

# Message on Public Education 2013

## United Church of Christ Justice & Witness Ministries

resources to support stronger and more equitable public schools



### The Public Purpose of Public Education

by Jan Resseger, Minister for Public Education and Witness

“When a local public school is lost to incompetence, indifference, or despair, it should be an occasion for mourning, for it is a loss of a particular site of possibility. When public education itself is threatened, as it seems to be threatened now—by cynicism and retreat, by the cold rapture of the market, by thin measure and the loss of civic imagination—when this happens, we need to assemble what the classroom can teach us, articulate what we come to know, speak it loudly, hold it fast to the heart.”<sup>1</sup>

—Mike Rose, *Possible Lives: The Promise of Public Education in America*

The politics of public education have turned so ugly that one wakes in the night with anxious questions. In a year when the platform of one Texas political party would ban the teaching of “higher order thinking skills” and “critical thinking,”<sup>2</sup> have we turned against education itself? A decade after the death of Fred Rogers, have we stopped treasuring our children and wanting them to enjoy childhood while they grow? Have our political leaders, many of them one-percenters, so little experience with the public schools that are the quintessential institution of the 99 percent—both the children and their teachers—that our leaders fail to understand the schools’ complex needs?

While our speculation about the answers to these questions can only worry us, several issues are perfectly clear today. As Stanford University professor Linda Darling-Hammond recently told the graduates of Teachers College, Columbia University, “The new scientific managers cleverly construct systems that solve the problems of the poor by blaming the teachers and schools that seek to serve them, calling the deepening levels of severe poverty an ‘excuse,’ rewarding schools that keep out and push out the highest-need students.” “The United States now has a far higher poverty rate for children than any other industrialized country... Our leaders do not talk about these things. They simply say of poor children, ‘let them eat tests.’”<sup>3</sup>

Public schools, as currently funded in our increasingly stratified society, too seldom serve as a ladder out of poverty, and although many educators recognize an urgent need to address child poverty and invest in the public schools in our poorest communities, our elected leaders in both political parties are instead prescribing privatization as the solution. The *Justice & Witness Ministries Message*



on *Public Education* for this 2012-2013 school year will examine what those who have thought seriously about the public nature of public education have expected the institution to accomplish and whether today’s myriad attempts to privatize what our society has valued as the foundation of our democracy can produce a better outcome.

#### The Historical Context

Our society’s commitment to a public system of education began in the eighteenth century. In 1785, pronouncing public purpose and public ownership as necessary for America’s schools, John Adams declared: “The whole people must take upon themselves the education of the whole people and be willing to bear the expenses of it. There should not be a district of one mile square without a school in it, not founded by a charitable individual, but maintained at the public expense of the people themselves.”<sup>4</sup> While the Northwest Ordinance of 1787 set aside one section of each township for a school, it wasn’t until the 1830s and the 1840s that states began to establish real public systems.

As primary civic institutions public schools have reflected the shortcomings of society itself. Because our schools have been public, however, citizens have been able to press through the democratic process to make them more inclusive. For well over a century after the nation’s founding, “the education of the whole people” left out indigenous people and African slaves and their descendants. Indigenous children were sent to boarding schools designed to erase the cultures and languages of their people. During the nineteenth and into the twentieth century, African American and American Indian children were often provided “manual” skills training, while many of their counterparts in the dominant culture received an academic curriculum. Public schools have privileged English and the students for which English is a primary language. Schools have embodied the very different expectations society held

For more information, contact Jan Resseger (216-736-3711), <ressegerj@ucc.org>. This resource is posted at: <http://www.ucc.org/justice/public-education/pdfs/Message-13-web-version.pdf>. For updates, see our public education web pages: <http://www.ucc.org/justice/public-education/>.

for boys and girls. Schools across metropolitan America today reflect America's segregated housing patterns, but it is also true that *de jure* segregation in the South was overcome by the Civil Rights Movement's advocating for reform of the public system. According to a major report of the Educational Testing Service, public schools made significant progress toward closing the racial achievement gap from the early 1970s until the late 1980s when efforts to desegregate schools waned and test-based accountability became the dominant school philosophy.<sup>5</sup> While much work remains, instead the political conversation today is about privatization—the idea that our society can reform schools by moving away from one public system.

