



“EDUCATION IS A CIVIL RIGHT” LEGAL RATIONALE EXECUTIVE SUMMARY

Although barriers exist to a successful campaign to expand educational rights, strong legal support is available to support the agenda and opportunities abound. Educational rights have consistently expanded over the past forty years, with both courts and society recognizing education as a right to be demanded of the state and a right that must be scrupulously protected. Courts have forced legislatures to expend additional funds and adopt new programs on behalf of struggling students. Although often benefiting African American and other minority students, these cases have not addressed or been premised on the unique circumstances of African American students. Several cases, however, create precedent and analogy by which to press for claims on behalf of African American students. A summary of the memorandum’s findings are as follows.

1. The legal landscape has experienced significant changes since the Supreme Court held in *San Antonio v. Rodriguez* that education is not a fundamental right in 1973. These changes include:
 - Constitutional clauses in all 50 states recognizing education as a state constitutional right;
 - Plaintiff victories in over half of the states under these state laws that secured additional funding and resources for education
 - Current litigation in several additional states to overturn prior negative decisions or expand on positive ones;
 - A shift in the responsibility for curriculum and funding from local school districts to state legislatures and departments of education;
 - The defining of an adequate education and the adoption of other qualitative standards by state courts and legislatures; and
 - A significant increase in the federal role in education through funding and antidiscrimination legislation on behalf of low-income students, students who speak English as a second language, homeless children, and children with disabilities.

2. The above changes resolve many of the major concerns the Supreme Court expressed in regard to federal educational rights in *Rodriguez*. Based on these changes, new federal educational claims may be available. However, even if these claims are not recognized, the state courts have already established numerous precedents that provide support for agendas to further education as a civil right. The current legal theories, both state and federal, on which to base education as a civil or fundamental right are:
 - Education is a state constitutional right in all 50 states and has been interpreted by state courts to mean, a) that students are entitled to a qualitative education (sound basic, adequate, high quality, efficient, etc.), b) that state equal protection requires equal educational opportunities and funding, or c)



that education is a fundamental right and infringements of the right warrant strict scrutiny;

- Education should now be recognized as a fundamental right under the federal constitution given the developments since *Rodriguez*; and
- Federal equal protection applies with heightened scrutiny to educational opportunities and the state's own qualitative standards are the criteria by which this equality will be measured.

3. In state courts, plaintiffs have used these claims to secure benefits on behalf of specific sub-populations such as at-risk students. They have argued that a sub-group experiences a specific barrier to obtaining a quality education and that, as the guarantor of that education, the state is obligated to remove the barrier. Courts have responded with specific programmatic remedies such as pre-kindergarten. Although never employed in a race-specific method, advocates may be able to make analogous arguments to challenge certain practices, such as racially disparate discipline or culturally incompetent instruction.

**NATIONAL ALLIANCE OF BLACK SCHOOL EDUCATORS**

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WWW.NABSE.ORG ♦ NABSE@NABSE.ORG**EDUCATION IS A CIVIL RIGHT**

The National Alliance of Black School Educators (NABSE) is a thirty-eight year old membership organization of more than 5,000 African American educators whose mission is to promote the education of African American and underachieving students of other cultures. NABSE has declared “**Education is a Civil Right**” and insists that this country establish a zero tolerance policy on illiteracy, dropout and failure.

RATIONALE

This country purports to provide every citizen with certain basic services such as environmental health, public safety and national security regardless of their regional inhabitation or financial income. Therefore, education like these other services should be a birthright entitlement.

Since their arrival in this country in 1619, African Americans have been subjected to inferior and disproportionate education and other services. Almost four centuries later these gaps still exist. For example, the data show that there are major disparities between the number of certified teachers in cities and rural areas in comparison to teachers in suburban school districts. The data also indicate that the African American students who attend urban public schools are four times more likely to be taught by teachers who are not certified in the subject to which they are assigned.

