

## Law and Educational Inequality: Removing Barriers to Educational Opportunities

reviewed by Dino Sossi – January 12, 2016

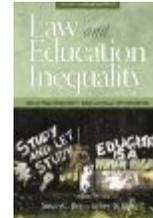
**Title:** Law and Educational Inequality: Removing Barriers to Educational Opportunities

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It feels like a truism to say that law has advanced the vital mission of public schooling. Even a cursory examination of the major legal developments that have occurred over the past 60 years highlights the indelible imprint of law on education. *Brown v. the Board of Education* (1954) began healing the festering wounds caused by the unconscionable separate but equal doctrine enshrined by *Plessy v. Ferguson* (1896). *Lau v. Nichols* (1974) ruled that a school had not provided non-English speaking Chinese students with an equal educational opportunity to learn English. Congress subsequently enacted section (f) of the Bilingual Education Act (1974) that created a responsibility to remove language barriers. State regulations on cyberbullying often surpass existing federal protections and help vulnerable students who can be endlessly tormented beyond the supervised safety of the schoolyard. These are only a few highlights from a much broader array of precedents demonstrating law's ameliorative effects on education. Despite these imperfect attempts at using legal means to better instructional experiences across schools, there are still a number of areas where protection through law has not guaranteed an equal level of educational opportunity for students.

Susan C. Bon and Jeffrey C. Sun's book, *Law and Educational Inequality: Removing Barriers to Educational Opportunities*, dispels the opinion held in some circles that schools have become idyllic paradises that are places of full equality for their students. By dividing their collection of essays into several broad areas, the book shows that across many important educational issues the antithesis is often unfortunately true.

*Law and Educational Inequality's* ten chapters are divided into five parts. Part One covers the governance and organization of schools. In Chapter One, Daniel Kiel introduces an organizing idea that has broad implications for the remainder of the book—the paradoxical drive for universal equal education by making its delivery different for each student. In the second chapter, Charles J. Russo and Gerald M. Cattaro discuss whether faith-based charter schools will endure Constitutional challenges due to their explicitly religious missions.

Part Two chronicles difficulties faced by English Language Learners (ELLs). In Chapter Three, Carrie Sampson and Sonya Douglass Horsford venture past traditional legal remedies to funding equity as a new means to improve educational opportunities for ELLs. In the fourth chapter, Philip T. K. Daniel and Sun consider the legal challenges surrounding the achievement gap experienced by many ELLs and propose a solution to this issue.

Part Three shares the unfortunate plight of students with disabilities. In Chapter Five, Brenda R. Kallio, Richard T. Geisel, and Angela Jonasson advocate ways to manage deadly allergies within schools. In the sixth chapter, Bon and Nicole D. Snyder examine attempts at assisting students with disabilities through individualized educational opportunities.

Part Four deals with bullying and trials faced by Lesbian, Gay, Bisexual, and Transgender (LGBT) youth. In Chapter Seven, Richard T. Geisel, Brenda R. Kallio, and Christa Brodina review legal responses to the bullying epidemic plaguing schools. In the eighth chapter, Christine Bellini and Julian Kitchen look to Ontario to highlight the importance of law and school-level policies in fostering inclusive educational environments for LGBT youth.

Finally, Part Five focuses on teacher candidate dispositions demonstrated through interpersonal interactions such as professional attitudes, beliefs, and values. In Chapter Nine, Lawrence T. Kajs, Bettye Grigsby, and Kent A. Divoll detail how teacher education institutions use disposition criteria to improve pre-service candidates. Finally in the tenth chapter, Thomas Sheeran, Vincent Rinaldo, R. Michael Smith, and Walter Polka analyze case law involving disposition as it relates to professional teacher education programs.

*Law and Educational Inequality* is an excellent book that accomplishes several important goals. The chapters are written in a uniformly accessible manner and are relatively comprehensive given their modest length. They discuss seminal case law, legislation, regulations, and conventions to set the historical backdrop for the educational area under examination. The writing respects the deep complexity of the underlying legal issues that it considers without being overly legalistic, complex, or dense. As such, the book is useful for those with a limited legal background but also the formally trained who may be interested in specific

aspects of the educational landscape.

Although portions of this book would appeal to narrow cross-sections of readers (e.g., English as a Second Language educators interested in Part Two's focus on ELLs), the prevailing intelligibility of the book invites them to read across content areas. This is increasingly important given the relentless demands of today's complicated educational systems where legal dilemmas seem to bubble up everywhere simultaneously. In an increasingly regulated world that subsequently leads to differences of opinion, rancor, and even litigation, it is imperative that educational stakeholders appreciate the far-reaching implications of law, its dynamism, and its definite limits as demonstrated by this book—both through the collective rhetorical tack of its essays and its individual chapters. As the Reverend Martin Luther King, Jr. once prophetically professed, “The arc of the moral universe is long but it bends toward justice” (1958). Although these eloquent words may be true, achieving justice is not a given that is willingly bestowed upon an oppressed populace deserving relief—it must be fought for. In the aftermath of the civil rights era, *formal equality* (e.g., equality of educational opportunity) can be assumed in the U.S. It is the minimum standard across many spectrums of contemporary society, including education. Children cannot be prohibited from education due to their race, color, creed, sex, age, and mental or physical disability. However, meeting the higher standard of *substantive equality* (e.g., equality of educational results) is a more elusive ideal. The structural impediments preventing students from receiving an excellent public education that would prepare them for these troubling times are imposing edifices that are difficult to tear down. Legal channels are indispensable weapons in a lengthy battle for educational equality, but those ugly and divisive walls will only crumble under concentrated pressure sustained over a prolonged period.

Legal structures must constantly adapt to meet the emerging challenges cast by unforeseen circumstances in a postmodern world where change is the default condition. Educational advocates must deftly wield legal tools so that public schooling eventually addresses the formidable barriers that exacerbate inequality, needlessly harm students, and undermine the legitimacy of our democracy. The most important lesson from *Law and Educational Inequality* may be its implicit call for skillfully leveraging legal measures to eradicate deeply ingrained, unequal educational practices that disenfranchise, disable, and dehumanize students.

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