School privatization occurs when public schools, previously accountable to public boards of education, are turned over to private managers or private owners. Privatized schools may be for profit or not-for-profit. While school reform today is filled with many forms of privatization, the idea of education as part of a marketplace is quite new. Historian David Tyack calls it a mistake to construe the world of private education as if it had been, “only an amorphous market constituted by the free choice of individuals. In the past most parents who chose non-public education sought specific forms of religiously oriented schools... to teach religious doctrines and virtuous habits to their children.”<sup>6</sup> Before Mayor Kurt Schmoke contracted in 1992 with a private firm, Education Alternatives Inc., to run the public schools of Baltimore, Maryland, a short-lived and ultimately failed experiment, attempts to privatize were rare and scattered.<sup>7</sup> The first voucher program, in Milwaukee, was initiated in 1990 and a local program in Cleveland attempted soon thereafter.

School privatization schemes today include: **vouchers**, public funds turned into scholarships to cover private and parochial school tuition; **tuition tax credits** that give people dollar-for-dollar tax write-offs for contributions to scholarships for students to attend private schools; **education management organizations (EMOs)**, corporations that school districts hire to manage their schools; **private contractors** that design, analyze and manage standardized testing, test grading, data collection and analysis and provide other services like food preparation and security guards; **charters and charter management organizations (CMOs)**, private firms that run the chains of charter schools; and **virtual e-schools**, a subset of charter schools that serve home-schoolers over the internet.

Privatization is being posed as the solution for a pair of crises. Its proponents insist that privatization will bring the efficiency and supposed cost savings of market competition to address what is a very real crisis in the poorest schools of our cities, where concentrations of children live in poverty, many in extreme poverty with family income less than \$11,000 annually. In these communities state and local school funding adds up to sometimes half of what is spent in outlying suburbs.

A second crisis has been created by the No Child Left Behind Act (NCLB), which has moved the passing bar on standardized tests higher each year for all public schools. The law's utopian standards have now labeled more than half of the nation's public schools “failing.” The education historian Diane Ravitch has pointed out that the term “failing schools” was not part of our lexicon until the past decade when the test-and-punish regime of NCLB was well under way.<sup>8</sup> By creating the appearance of widespread school failure, the law has—on top of the alarming and very real crisis in many urban schools—undermined confidence in public education. Privatization is posed by its adherents as the cure. Today's blanket indictment of public schools “blinds us to the complex lives lived out in the classroom,” warns educator and writer Mike Rose.



“It preempts careful analysis of one of the nation's most significant democratic projects. And it engenders a mood of cynicism and retrenchment, preparing the public mind for extreme responses: increased layers of testing and control, denial of new resources, and the curative effect of free market forces via vouchers and privatization.”<sup>9</sup>

More recently Education Secretary Arne Duncan has used Race to the Top and other federal programs to expand privatization among the bottom scoring 5 percent of schools across the United States. Race to the Top, the School Improvement Grant program and the newer NCLB waivers impose strict sanctions on the teachers in these lowest-scoring schools and also require that many struggling schools be closed or reconstituted or turned over to privatized CMOs or EMOs.

Charter schools, which feature prominently among the new reforms, are a form of privatization. Although the sponsors of charter schools persistently refer to them as “public charter schools,” charter schools are public only in the sense that they receive public funding. They are almost always privately managed and often privately owned. Oversight is provided by appointed governing boards whose members are frequently neither required to meet in public nor to be accountable to the public. Although in the late 1980s charters were invented by school teachers as places they could innovate without as many constraints as traditional schools, today the charter movement has been hijacked by the large CMOs, some non-profit and some for-profit. Overall, charter schools have not out-performed traditional public schools, though such generalizations are deceiving because charters range from excellent to poor. A Stanford University study compared charters to local public schools and rated 17 percent better, 46 percent about the same, and 37 percent worse.<sup>10</sup> State legislatures, which had tried to proceed cautiously in the experimentation with privatization by setting caps on the authorization of new charter schools in any one year, eliminated these caps in 2009 as a federal requirement for states to enter the

competition for Race to the Top grants. Race to the Top thereby opened the floodgates for privatization.