Research clearly reveals the extensive and growing inequities between white and black students in academic achievement, dropout rates, grade retention, suspensions and special education placement. Disparities continue into and throughout adulthood in the criminal justice system, unemployment, wage earnings and life expectancy. NABSE contends that these inequities can be reduced and finally eliminated through quality education. Educational justice remains the most significant Civil Right that has not been provided to all African American students and families.

The “Education is a Civil Right” concept, including the Black Educational Civil Rights Agenda, was drafted by the Los Angeles Education is a Civil Right Committee. The Committee felt strongly that an established organization with national recognition should assume responsibility for implementation. NABSE



expresses its gratitude to the committee in entrusting NABSE to move this initiative forward.

The National Alliance of Black School Educators (NABSE) hereby declares “**Education is a Civil Right**” and urges all citizens to take action.

LEGAL RATIONALE

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 - Education should now be recognized as a fundamental right under the federal constitution given the developments since *Rodriguez*; and
 - Federal equal protection applies with heightened scrutiny to educational opportunities and the state's own qualitative standards are the criteria by which this equality will be measured.
6. In state courts, plaintiffs have used these claims to secure benefits on behalf of specific sub-populations such as at-risk students. They have argued that a sub-group experiences a specific barrier to obtaining a quality education and that, as the guarantor of that education, the state is obligated to remove the barrier. Courts have responded with specific programmatic remedies such as pre-kindergarten. Although never employed in a race-specific method, advocates may be able to make analogous arguments to challenge certain practices, such as racially disparate discipline or culturally incompetent instruction.

IMPLEMENTATION

- I. Blue Ribbon Commission- the mission of this stellar group is to provide broad- based policy recommendations and assist in securing funds and other resources essential to the success of the project.
- II. Task Force- the focus of the task force is to identify those successful intervention strategies reported by state departments of education, local school districts and teacher training institutions. The Task force will also provide over sight to the preparation of the “Best Practices” publication that identifies the “success stories” and their school districts. Many of these strategies will be recorded by Pearson Foundation and Grade Results, Inc. for distribution. Also the outcomes of the publication will be used in the press briefing conducted at the Atlanta and future Annual Conferences.
- III. State Liaison Group- Each state superintendent will be requested to identify one cabinet-level person to serve as the official representative/ liaison for the initiative. The role of the representative will be to serve as the spokesperson for the superintendent, report data, attend two meetings per year, etc. Each state is requested to develop intervention strategies



that will correct the achievement and other categories of disparity in the education of the African American child. NABSE will issue a Report Card on the State of Education in Black America, annually. If possible, this will be done in conjunction with the annual November Conference, with major press present. All state and local education representatives will be requested to participate. Bill Cosby will be invited to participate.

IV. Public Awareness Promotion- Endorsement by organizations/
Associations

1. Education: School Districts, Charter Schools & Higher Education: There are nearly 15,000 public schools districts and 4,000 charter schools in the United States. Invitations and requests will be made of all school districts with more than 20,000 students as well as Charter Schools to support the “Education is a Civil Right” initiative. Actives of participation include:

- a. Formal endorsements by school boards
- b. Include “Education is a Civil Right” slogan on school districts literature, as appropriate.
- c. Facilitate discussion on the subject within the district.
- d. Implement initiatives within the plan that address issues of achievement, teacher preparation, suspensions, etc.
- e. Report successful outcomes to NABSE that will be included in NABSE’s Annual Report on the State of Public Education in Black America.

2. Political: Solicit the political endorsement and participation of local, state, and federal elected officials. The elected bodies should request local education agencies to identify programs/ initiatives that support “Education is a Civil Right”.

- a. Congressional Black Caucus
- b. Black State Legislators
- c. US Conference of Mayors
- d. US Conference of Black Mayors
- e. National League of Cities
- f. National Governors Association (NGA)
- g. National Association of Counties (NACO)
- h. International City Managers Association (ICMA)

3. Religious- Major Church organizations must be invites to endorse and support “Education is a Civil Right” by formal notification of their institutions, include “Education is a Civil Right” slogan on their literature; conduct workshops/ discussions sessions; requesting all heads to speak on this subject on a synchronized basis (*Ministers having a synchronized Sermon on a predetermined week).

