach Americans about their common language. A report by the Institute of Education on more than 100 international studies found that obsessing on performance on standardized tests is counterproductive to learning about the subjects evaluated by these tests. (‘Performance Is Not Necessarily Learning’)” –Walt Gardner’s Reality Check Blog – Education Week, August 23, 2010 [RL18]

General classroom teachers reveal that there isn’t any arts-time left in the English and math-dominated curriculum. It takes 5 to 10 years to build successful programs, yet only a moment to destroy. In taking the road of least resistance, it is a disgrace and discrimination for policy makers at every level – local, state and federal – to sanction the denial of students to music and other arts. Because **core** academic arts are not tested and equitably funded, students are last to be taught and first to be denied *the opportunity to learn*.

“I believe that the basic reason that policymakers are ignoring this research is political – it makes them sound as if they have higher standards without having to do anything about it except to flunk students. The more perplexing thing is how the media continually treats this as if it is a new and important idea without seriously examining what is known about the subject.”

–Gary Orfield, Professor of Education and Social Policy, Harvard University, 2007, currently with UCLA-IDEA

(2C) Boards of Education Offer Few Checks and Balances

Handing over too much curricular discretionary control to local school district and charter administrators is a mistake until guaranteed equal-access opportunity and protection are firmly in place and strictly accountable to the public. Alhambra USD may typify many administrations in California that claim they are fully compliant, and even point to state codes and published board policies to “prove it” (above quote). [RL18.1]

“A financial crisis always exposes an educational philosophy.” –Counterpoint, John L. Benham, Ed.D.

The Alhambra (CA) current Superintendent of Schools has permanent reductions beginning 2005 to classroom music and other arts-teacher positions of 57% just in K through 8th grade. [RL19, 19.1] At the February 3, 2010 public City Council meeting, the top administrator states, “*at a time of major or financial crisis in California, we can proudly say that our (arts) program is truly functioning at full speed.... The District is in compliance with all state laws and Board policy.*” [RL10, 11, 12, 13, 18.1]



“The foundation of academic success is based on the core academic subjects, specifically math and English.”

–Board President, Alhambra (CA) USD, January 6, 2010



“We spend millions developing and administering a test, we prep kids for it, and we still hear from businesses that kids don’t have job skills because what they learned was how to take a test.” –Ed Amundsen, special education teacher, Sacramento, CA • *“One test does not impose learning anymore than a thermometer cures a fever.”* –High Stakes: Testing for Tracking, Promotion and Graduation – by Jay Heubert

(2D) Conflicts of Interest in the Classroom ***What Gets tested Gets taught and Teaching to the Test***

During the meeting as previously reported under 2B – page 9, the same Assistant Superintendent is asked, “are applicant experiences in *The Arts* considered when hiring new general classroom teachers?” The next-in-line-for-superintendent responds, “*we hire based on ability to teach academics.*” Like the Board of Education president in the above quote, both are referring to English and math.

“The goal of education is not to produce great test takers, but to prepare tomorrow’s citizens.” – Renee Moore, teacher, Teach Moore Blog

Whether under the outgoing ESEA/NCLB punishment, or new ESEA *Blueprint’s* inequitable *competitive*-funding, the **Unequal-Access Rule** prevails: ***What gets tested gets taught; what is not tested gets unequal or denied access.*** Teachers are under career-threatening pressures of time constraints and *selective* testing accountabilities. This increasingly produces ***teaching to the test; while students of advantage learn, the disadvantaged are learning how to take tests.*** Teachers face high-stakes conflicts of interest daily, and are trapped in the middle of a system bankrupt of equality that denies and discriminates against its most vulnerable students. [RL20 – Campbell’s Law]

Question to guest expert: “*How are teachers in China evaluated?*” Answer: “*By the things they do to increase students’ learning and accomplishments, but not standardized test data.*” Professor Yong Zhao, M.S.U., excerpts from Teacher Letters to Obama topic: “Testing, Testing, Too Much Testing.” June 14, 2010

“Test scores are unreliable, unfair and unhelpful in evaluating teachers” from All-Star roster of education researchers 2010 [RL20.1]

“Today, the average school year in the United States is just 180 days. The school year in India is 220 days. In China, it’s 250 days. And the school day is longer in both of those countries....Chinese and Indian students are not automatons. They participate in extra curricular activities, but tend to be less focused on athletics....The outputs from these competing countries suggest the quality of curriculum combined with the time spent in class might be where more of America’s resources and attention should go. Otherwise, we still remain a nation very much at risk.” –Dan Proft 2010[RL20.2]