Major philanthropies are also investing heavily to promote the privatization of public education. Well known for funding charterization are the Bill and Melinda Gates Foundation, the Eli and Edythe Broad Foundation and the Walton Foundation as well as other powerful groups like Democrats for Education Reform, a pro-charter PAC that represents New York hedge fund venture capitalists. Working with the Center for Reinventing Public Education at the University of Washington, for example, the Gates Foundation has introduced a District-Charter Collaboration Compact.<sup>11</sup> If a school district signs a pledge to share local tax resources with charter schools, the Gates Foundation awards \$100,000 and the school district becomes eligible to apply for additional funds from a \$40 million grants pool.<sup>12</sup> School districts with district-charter collaboration compacts include New York City, Chicago, Baltimore, Boston, Los Angeles, Austin, New Orleans, and Philadelphia, which expanded its commitment to charter schools in 2012 despite a projected \$282 million deficit for its public schools in the 2012-2013 school year. The Philadelphia *Inquirer* estimates that charter school expansion will drain an additional \$139 million from the school district's coffers over five years.<sup>13</sup> In Philadelphia, as in other cities, local philanthropies are also getting on board. The William Penn Foundation granted \$1.45 million in June of 2011 to the Boston Consulting Group to draw up the "blueprint" by which the district is currently being restructured, largely through the expansion of charter schools.<sup>14</sup>

### A Public Purpose

Until very recently our society has valued public education practically and philosophically. In the practical sense, public schools in the United States have been able to operate on a mammoth scale with 90,000 public schools in 15,000 school districts across 50 states and Puerto Rico—a relatively loose system that serves over 50 million children and adolescents and employs 3.5 million teachers. Public schools are established in the 50 state constitutions, where control and funding is shared by the school district and the state government. Traditionally the federal government's role has been to protect and expand the right to education and its provision for children who have been under served by their states—African American children, children living in poverty, American Indian children, immigrant children, children with disabilities, and girls. One reason local control continues to be valued, however, is that public schools across the United States are set in cities and suburbs, small towns and rural areas—from Hawaii to Alaska, Florida to Maine, Alabama to Illinois, Pennsylvania to California. "Schools are embedded in particular places, in communities," writes Mike Rose. "For all the features schools and communities share... life within classrooms is profoundly affected by the immediate life outside."<sup>15</sup>



Philosophically, public schools have been understood to represent a public purpose. "The founders of the nation were convinced that the republic could survive only if its citizens were properly educated," writes historian David Tyack. "This was a collective purpose, not simply an individual benefit or payoff to an interest group... The common school... was a place for both young and adult citizens to discover common civic ground, and, when they did not agree, to seek principled compromise."<sup>16</sup> "Federalists and anti-Federalists alike agreed that the success of the new experimental Constitution depended as much on the character and competence of the citizenry as on the clarity and farsightedness of the Constitution,"<sup>17</sup> explains political philosopher Benjamin Barber.

We have traditionally understood public schools as the site for the formation of a public—"a vehicle for deliberation, debate and decision-making...the locus for our continually shifting dialogues about civil society and the values and beliefs that bind us as a nation."<sup>18</sup> In 1915, philosopher John Dewey declared: "A government resting upon popular suffrage cannot be successful unless those who elect and who obey their governors are educated. Since a democratic society repudiates the principle of external authority, it must find a substitute in the voluntary disposition and interest; these can be created only by education."<sup>19</sup> Barber describes public schools as, "our sole public resource: the only place where, as a collective, self-conscious public pursuing common goods, we try to shape our children to live in a democratic world."<sup>20</sup> Even the courts have explicitly defined public education's civic purpose. The 2001 school funding decision in *Campaign for Fiscal Equity v. New York*, for example, declared that schools must prepare each student for, "acting as a knowledgeable voter with the intellectual tools to evaluate complex issues, such as campaign finance reform, tax policy, and global warming, and serving as a capable juror with the skills to determine questions of fact concerning DNA evidence, statistical analysis, and convoluted financial fraud."<sup>21</sup>

