

A Passion for Public Education Reform

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Urban public education reform is an issue inspiring passion and commitment not only in current Yale Law School students, but also in the hearts and minds of Law School graduates across the country. From New Haven to New York, from the East Coast to the West Coast, and in the Midwest, Yale Law School students and alumni are working at the forefront of public education reform and innovation. Over the last few months, I had the opportunity to speak with several current students and alumni working in the field. Here are some impressions from the front lines.

As a sign of current Yale Law students' interest in primary and secondary education reform, one need look no further than this past spring's Rebellious Lawyering conference, which featured a panel on public school litigation. Despite the timing—early on a Sunday morning at the end of a long weekend of meetings, panels, and social events—the panel was heavily attended. The YLS Class of 2001 can count a number of members committed to the education reform cause. Among these, Brooks Allen '01 exemplifies this commitment. Having embraced the public education reform debate while at Yale, Allen will work on urban school reform as a Skadden Public Interest Fellow with the Lawyers' Committee for Civil Rights of the San Francisco Bay Area for the next two years. Likewise, Kim Kawaratani '01, a former California public high school teacher with a masters degree in education, came to Yale with a passion for public school reform. She aspires to work with local school boards to implement reform measures following a federal appeals court clerkship in Pasadena and a public interest fellowship with a legal aid office.

Important and innovative work in the education reform arena is also being done by Yale Law School alumni.

"It's not about this one school," declares Dacia Toll '99, director of the Amistad Academy, a charter middle school in New Haven (see *YLR Summer 1999* "It's about public education reform, period." Amistad offers a high standards-based education built upon the "REACH" values of respect, enthusiasm, achievement, citizenship, and hard work. Strong student performance results have already brought Amistad acclaim as an urban school of excellence. In just one year, Amistad students improved in reading by one and one-half grade levels and in math by more than two and one-half grade levels (where students entered Amistad more than two years below grade level). Serving 135 students in grades five through seven, Amistad offers a longer school day (7:30 a.m. to 5:00 p.m.) and school year, small reading and math classes, required student uniforms, and a strong, disciplined school culture. Students earn their school uniform by

mastering the school's rules and signing a contract with their parents and teachers to uphold the school's values and principles.

Founded by Yale Law students with the active support of Professors John Simon and Robert Solomon, Dean Anthony Kronman, and Associate Dean Carroll Stevens, Amistad is much more than just a special school in the New Haven public schools; it is an educational laboratory that is self-consciously intended to serve as a model for public school reform. Amistad teachers, administrators, and board members regularly visit other schools experimenting with curricular innovation, teacher training, and management reform. At the same time, Amistad frequently hosts leaders from schools seeking to learn from Amistad's success in raising test scores. Amistad has also been highly successful in staving off absenteeism and drop-outs despite significant social and familial stresses for many of the students.

Now in its second year of instruction, Amistad is on a high-growth trajectory, with plans to expand the number of grades it encompasses and students it serves. Through its working board of directors, with Stefan Pryor '98 as its president and Associate Dean Stevens among its members, Amistad has raised significant monetary and in-kind gifts, enabling it to buy and expand its present home.

In addition to his duties on the Amistad board, Pryor, who was recently named the Law School's first John Lindsay Public Service Fellow (see *YLR Winter 2000*), is executive director of Breakthrough for Learning, a joint initiative of the New York City Board of Education and the New York City Partnership and Chamber of Commerce. Breakthrough's goal is to turn around underperforming school districts by wresting leadership of urban classrooms and schools away from a system of political spoils, and by reforming the recruitment, training, evaluation, and promotion of teachers and principals. Currently operating in the East New York, Ocean Hill, and Brownsville districts of Brooklyn, with a combined total of 40,000 students, Breakthrough has an eye to exporting these reforms to other urban school districts in New York and beyond. Like Dacia Toll, Pryor travels frequently to learn from other urban school reform efforts and regularly welcomes visitors to his program.

