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Equity Dispatch

Education as a Fundamental Right

April 2012



IMPACT: Educate, Engage, Empower--For Equity

"Education is a human right with immense power to transform. On its foundation rest the cornerstones of freedom, democracy and sustainable human development." -Kofi Annan

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Equity Spotlight

Educate

Your Right to an Education

Like all Equity Assistance Centers, the *Great Lakes Equity Center* is designed to serve as a resource support for the Civil Rights Act of 1964 in preventing discrimination, exclusion, or denial of opportunity on the basis of race, sex, or national origin through such discriminatory activities as inequitable opportunities to learn, harassment, segregation, and denial of language services. Accordingly, part of our work involves exploring the extent to which students' rights to a high-quality education are realized across the variety of geographies and contexts within our six-state region. A major purpose of the *Great Lakes Equity Center* is to assist schools in complying with federal civil rights requirements through adoption or improvement of policies and practices and to help parents, students, educators, and community members understand their rights under federal law.

Education as a fundamental human right was internationally codified as law in the 1948 *United Nations Universal Declaration of Human Rights*. The affirmation of education as a human right has since been reestablished in several international laws and policies including the *European Convention on Human Rights and Fundamental Freedoms* (1953), the *International Covenant on*



Carole Craig sits as co-chair on the Education Committee of the NAACP's Indianapolis branch. Since 2007, Ms. Craig has initiated several successful NAACP community based projects including a collaboration with state institutions to improve efforts to recruit and retain more teachers of color and planning and hosting the NAACP Summit in 2010. In addition to these activities, Ms. Craig has established herself as a local leader in supporting parents, students, and community members during the state takeover of Arlington High School.

Economic, Social and Cultural Rights (1966), and the *Convention on the Rights of the Child (1989)*. Several U.S. laws and court decisions have honed the meaning of educational rights to address the many issues that arise for schools and districts in meeting mandates to provide equal opportunity and access to education for all children regardless of the many diversities they bring with them to the classroom. Such opportunity and access facilitate students' excellence in academic endeavors when their language, heritage, gender and experiences (i.e., cultural capital) are valued and used to shape and inform their learning and development *and* they are provided access to high quality teachers, programs, and resources (Gay, 2000; Klingner et al., 2005).



Ladson-Billings and Tate (1995) connected these principles and educational rights by extending the legal concept of property rights to the concept of cultural capital: the right to an education, and relatedly, to effective teachers, is a fundamental property right of each individual that expands and elaborates the cultural capital that a student brings to school. Rather than view race, class, and gender as isolated factors, this suggests that the current inequitable conditions of schooling such as inadequately prepared teachers (Jones, Yonezawa, Ballesteros, & Mehan, 2002; Ladson-Billings, 2006) and academic tracking practices that negatively influence students' self-worth (Oakes, 1985) are connected to legacies of exclusion and inclusion based on normative assumptions about race, class, gender, language, national origin, and ability that define who is considered competent or different (Minow, 1990).

As mandated in the court decision of *Lau vs. Nichols (1974)*, providing equal educational opportunity and access to minority students does not equate to providing access to the same classes, curriculum, teachers, and resources designed for the dominant class of American school children. For students with educational needs that are not fulfilled by the standard system of schooling, it is required that the system be adjusted to provide for the language, cultural, and ability varieties that students bring with them to the classroom. Accordingly, schools and districts receiving federal funding are required by law to provide specialized resources to students who need them in order to participate fully.



One way that educators, families, community members, and students can work toward ensuring that every child's right to a high-quality education is realized is by understanding protections of that right that exist under law, as well as what to do when it appears that these protections have been violated

or neglected. Below, we detail key legislation that supports equal opportunity and access for groups who have been enumerated for special legal protection as a result of having been historically underrepresented and discriminated against on the basis of race, gender, language, and national origin.

The Fourteenth Amendment to the United States Constitution reads "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws" (U.S. Const. art. XIV, § 1). This amendment was written three years after the abolition of slavery for the purpose of guaranteeing that legal

Several of her op-ed letters have been published in the *Indianapolis Star*, and she has been in the public eye as a guest speaker on local television shows highlighting current educational issues.

Ms. Craig has had an impressive career in the Indianapolis school system which includes experiences as a classroom teacher, guidance counselor, principal, dean of students, human resources administrator, and teacher mentor. Being taught by strong, dedicated, black teachers in a segregated school during her early years instilled in her a passion and dedication to teaching which resulted in a career spent serving as a role model for the countless students she touched and as an example for other educators.