- a. Denominations of Protestants
- b. Faith Based Organizations



- c. Catholic: Arch Dioceses local districts
- d. Jewish
- e. Muslims

4. Corporate America- Corporate branches of major corporations formally endorse “Education is a Civil Right” initiative and/ or sponsor programs, announcements and other initiatives that promote “Education is a Civil Right”.

Outreach through:

- 1) Fortune 500 & Fortune 1000
- 2) US Chamber of Commerce
- 3) Small Business Association

5. Media- Corporate/ executive branches will be required to officially and formally endorse “Education is a Civil Right”. Each corporation will promote this initiative through broadcasting on television stations: Talk Shows, editorials and other programs whenever they have jurisdiction.

- a. Television
 - 1) NBC
 - 2) CBS
 - 3) ABC
 - 4) FOX
 - 5) CNN
 - 6) MSNBC
 - 7) TV ONE
 - 8) BET
 - 9) TBN
 - 10) PBS
- b. Radio
 - 1) Tavis Smiley
 - 2) Tom Joyner
 - 3) Kathy Hughes- RADIO ONE
 - 4) NPR
- c. Print Media
 - 1) Newspapers
 - 2) Magazines
- d. Internet BLOGS

6. Sports Industries: Athletes- Solicit the endorsement of the various sports leagues with selected personalities participating in public service announcements. The leagues and/ or athletes that have foundations to fund the “Education is a Civil Right” project will be asked to assist in funding.

- a. Football Leagues
- b. Basketball Leagues
- c. Baseball Leagues



- d. Hockey Leagues
- e. Soccer Leagues

7. Entertainment industry: Celebrities- Solicit the support of this industry to sponsor benefit events for “Education is a Civil Right” project, as well as public service announcements.

- a. Music
- b. Theater/ acting

8. Organizations, Social, & Professional- Solicit their support and endorsement, participation in workshops symposiums and assist in implementation.

- a. Sororities
- b. Fraternities
- c. YMCA/ YWCA
- d. PTA/ PTO
- e. Urban League
- f. NAACP

THE INTERVENTION PLAN

THIS PLAN IS FLUID AND WILL BE MODIFIED AS ADDITIONAL RECOMMENDATIONS ARE MADE BY THE BLUE RIBBON COMMISSION AND THE TASK FORCE. AS STATED EARLIER IN THIS DOCUMENT THIS PLAN WAS DEVELOPED BY THE LOS ANGELES EDUCATION IS A CIVIL RIGHT COMMITTEE.

I. FOCUS AREAS

Five primary areas are targeted to impact the educational outcomes for African American students and families in K-12 and higher education.

1. Implement educational policies and practices (including personnel assignments, training and evaluation) that advance and promote educational excellence for all African American students.
2. Improve high school graduation rates for all African American students.
3. Improve the educational progress and status of African American male and female students by understanding and coping with gender-specific needs. A special focus must address the causes of, and solutions to, the underachievement of African American male students.
4. Provide support for parents and families of underachieving African American students.
5. Improve the quality and competency of teachers graduating from teacher training institutions.



II. Action Items and Recommendations

Focus Area #1. Implement educational policies and practices (including personnel assignments, training and evaluation) that advance and promote educational excellence for all African American students.