Like his fellow alumni on the East Coast, Alan Bersin '74 brings creative thinking and passion for education reform to his job as superintendent of the San Diego City Schools, a position he has held since July 1998. Bersin has implemented a business-governance model of management, with recruitment, training, retention, and advancement of teachers and principals premised on the bottom line of student performance in a standards-based system. Bersin holds teachers and principals, along with himself, accountable for student achievement. He takes his own accountability so far as to post his annual evaluation by the Board of Education on the San Diego public school website. So far, his evaluations have reflected high approval ratings.

A former Harvard football star and Rhodes scholar, Bersin firmly believes that the problem of public education in the United States is a problem of urban centers. Bringing his background as U.S. Attorney for the Southern District of California and senior partner in a leading Los Angeles law firm to bear on his

tenure as superintendent, Bersin has effected bold, sweeping change in San Diego, the eighth largest urban school district in the United States, with 145,000 students and a \$1.1 billion budget. He has focused on the core competencies of reading and math; improved student assessments; expanded the school day and school year for students who need it; assured continuing education for teachers akin to the ongoing professional development of lawyers and doctors; and worked to depoliticize the selection of principals.

Bersin returned to the Law School in the fall of 2000 as the Larry '71 and Joyce Stupski Fellow. He gave a talk entitled "Public Education: Last Clear Chance?" underscoring his belief in the urgent need to close the educational achievement gap in large urban areas. Bersin believes it essential that the business community invest in urban schools, and, like Dacia Toll, he is a strong supporter of charter schools, noting their importance as laboratories for experimentation, particularly with regard to student participation, parent involvement, and teaching methods. One hundred miles or so up the California coast from Alan Bersin is Catherine Lhamon '96, who, as an attorney with the American Civil Liberties Union of Southern California, brought suit against the state of California over its failure to provide "the minimum tools necessary to learn" to all of its public school students as required by the California constitution. The suit was brought on behalf of public school students throughout the state whose resources fall far behind those of their wealthier neighbors. The lawsuit points to the state's failure to provide sufficient school facilities, textbooks, and certified teachers to ensure an education that is minimally adequate to meet student needs.

Lhamon is quick to point out that the ACLU suit is not about attaining equity in the state's financing of public school districts; California has already fought that particular battle with a resulting race to the bottom in per student funding. (In the aftermath of the California Supreme Court's decision in *Serrano* recognizing the principle of educational financing equity, and of the property tax revolt of Proposition 13, California fell from fifth to forty-second in educational spending per student as compared with other states.) Rather than engage in a zero-sum fight over school districts' share of statewide support for education, the ACLU suit is about getting children the textbooks, teachers, and classrooms already due them under California state law, in which the right to minimally adequate educational tools is firmly established. Speaking on the public education panel at the Rebellious Lawyering conference, Lhamon underscored this entitlement: "It's not just a matter of putting poor kids in middle class schools, but of getting basic tools in all kids' classrooms."

Speaking on the same Reb Law panel was Michael Rebell '70, fresh from an important victory at the trial court level in *Campaign for Fiscal Equity v. State of New York*. Executive director of, and counsel to, the Campaign for Fiscal Equity in New York City, Rebell was preparing to defend Judge Leland DeGrasse's groundbreaking ruling on an appeal lodged by the state. Judge DeGrasse's ruling in *CFE* is a significant one, declaring that the New York state system of apportioning resources for public school districts violates the New York state constitution's adequacy clause, which guarantees equal opportunity for a sound, basic education. In an effort to avoid the fate that befell California in its race to

the bottom in funds available for schools, Rebell invested considerable thought and attention to promoting statewide community engagement in dialogues about public school support. CFE has convened more than forty public engagement forums around the state over the past few years. He highlights the efficacy of shifting the dialogue from one centered on considerations of equity to one centered on the need for basic adequacy.

Rebell attributes his theory of community engagement in remedying the problems confronting school systems to a Yale Law School conference he organized on public school reform in the early 1990s. In discussions with Professor John Simon and others at the conference, which included judges and school administrators, Rebell first articulated his concept of community engagement in shaping remedies for education reform litigation, particularly emphasizing the importance of input by students and parents. While teaching a seminar on education reform at Yale Law School, he had the time and intellectual space to develop his theory into a full-length law review article, "Schools, Communities, and the Courts," co-authored with Robert Hughes, deputy director of the Campaign for Fiscal Equity, and published in the *Yale Journal of Law and Policy*. Rebell developed his community engagement theory further through subsequent publications and years of work with community school boards and other education groups.