Public education has been imagined as enmeshed in the mutual obligation of the beloved community. Dr. Martin Luther King, Jr. wrote to his own children: "I don't ever want you to forget that there are millions of God's children who will not and cannot get a good education, and I don't want you feeling that you are better than they are. For you will never be what you ought to be until they are what they ought to be."<sup>22</sup> "It's reasonable to assume that education in a democracy is distinct from education under a dictatorship or a monarchy, but how?" asks Chicago professor William Ayers. "Surely school leaders in fascist Germany or communist Albania or medieval Saudi Arabia all agreed, for example, that students should behave well, stay away from drugs and crime, do their homework, study hard, and master the subject matter, so those things don't differentiate a democratic education from any other. What

makes education in a democracy distinct is a commitment to a particularly precious and fragile ideal... that the fullest development of all is the necessary condition for the full development of each; conversely, the fullest development of each is necessary for the full development of all.”<sup>23</sup>

Whether public education imposes assimilation to the dominant culture as the ticket to full democratic participation has remained highly contested, although voices for respecting multicultural diversity are heard more clearly today than in the past—at least in academic circles. Benjamin Barber insists: “America is not a private club defined by one group’s historical hegemony. Consequently, multicultural education is not discretionary.... For what we share in common is not some singular ethnic or religious or racial unity but precisely our respect for our differences: that is the secret to our strength as a nation, and is the key to democratic education.”<sup>24</sup> Believing that public schools are the essential institution for making room for all, James Banks, the father of multicultural education, rejects dominant culture hegemony in public schools: “A significant challenge facing educators... is how to respect and acknowledge community cultures... while at the same time helping to construct a democratic public community with an overarching set of values to which all students will have a commitment and with which all will identify.”<sup>25</sup>

### Public Schools as a Moral Force

Our society has understood government as a moral force for fairness and greater access to opportunity. Ensuring that schools are universally available and expanding equal access to education has been understood as an essential moral purpose of our public system. “All that society has accomplished for itself is put, through the agency of the school, at the disposal of its future members...” writes John Dewey. “Only by being true to the full growth of all the individuals who make it up, can society by any chance be true to itself.”<sup>26</sup> “Equality is achieved not by handicapping the swiftest,” proclaims Barber, “but by assuring the less advantaged a comparable opportunity. ‘Comparable’ here does not mean identical... Schooling allows those born poor to compete with those born rich...”<sup>27</sup>

The churches have continued to work for a comprehensive public system to expand opportunity for all—not just some—of God’s children. The Rev. Dr. Michael Kinnamon, former General Secretary of the National Council of Churches, describes a growing ecumenical consensus that, “education should not be viewed in isolation but as part of the wider social context, because while each child is unique, all children are precious, which means that an education system in which some children have access to excellent instruction while others, often in inner cities or remote rural areas, do not is simply unacceptable.”<sup>28</sup> “We affirm that our society’s

provision of public education... while imperfect, is essential for ensuring that all children are served...” writes the Governing Board of the National Council of Churches. “We know that such a system will never be perfect, and we pledge as faithful citizens to continue to improve the schools in our communities and to make our system of schools more responsive.”<sup>29</sup>

Public schools have been chosen by those promoting justice to help society realize its proclaimed ideals. To overcome racial segregation, for example, civil rights advocates selected public schools as the institutions where change could most likely be accomplished. By bringing children together to learn, advocates may have imagined, we could start afresh by forming our children in a new way. And if we brought all children together—rich, poor, powerful, and marginalized—the children whose needs were greatest would experience a measure of equity by sharing the institutions where privileged children were already being well served. The idea was to make equality more achievable by using a widespread but at the same time structured institution already designed to help children realize their potential. The work continues. During 2010 and 2011, for example, parents and advocates for justice worked together in Wake County, North Carolina to beat back an attempt by a reactionary and racist school board to dismantle school desegregation. Voters in metropolitan Raleigh—black and white—installed a new school board that will continue the struggle to use public schools as a venue for broader social justice.



Justice is, by definition, structural and systemic, with a society’s laws and primary institutions the mechanisms for distributing opportunity. The struggle for public school funding has been at the center of efforts to ensure that our society fairly serves all children. Advocates have sought equity even as citizens, state legislatures, and the courts have wrestled with the degree to which the infusion of funds from states and, to a smaller degree, the federal government should compensate to at least some degree for the disparate taxing capacities of wealthy and poor communities. Although the 1954 U.S. Supreme Court decision in *Brown v. Board of Education* seemed to guarantee for all children the right to a quality public education, a lesser known 1973 decision, *San Antonio v. Rodriguez*, undercut *Brown*’s mandate by declaring that public education is not a fundamental, federally protected right under the Fourteenth Amendment to the U.S. Constitution. School funding equity was thereby thrown back to the states, where courts in 45 states have considered lawsuits to make funding more adequate and distribute public dollars equitably. Despite the improvements these lawsuits have brought, today disparities in per-pupil investment remain more than 3:1 across school districts and states,<sup>30</sup> because cases have faced lengthy appeals, with already inadequate legislative remedies undercut by subsequent state budget crises. Once

again public schools are the site of our society's deepest struggles.