- a. Establish a legal basis and introduce legislation to prevent the assignment of unprepared or ineffective teachers and administrators to schools with more than 20% African American students and/or schools designated as “underachieving” as measured by state standards.
- b. Provide appropriate, adequate and ongoing professional development for all teachers, administrators and other school staff who are responsible for educating African American students by emphasizing the unique educational, cultural, language and support needs of these students.
- c. Establish a **Teacher Training Academy (TTA)** to support the professional development needs of teachers and administrators in affected school districts with shared responsibility for funding based on teacher/student population. The **TTA** would operate in conjunction with local universities to provide assistance to teachers of African American students prior to their initial assignment to a school and continuing for the first five years with ongoing intermittent training.
- d. Establish legal support for required school site monitoring of instruction, support and evaluation of teachers and administrators that is fair, consistent, and adequate; and timely removal of district-level and school-site staff who are unsuccessful in educating African American students.
- e. Ensure the adequacy of resources to provide after school academic support for students, particularly those who demonstrate a need for intervention and/or remediation in literacy and mathematics.
- f. Develop and actively implement guidelines that enable the reconstitution of underachieving schools, i.e. all staff positions are open to replacement with the establishment of specific criteria that have been proven effective in improving outcomes for underachieving students and their families.
- g. Develop legislation that requires support for the language needs of African American students commensurate with the emphasis and



resources supporting non-English speaking students. Create opportunities for African American students to be bilingual.

- h. Compile and use data to support **The Plan** by identifying specific areas of need, progress and required systemic response. Include research and evidence of urban schools that are successful in the education of African American students, with intent to replicate their “best practices.”
- i. Adopt innovative curricular materials that include African American culture, traditions and learning styles.
- j. Study whether funding formulas based on average daily attendance (ADA) adversely impact African American students due to higher absenteeism in inner city schools. Urge policy changes to correct such adverse impacts where they occur.
- k. Study whether funding formulas based on standardized test scores adversely impact African American students. Urge policy changes to correct such adverse impacts where they occur.
- l. Ensure that each student in predominantly African American public schools develops computer competency and has access to the Internet.
- m. Ensure that school campuses are attractive, clean and safe.

Focus Area #2. Improve the high school graduation rates for all African American students.

- a. Establish drop-out prevention and intervention activities and programs at middle and high schools including but not limited to strict attendance monitoring, student peer-counseling programs, family outreach, school site counseling, incentives for students who maintain attendance and enrollment, and extended day academic support for students with remedial needs.
- b. Adopt a “zero tolerance drop-out policy” by middle and high schools to enhance dropout prevention and student retention.
- c. Establish college/university awareness for secondary school students through the designation of dedicated “college counselor” positions at all middle and high schools. College tours and field trips--along with student outreach from the colleges to secondary students--are expected throughout the school year.
- d. Establish a “**Speakers’ Bureau**” at secondary schools to recruit and invite appropriate community based members/individuals to



visit schools frequently during the school year to speak to students about education, careers and adult life expectations. Local professional trades' people and business owners, organizational leaders, college students and other adult role models should be encouraged to address students on a regular basis to raise awareness of college enrollment and the acquisition of employable skills.

- e. Establish and expand Career Technical Education classes including collaborations and partnerships with local companies and organizations that can provide training, internships and employment opportunities for students.

Focus Area #3. Improve the educational progress and status of African American males and females.

- a. Establish a public and unapologetic focus on the status of Black male students and adults – including publishing data on academic achievement, social adjustment, employment and incarceration rates and family unity. The intent is to identify—and then alleviate—documented needs.
- b. Establish pilot “gender-separate” classes in core courses in middle school grades based on research that supports the improved academic outcomes of male students when attending male-only classes, and the improved academic outcomes of female students when attending female-only classes. Provide monitoring, support and documentation to enable replication and expansion of successful classroom models.
- c. Establish a pilot “**Support Program**” for targeted male students through centralized support from business leaders, philanthropists, educators, church leaders and community-based organizations. Female students should also be an essential component in the planning and implementation process.
- d. Establish “**Future Teachers**” clubs or programs in secondary schools to encourage male students to enter the teaching profession.
- e. Utilize athletic coaches and other adults responsible for male sports or group activities to adopt “community service projects,” in order to emphasize personal and social responsibility.
- f. Establish alternatives to suspensions in secondary schools such as:
 - 1. Judicial council conducted by peers;