“If we are willing to learn from top-performing nations, we should establish a substantive national curriculum that designates the essential knowledge and skills students need to learn...As I watched the choice and accountability movements gain momentum across the nation, I concluded that curriculum and instruction were far more important” –Diane Ravitch 2010 [RL20.3]



Part 3: School Bus at the Fork of No Return

“Low-income students who play in the orchestra or band are twice as likely to perform at the highest levels in math as peers who do not play. In James Catterall’s well-known longitudinal study, ‘Doing Well and Doing Good by Doing Art,’ low-income students at arts-rich high schools were twice as likely to earn a B.A. as low-income students at arts-poor high schools...English language learners at arts-rich high schools were also far more likely than their peers at arts-poor high schools to go on to college. Is it any surprise then to learn of the large impact that arts education has on student achievement and attainment, especially among disadvantaged students?” –Duncan, April 9, 2010 [RL24]

(3A) Arts Are the *Ultimate* Resource Toolkit for Success

Dances of the Imagination do not evolve without a whole-child education. *Selective* testing has decimated intellectual growth, creative potential and critical thinking. It has suffocated students’ spirit and self-esteem, social and emotional balance, growth, as well as curiosity and imagination. It is poisoned the natural love of learning and motivation to succeed in education and life, especially for the disadvantaged. [RL21, 22, 23, also RL 3, 6, 19, 19.1]

“Children learn better with arts as part of the curriculum. They learn all their subjects better. They’re more engaged. Student attendance goes up. The child is happier; the teacher is happier.”

–Jane Alexander, former chair of the National Endowment for the Arts

Classroom resources include funding, tools, materials and facilities, yet *The Arts* are unique resources. They significantly improve the learning and testing of English, math and science. A massive body of long-term research data continues to confirm that the ultimate toolkit of arts contributes to education as no other academic subjects or resources do. [RL21, 22, 23, 25, 26]. In a survey of highly successful Fortune 500 executives, 37% studied music in school. In a recent Colorado study, arts participants and athletes maintained nearly a 3.1 grade-point average, while non-participants had a 2.44 average – a substantial 26% difference. [RL27]



“Knowledge – without imagination – is not good enough for students in today’s fluid job market. Albert Einstein once reminded us, ‘Imagination is more important than knowledge, because knowledge is limited whereas imagination embraces the entire world.’” –Duncan, April 9, 2010 [RL25, 26 and attachment ‘a’] • *“Learning in the arts can and should be rigorous and based on high standards and that it can only be evaluated objectively, using well-designed measures.”* –Duncan, June 15, 2009

(3B) Arts to Save Equal-Access Education and Boost Graduation Rates

Local highly qualified and effective teachers maintain that testing of vocal and instrumental music can be successful with theory, grading individual performance and technique. The other arts are also test-worthy in conformance with the 1994 National Standards for arts education. Mandatory teaching of stand-alone arts with accountability and equitable funding is linchpin to a balanced education, with the bonus of increased learning of other classroom curricula and the reducing of dropouts. For as long as there is *selective* testing of English and math, arts assessment is the only guarantee that stand-alone arts will be taught, as well as other currently non-tested subjects.



“The American College Testing Service compared the value of four factors in predicting success after high school. ‘Success’ was defined as self-satisfaction and participation in a variety of community activities two years after college. The one yardstick that could be used to predict later success in life was achievement in school activities [such as music, sports, debate, drama]. Not useful as predictors were high grades in high school, high grades in college or high ACT scores.” [RL27]

The growing problem of high school dropouts of 7,000 per day in the U.S. begins in earliest elementary. Nearly half report that school is *“boring and irrelevant.”* [RL28, 29] Many at-risk students admit that music and other arts are the only reason they stay to graduate. DOE/NCLB 2002 research reveals that student participation in programs such as music and sports reduces dropouts by 40%, teen pregnancies by 37%, and drug use by 49% [RL27].