In 2007, Ms. Craig established her own company, Craig Leadership Services LLC, which focuses on providing cultural competence training, advising, and leadership development. Ms. Craig continues to address, head on, challenging educational issues while also advancing social justice agendas guided by her stated commitment to "staying the course, praying for results, and being resilient."

Upcoming Events:

[Wisconsin](#)

April 28, Gillett
CESA 8
Investigation
of Discrimination and
Harassment Complaints:
Basic Skills Workshop
[Click here to read more](#)

April 26 - 29, Madison
National Council of Less
Commonly Taught Languages
15th Annual NCOLCTL
Conference

rights of all citizens are adhered to equally by the States.

Based on this amendment, Thurgood Marshall brought the *Brown v. Board of Education of Topeka* case before the Supreme Court arguing that segregation of schools violates the equal protection guaranteed under the 14th Amendment. The Court unanimously ruled in favor of desegregating schools arguing that, "Where a State has undertaken to provide an opportunity for an education in its public schools, such an opportunity is a right which must be made available to all on equal terms" (*Brown v. Board of Education*, 1954). The *Brown v. Board* decision became the catapult of the Civil Rights Movement, which attacked the use of race categories in determining the inclusion or exclusion of citizens in all spheres of public life. The U.S. Office for Civil Rights outlines on its [website](#) several of the complaints that are legally brought forward under Title VI of the Civil Rights Act of 1964 regarding discrimination in schools based on race, color, and national origin (Office for Civil Rights, 2011). Among these include:

- Ability grouping based on race or ethnic classifications
- Disciplinary practices
- Academic grading, and
- Inter-district student transfers (Office for Civil Rights, 2011)

Title VI of the Civil Rights Act (1964) also protects non-U.S. citizens from being denied their right to an education. Specifically, Title VI stipulates that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance". Based on this statute, *all school age children living in the United States, including undocumented immigrants*, have a right to attend publically funded schools, access the schools' resources, and be equally protected from discrimination.

The protections of English language learners (ELL) were originally put forward in the Elementary and Secondary Education Act of 1965 (ESEA). In 2001, ESEA was reauthorized under the title No Child Left Behind Act. Stipulations of Title VII of the ESEA can now be found in Title III of No Child Left Behind. Under this law, schools receiving funds under No Child Left Behind are required to provide instruction to ELL students that incorporates their primary language while advancing their knowledge of the English language and meets State and local education standards. This means that ELL students are entitled to be educated according to the highest standards of curriculum and outcomes expected to be met by the general school population. ELL students are denied this right, for example, if they are placed in remedial courses as a result of their English language comprehension.

While *Brown vs. Board of Education of Topeka* signaled the formal end of racial segregation in public schools, not until over twenty years later in 1975 did the federal government pass the first comprehensive special education legislation - the *Education for All Handicapped Children Act*- which signaled the end of formal exclusion of individuals with disabilities in schools. Since that time, this law has been revised several times, and its most current version is as the 2004 revision of the Individuals with Disabilities Education Act (IDEA). IDEA describes requirements and provides funding for ensuring that all students with disabilities receive a "free and appropriate education" in public schools. Additionally, Section 504 of the Rehabilitation Act of 1973 made it illegal for any federal agency, public university, or any entity that received federal funding (including public schools) to discriminate, "solely by reason of...handicap."

In 1972, Education Amendments were added to the 1964 Civil Rights Act. Among these was Title IX, which states, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving

[Click here to read more](#)

Minnesota

April 23, Bloomington
Pacer Center (Champions for children with disabilities)
Workshops
Special Education and Zero Tolerance Policies: How Can Parents Advocate
[Click here to read more](#)

April 24, Granite Falls
Pacer Center (Champions for children with disabilities)
Workshops
Skills for Effective Parent Advocacy
[Click here to read more](#)

Illinois

April 27-28, Chicago
Council on Contemporary Families and University-Based Child and Family Policy Consortium
2012 Annual Conference:
"Crossing Boundaries: Public and Private Roles in Assuring Child Well-Being."
[Click here to read more](#)

Ohio

April 24-25, Columbus
ADA OSU
Multiple Perspectives on Access, Inclusion, & Disability: Experience Understood in Image, Poetry, Narrative, and Research Conference
[Click here to read more](#)

April 22, Columbus
GLSEN
Buckeyes Against Bullying
[Click here to read more](#)

Michigan

April 14, East Lansing
Michigan Education Association
Minority & Women Involvement Program
[Click here to read more](#)

In the News

Arizona's Fight for Culturally Responsive Education

Federal financial assistance.” Title IX covers all educational activities, and complaints under Title IX may include those alleging sex discrimination in science or math education, and activities such as school clubs. Title IX applies to an entire school if any part of that school receives federal funds; therefore, athletic programs are also subject to Title IX.