Like Michael Rebell, Denise Morgan '90, a professor at New York Law School, thanks Yale for much of her focus on writing and teaching about educational reform issues today. While at Yale, Morgan took a seminar entitled "The Limits of Law" with Professors Joseph Goldstein and Burke Marshall, in which she theorized about recognizing a property right to a quality public education in the aftermath of *Brown v. Board of Education*. Having published her seminar paper, "What is Left to Argue in Desegregation Law? The Right to Minimally Adequate Education," in the *Harvard Black Letter Journal*, she taught education law reform briefly at Florida State Law School following graduation from Yale. After a clerkship with Judge Marilyn Hall Patel of the U.S. District Court for the Northern District of California, Morgan returned to education reform work as an associate at Cleary, Gottlieb, Steen & Hamilton in New York, where she represented New York City and the New York City Board of Education in pro bono litigation against New York State over the adequacy of resources for its schools.

Since moving to New York Law School in 1995, where she has taught civil procedure and education law among other courses, Morgan has continued to write about education rights. Her most recent article, "The New School Finance Litigation" (forthcoming in the *Northwestern Law Review* this fall), further develops her ideas about recognizing a right to a quality education. As Morgan sees it, education discrimination cases can be conceptualized as either tort causes of action, seeking compensation for damages, or as distributive justice cases, seeking the fair allocation of community resources. She views the latter as more compelling in redressing the discriminatory nature of unequal educational opportunities.

Simultaneous with her scholarship, Morgan continues to be engaged in pro bono litigation over education discrimination issues in New York City. She is currently representing the Black, Puerto Rican and Hispanic Legislative Caucus as *amicus curiae* in *CFE v. State of New York* where she has focused on developing an education rights argument premised on the implementing regulations for Title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally financed programs.

Morgan has also been active with the Young Women's Leadership School of East Harlem, the school that served as a model for Joan Hall '65 in founding the Young Women's Leadership School of Chicago, the only all-girls' public high school in that city.

Following discussions with Ann Tisch, chair of the East Harlem school, Hall, a former chair of the Yale Law School Fund, assembled a group of twenty-three women leaders from throughout Chicago to explore the possibility of establishing an all-girls' high school. When Hall retired from her partnership at Jenner & Block in December 1999 after thirty-four years of litigating, she devoted herself to the charter school full time, working with Jetta Jones '50 (who has been active with public education reform in Chicago and with the NAACP Legal Defense Fund) and other board members to raise both financial and in-kind donations (including furniture and equipment); find a home for the school; hire co-directors; locate internships and mentors for the math, science, and leadership training central to the school's mission; and meet with community groups to develop interest in the school.

And generate interest they did. Many more students applied than there were spaces available, necessitating a blind lottery for determining admission like that used at New Haven's Amistad Academy. The all-girls' charter school, with its emphasis on mathematics, science, and leadership, opened its doors in August 2000 to seventy-five sixth graders and seventy-five ninth graders. The school plans to expand to include 525 girls in grades six through twelve by its fourth year. In just its first year of instruction, the Young Women's Leadership School has instilled self-confidence and pride in its students and was singled out in Chicago newspapers for its success in raising test scores.

These graduates represent only a handful of Yale Law alumni active in primary and secondary school reform in the U.S. today. As for Yale's influence on their work, all of the graduates with whom I spoke cited the critical role Yale played in their pursuit of public service and appreciation of education as an essential tool of opportunity. To each of them, Yale communicated a sense of the possible and an understanding of their responsibility to serve.

Website addresses for relevant organizations

Lawyer's Committee for Civil Rights of the San Francisco Bay Area www.lccr.com

Amistad Academy www.amistadacademy.org

Breakthrough for Learning www.nycp.org

San Diego City Schools www.sandi.net

American Civil Liberties Union of Southern California www.aclu-sc.org

Campaign for Fiscal Equity in New York City www.cfequity.org
Young Women's Leadership School of Chicago www.ywlcs.org