“For decades, arts education has been treated as though it was a novice teacher at school, the last hired and first fired when times get tough. But President Obama, the First Lady, and I reject the notion that the arts, history, foreign languages, geography, and civics are ornamental offerings that can or should be cut from schools during a fiscal crunch. The truth is that, in the information age, a well-rounded curriculum is not a luxury, but a necessity.” –Duncan, April 9, 2010 [RL2, 2.1]

(3C) The U.S. Constitution v. *Selective Testing and Competitive Funding*

Secretary Duncan, your so-called well “rounded” fund within ESEA *Blueprint for Reform* is neither equal to, nor will it ever lead to a well “balanced” universal *opportunity to learn*. *The Arts* and all non-tested curricula in your well-rounded group compete against each other for scraps of classroom time and all play second, third and fourth-chair fiddle to the double dosing of biased government-endorsed English and math testing. Whole-child ed is dead, especially for the disadvantaged, and likely to stay that way until selective testing and competitive funding are “struck down.”

“In education, we were told we would enter a new era of ‘mutual responsibility,’ stop spending the year preparing for bubble tests, and stop blaming teachers for all the problems in our schools....At first, we were dismayed, when cruel practices of NCLB were extended. Did they not understand what they were doing? Could they see this was not consistent with our shared vision? So we wrote, we organized on Facebook, we lobbied, and we spoke by phone with Secretary Duncan. It has become clear they know exactly what they are doing, and nothing we say matters.” –Anthony Cody, teacher, August 15, 2010 [RL30]

The art of teaching has given way to the art of test prepping. *What is tested gets taught* and *teaching to the test* becoming *de facto* universal teaching policies. This is particularly egregious towards the disadvantaged, and demoralizing to the great majority of teachers who care. The President and you Mr. Secretary reveal why these two conflicts of interest are increasingly adopted by teachers:

“So I am 110 percent behind our teachers. (Applause.) If we’re not seeing results in the classroom, then let’s work with teachers to help them become more effective [API testing and AYP yearly progress]. If that doesn’t work, let’s find the right teacher for that classroom.” (Applause.) –excerpt from National Urban League speech by President Obama, July 29, 2010 [RL31, Also refer to pg 3 quote] • “In other fields, we talk about success constantly with statistics and other measures to demonstrate it. Why, in education, are we scared to talk about what success looks like? What is there to hide?” –Duncan, August 26, 2010

“At first they came for my neighbor. Then they came for me.” –Anonymous



Secretary Duncan, to teachers and their administrators, the rewards for President Obama’s “*becoming more effective*” and your “*what success looks like*” (from previous quotes) means they get to keep their jobs and government funding – that is, as long as their students’ English and math scores look good on paper.

As of July 26, 2010, the President and you Mr. Secretary are facing your first major civil rights challenge from the National Urban League and NAACP coalition of prominent civil rights groups. [RL32, 33] Apparently, while on the road to education reform, you have been driving your old ‘54 school bus too fast and talking too much, instead of looking, listening and learning before taking the wheel. Significantly biased in favor of the advantaged, ESEA *Blueprint for Reform* is out-of-sync with classroom realities and the U.S. Constitution. Your following statement once again demonstrates:

“I recognize that our plans to shift to competitive funding for arts education may make some arts providers nervous, even if they can potentially compete for significantly more funding than in the past.... But I urge arts educators to have the confidence of their convictions to compete and demonstrate the value of their disciplines on student outcomes.” – Duncan, April 9, 2010 [RL2, 2.1]

(3D) Conclusion: Who Will Save Education – Congress or the Supreme Court? It Is Urgently Time to Replace ESEA with EAEA

The research and writing of our PMA Framework for Equality – *The Opportunity to Learn* has been a true journey of discovery. Thank you all for joining us on our allegorical school-bus journey. Please make **The Great Selective Testing Bubble** available to all interested parties, with appropriate credits. The abusive *Disadvantage Gap* continues to widen, and the time for *action* and unification is now or never for current students and their futures. It is already too late for the generation previously victimized by biased *selective* government testing, profiling, segregation and funding inequities. **PMA has access to obtain local K-12 students who are experiencing injurious curricular denial. We are also seeking assistance in identifying and contacting additional individual students from throughout California and across America.**

“Instead of pitting one subject against another, look at the comprehensive needs of students in the context of educating the whole child.” –Joan E. Schmidt, past President, NSBA • *“The function of education is to teach one to think intensively and critically. Intelligence plus character, that is the goal of education.”* –Martin Luther King, Jr.



The U.S. Constitution is our government’s moral GPS and legal foundation to guarantee equal-access opportunities and protection. The fork in the road ahead does not allow governments to continue the endorsement of *selective* curricula testing and Common Core standards. ESEA *Blueprint for Reform*, like its predecessor, is unconstitutional and must itself be reformed. We suggest the inequalities and inequities pervasive throughout ESEA/NCLB be completely overhauled and upgraded to “Equal-Access Education Act.” As *selective* high-stakes testing is challenged in court and recognized as unconstitutional, so will be all of the accountabilities and consequences that result from such testing that affect students, teachers, administrators, local schools and districts.