While we hope this information about educational rights protections under federal law is useful, it is how this information is applied that is most relevant to our work. Below, we provide resources for further exploring how to support the fulfillment of students’ educational rights, and for taking action when students’ rights are violated or ignored.

For a list of this section's references, click [here](#).

Engage

Indiana Resource Center: An Advocate and Resource for Families

Navigating the educational system can be challenging for many families, and particularly for families who identify with groups who have histories of marginalization within school systems, such as those of children and youth with disabilities. Understanding one’s rights and ensuring that one’s child receives the high quality education she/he is guaranteed under the Individuals with Disabilities Education Act (IDEA) may be especially daunting. While many schools are working collaboratively with families of students with disabilities, there are many situations in which collaboration breaks down, conflicts emerge, and accordingly, unsatisfactory educational services are experienced.



The Indiana Resource Center for Families with Special Needs, or [IN*SOURCE](#), is a parent organization that provides no-cost education and advocacy services to Indiana’s families of infants, toddlers, children, youth and young adults with disabilities. IN*SOURCE is a one-stop organization where parents of students with disabilities can learn about their rights, and the rights of their children to receive a free and appropriate education as protected by the IDEA, as well as Indiana’s Special Education legislation, Article 7. IN*SOURCE Parent Support Volunteers and staff, almost all of whom are parents of individuals with disabilities, facilitate educational sessions with families on negotiating the educational system in light of families’ rights through their *Indiana Parent Training Program*, and communicate on a regular basis with the Indiana Department of Education through their *Collaborative Parent Involvement Project*, where the two organizations discuss and address openly concerns about the education of students with disabilities. Educational sessions are accessible face-to-face, as well as through online courses, podcasts, and information briefs.

Please contact IN*SOURCE at 1-800-332-4433 if you want more information or would like to become an IN*SOURCE Parent Support Volunteer. IN*SOURCE is located at 1703 South Ironwood Drive, South Bend, Indiana 46613. You can also email the organization at insource@insource.org.



Is being provided a healthy school lunch a right?



Are there equity issues surrounding charter school enrollment practices? Is it the new tracking system?



Join the Conversation on [Facebook](#)

Although both students are receiving an education, it is clear that the quality of the education experience differs between them.

What are the features of education that students should have a right to?

Dear Colleague Letter: Joint letter on Immigrant Students' Rights to Education

Empower

Something to Watch!

When we talk about the right to an education, what kind of education do we mean?



‘A Tale of Two Schools’

It is not sufficient to ensure that every child can go to a building labeled a “school” and participate in classes; the quality of the experiences we provide our youth and the outcomes of those experiences matter.

Something to Do!

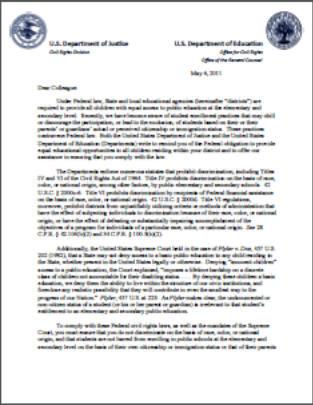
Addressing Discrimination in School Matters

Wondering how to confront discrimination in your school? This *Equity Matters* brief from the Equity Alliance at ASU describes six concrete steps you can take to ensure that all students’ rights to an education are being protected. The brief also offers guidance on what to do when you meet resistance.



Something to Share!

This week, post these flyers in your school or send them home with students to help ensure that everyone in your educational community has access to information about their rights. The flyers address basic questions about educational rights and discrimination, including:



- Do all students have the right to an equal education?
- Is grouping students according to perceived ability legal?
- Can students be treated differently in public schools based on their sex?
- Can schools discriminate against gay students?
- What about students with disabilities?
- Do undocumented students have a right to attend public schools?



Your Rights to Equal Education



Immigrant Students' Rights

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Disclaimer

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