2. Group meetings with parents;
 3. Assignment of personal responsibility activities for disciplined students;
 4. Counseling with church and community leaders; and
 5. Rewards and affirmations for good behaviors.
- g. Establish programs that target the specific needs of male students, such as:
1. Promoting the importance of academic achievement;
 2. Teaching study skills;
 3. Non-violent conflict resolution training;
 4. Sex education, STD and pregnancy prevention;
 5. Challenging negative stereotypes of Black males and females;
 6. Encouraging the adoption of respectful language;
 7. Enhancing health, for example, by promoting healthy diets and nutrition, and providing HIV screening.
- h. Establish programs that target the specific needs of female students, such as:
1. Encouraging achievement in math and sciences;
 2. Providing pregnancy and STD prevention education;
 3. Enhancing personal and academic self-esteem;
 4. Challenging negative stereotypes of Black females and males;
 5. Protecting female students from sexual harassment and/or interpersonal violence;
 6. Enhancing the presence of Black women in the curriculum; and
 7. Enhancing health, for example, by promoting healthy diets and nutrition, and providing HIV screening.
- i. Research the causes of African American over-representation in remedial and special education. Understand the reasons why this over-representation is dramatically worse for males. Ensure that instruction in such programs is properly funded and productive.
- j. Utilize curricular materials and pedagogical approaches that are proven effective or may be proven to be effective for African American students.
- k. Schedule, at least twice each semester in middle and high schools, special assemblies involving all female students, and separate assemblies involving all male students, in order to promote healthy development into adult female and male roles. Such assemblies



must be sufficiently funded to bring in outstanding speakers and other talent who can inspire students and serve as positive role models.

- I. Implement programs that promote positive intercultural relations, especially with Latino students.

Focus Area #4. Provide support for parents and families of underachieving African American students.

- a. Establish a dedicated **“Parent Support/Education Program”** at school sites utilizing the volunteer assistance of parents of “successful students” as peer supporters of other parents whose children are less successful.
- b. Provide parenting workshops to assist families in preparing children for elementary school and for sustaining success through high schools.
- c. Encourage and recruit churches, community organizations and other agencies to collaborate with schools to identify parents/families in need of assistance and offer needed resources including counseling, monitoring and community support for the parents. These groups/organizations should be available when students are performing in less than satisfactory ways to intervene with the family members of the student and provide assistance to remedy the situation.
- d. Legislation and other legal interventions are needed to require parental response to schools when students are demonstrating unsuccessful behaviors. The absence of required parental participation, by ignoring school outreach efforts, significantly restricts the schools’ ability to provide assistance or to successfully engage in prevention activities.
- e. Adequate counseling services for the community, during evening hours, should be available to provide family support for those in need of assistance.
- f. Generate financial support, through contracts and grants, to support a parent/family outreach effort.
- g. A dedicated **“Family Center”** or **“Parent Room”** should be established on every campus and staffed by carefully screened and selected local parent/community members as employees, who are responsible for generating all school site parent support activities, including regular visitations to schools during the instructional day to observe their children and provide a visible presence on campus.



- h. Develop an independent “**Black Parent Union**” with training on school structures and procedures, functions of advisory committees, school site governance, etc.
- i. Develop an assessment instrument to enable parents and community members to objectively determine school effectiveness.
- j. Develop communication and mobilization systems utilizing phone trees, e-mails, and other devices.
- k. Statewide legislation should be established to expand California Assembly Bill (AB 3782), which permits parental release time from employment to visit schools during the school day. Current legislation encourages parental visits and suggests the use of vacation or other earned compensatory time; however legislation is needed to require employers to release employees to support schools through personal visits in the same manner that employees are required to serve jury duty and/or respond to court subpoenas.
- l. Provide education and support for enhancing nutrition in African American families.

Focus Area #5. Improve the quality and competency of teachers graduating from teacher training institutions.

- a. Secure funding for the Pipeline to African American Teaching. This proposal has identified over 50,000 African American high school students who are interested in teaching. More than 30 Historically Black Colleges and Universities have expressed an interest in participating in the Pipeline Project.
- b. Revamp teacher preparation programs.