Continued from page 6... *“We all but eliminated science. And social studies. There was so little music. Hardly any arts. Limited time for physical education (yes, I know it is required by Ed Code!). We didn’t have dances on the blacktop like the year before. Or teams. Our students were not asked enough to think critically or creatively. They did not ponder the engineering difficulties of the gulf oil crisis, let alone the long term impact on the natural ecosystems there. They didn’t discuss the politics of unemployment or global warming or the conflicts of culture world-wide. There were no science fair entries or models constructed of the California Missions. They didn’t solve ‘real’ problems at all. But they did plenty of practice problems and sample test items that had been released by the California Department of Education so that kids can prepare for the CST. And it paid off in our API. And I confess. I feel like we robbed them, in many ways, of the joy of learning.”* – excerpts from Kevin W. Riley, Principal, Mueller Charter School [RL4.8]

To learn more about PMA and our mission, please travel to www.allartsallkids.org and our new blogsite parentsformusicandarts.blogspot.com. We invite all questions and comments by your communication of choice. **We call on stakeholders, advocates and policy makers to join us, rise up and act now.** Whole-child ed is dead in public schools, until we activate on behalf of students equal-access rights.

“Today, education is perhaps the most important function of the state and local governments... It is the very foundation of good citizenship. Today it is a principle instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other “tangible” factors may be equal, deprive children of the minority group** of equal educational opportunities? We believe it does.”* –U.S. Supreme Court, Brown v. Board of Education, 1954; opinion authored by Chief Justice Earl Warren

*[socioeconomically or academically disadvantaged, or *selective testing scores*] **

John C. Thompson, September 1, 2010*
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Dances of the Imagination...

do not evolve without The Arts and a whole-child education – John Charles Thompson

<http://www.allartskids.org>



“Woodchopper’s Ball” by Jee-Shaun Wang, 2008, MKHS, Alhambra, CA
Missing here is the opportunity for current and future students to access visual arts, when 4-8th grade program was cut in 2005. Today with only skeleton programs left in the high schools, it is too little too late for students to optimally develop their imaginations and creativities for life.

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All Arts All Kids



Aztec Singers, 2009, MKHS, Alhambra, CA, Director: Anthony Azeltine
Missing here are the students of disadvantage, who do not have equal access to arts classes because of government-endorsed *selective* English and math testing, which leads to the sanctioning of music and other arts exclusions.

<http://Parentsformusicandarts.blogspot.com>

Unequal Access and the *Disadvantage Gap**

The common thread that reveals an injurious *Disadvantage Gap* is when any separate and unequal or deficient education is forced on any student, particularly when of disadvantage, compared to his or her peers with advantages. The following is a list of subgroups in public-school K-12 education which come in two primary groups – the *socioeconomically* and *academically* disadvantaged. Together we singularly refer to them as “the disadvantaged.” Students of poverty often include racial minorities and recent immigrants. Those with special needs, behavioral or non-specific challenges are included, yet *any* student may become disadvantaged and therefore injured when experiencing one or more of the following or similar situations of unequal or denied access to curricula (in no particular order). All examples may be caused or aggravated by *selective* standardized high-stakes testing, which is amplified by the **Unequal Access Rule** and *teaching to the test* :

1. When government(s) do not distribute **core** academic all funds with equity, which includes *The Arts*.
- 2.
3. Attends any public school in California where each week is 2 hours shorter and funding is \$2,131 less per pupil than the national average. This disproportionately hurts students of disadvantage.
4. Does not have a highly qualified and effective teacher for each **core** subject. This includes not having any music or arts teacher at all because access is being denied. State education funding requirements, codes and Williams Settlement are being violated in the state of California.
5. Has below “proficient” API rating in English and/or math testing **scores**, which profiles and segregates by interventions such as remediation (repeated subject). Government-endorsed *selective* testing and inequitable *competitive* funding causes deficient separate educations from the denial of access to arts and other non-tested **core** academic curricula. Even students of socioeconomic advantage are increasingly vulnerable, which has created a whole new class of academically disadvantaged.
6. Is denied access to arts as a result of scheduling conflicts. *
7. Has insufficient family economic resources to enroll in after-school and summer pay-to-play programs, or to outsource private tutoring of arts, reading or math.
8. Has weak family educational support and/or family instability regardless of socioeconomic status.
9. Is trapped in a crowded urban school with denied access to arts and a well-balanced curriculum.
10. Is already in a school with access to arts and a well-balanced curriculum, but is required to attend another school under “diversity assignment,” without similar high standards and equal opportunities.
11. When local property owners are unable or unwilling to vote for a supplemental arts education parcel tax.
12. Is denied classroom or library resources for maximum learning. This includes arts utilized as tools to integrate and improve English and math skills, as well as testing **scores**.

*Students with scheduling conflicts to “electives” or “pullouts” commonly find that music and other arts programs have limited or no access, especially for the disadvantaged or when additional instruction is scheduled for English or math. *The Arts* are always first to be denied access regardless of their **core** academic status and proven value, funding or the economy.

Compiled by: John C. Thompson, on behalf of PMA, to be utilized in conjunction with attachments ‘a,’ ‘c,’ and ‘d.’

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Arts Access Denied – Example I **Common Conflicts of Interest = Discrimination**

The following letter is from a highly qualified and effective arts teacher in California, who finds that elementary students are arbitrarily blocked from attending “pullout” arts classes, thereby exposing common academic conflicts of interest.* The result is socioeconomic and academic discrimination and segregation with separate educations for all classroom students, as well as being non-compliant with state codes and the U.S. Constitution.

2-18-10

“The DISTRICT and PRINCIPALS refuse to allow time for rigorous, CONSISTENT training of the kids. The TEACHERS in the classrooms have a variety of opinions, but most do NOT want me there [to teach pullout arts]!!”

Arts Access Denied – Example II **Math v. Arts = Discrimination**

A California Title I elementary school with children of disadvantage has a “pullout” arts program scheduled during math time. Therefore, the teacher does not allow any of her students pullout access.* Only one parent decides to challenge the arbitrary policy and talks to the teacher, but is informed that her child’s current math test results are too low. Mom goes to the school principal and discusses the situation whereby they discover the child’s testing level does indeed qualify. The situation is supposedly resolved when *only* this particular student is allowed to attend arts classes for a standard two times per week.

The rest of the class is denied the *opportunity to learn* throughout the school year, although there are others that also qualify for pullouts. The parents are uninformed and unaware that their children are being unfairly and unconstitutionally denied access. Immigrant parents who do not have sufficient English fluency, and parents of poverty commonly feel intimidated by teachers’ and principals’ unquestionable authority, whether real or imagined.

Unequal-Access Rule: *what gets tested gets taught; what is not tested gets unequal or denied access...and teaching to the test; while students of disadvantage learn, the disadvantaged are learning how to take tests.

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The *Disadvantage Gap Inequity Chart*

a Parents for Music and Arts quick summary

Leads to injurious discrimination from civil rights violations and deficient protection under the U.S. Constitution. Students are disadvantaged to succeed in the future. Increased HS dropout rate.

The opportunity to learn with access to arts and a well balanced whole child K-12 education, creates advantage to succeed in all aspects of higher education, personal career and life.

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Academic Proficiency Index: API is the government-endorsed *selective* standardized testing of English and math. Any rating below "proficient" triggers profiling and sanctions the denial of access to arts and other non-tested **core** curricula. This causes segregation and separate deficient educations for students of disadvantage compared to the advantaged. It reinforces negative and false stereotypes.

It expands the **Unequal-Access Rule** and ***teaching to the test.***

Academic Proficiency Index (API): Although still a biased government-endorsed misuse of testing, any profiled rating of "proficient" or higher creates an advantage because it allows unequal access to arts and other balanced non-tested curricula compared with denial to students of disadvantage.

This assumes there are any **core** *academic* arts programs left in classroom curriculum, of which denied access to all is increasingly common.

Socio-economically disadvantaged: mostly includes students of poverty – often of racial minorities; also recent immigrants with cultural and English challenges, sometimes without parental support or academic values.

Academically disadvantaged: Any underperformance *not* directly caused by socio-economic difficulties.

Socio-economically advantaged: With parental support can usually outsource tutoring and other support programs.

Academically advantaged: Includes a potpourri of parental support, cognitively motivated or gifted and talented, but without socioeconomic benefits.

G
A
P

The Gap Starts Here

Compiled by: John C. Thompson, on behalf of PMA, to be utilized in conjunction with attachments 'a,' 'b,' and 'c.'

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