Widening income inequality has recently been recognized as a primary challenge manifesting itself in public schools. The rate of child poverty in the United States is 22 percent, the highest in any industrialized society.<sup>31</sup> And recently Stanford University educational sociologist Sean Reardon reports dramatic growth in an income-inequality achievement gap that tracks America's growing economic segregation and the widening chasm between the poor and the wealthy. According to Reardon, between 2000 and 2007, residential segregation by income grew significantly in almost all large and medium size metropolitan areas, with the affluent more segregated from other Americans than the poor. While in 1970, only 15 percent of families lived in neighborhoods classified as affluent or poor, by 2007, 31 percent of families lived in such neighborhoods—with fewer families in mixed income communities.<sup>32</sup> Tracking this broader phenomenon, the achievement gap, as measured by student test scores between the children in families with income in the top ten percent and the children with income in the bottom ten percent, is now 30-40 percent wider among children born in 2001 than those born in 1975. The income inequality gap has grown twice as large as the black-white achievement gap.<sup>33</sup>



The challenges are daunting, particularly because shortfalls in the state budgets on which public schools primarily depend have, since the economic collapse in 2008, been the largest on record despite the temporary assistance provided by a two-year federal stimulus program launched in 2009.<sup>34</sup> From 2008 through August of 2011, 257,000 jobs of teachers and other school personnel were eliminated nationwide.<sup>35</sup> Today as Congress prepares to trim the federal budget, a State Budget Crisis Task Force warns that a 10 percent cut in federal grants would cost states annually \$60 billion.<sup>36</sup> The Center on Budget and Policy Priorities projects that even with continued economic growth of 8.4 percent annually and without additional federal cuts, state governments will be unable to restore their financial losses from the recession until 2019.<sup>37</sup>

Though our society has not been willing to support the public schools adequately to rectify growing inequality, we have continued to expect them to ensure that all children achieve and blamed the schools instead of ourselves when the schools have failed us.

### **Public Schools Are Publicly Accountable**

Our society has expected public schools not only to serve a public purpose but also to be publicly accountable as institutions that are publicly owned. In a 2010 pastoral letter the Governing Board of the National Council of Churches declared, "We support democratic governance of public schools. Because public schools are responsible

to the public, it is possible through elected school boards, open meetings, transparent record keeping and redress through the courts to ensure that traditional public schools provide access for all children. We believe that democratic operation of public schools is our best hope for ensuring that families can secure the services to which their children have a right."<sup>38</sup>

Locally elected boards of education regulate school district finances and approve district policies. State legislatures regulate employment practices, and establish uniform academic expectations from school district to school district including the grade levels provided for all children, courses required for graduation, academic standards, the method for measuring academic performance, the length of the school day and school year, and required credentials for professional staff. State laws also regulate the credentials of school treasurers and establish business practices. In the context of such laws, states regularly inspect school accounts and make the records available for public inspection by citizens and the press.

After the 1954 Supreme Court decision in *Brown v. Board of Education* and passage of the Civil Rights Act in 1964 and the Elementary and Secondary Education Act in 1965, the federal government became more deeply involved in public ownership of public education by regulating inclusion for children who had been left out and left behind. Title I, the centerpiece of the Elementary and Secondary Education Act, provided federal funds with the requirement that schools serving a large number or a concentration of children in poverty add services to help those children catch up. In 1972, Congress passed Title IX to guarantee equal services for girls. In 1975 Congress mandated that schools provide individual education plans (IEPs) for all children with disabilities and serve those children in the least restrictive environment possible. Two Supreme Court decisions, *Lau v. Nichols* in 1974 and *Plyler v. Doe* in 1982 brought the federal guarantee of English language instruction for immigrant children and federally protected the right to public education for the children of undocumented immigrants.

While many complain that public schools are overly bureaucratized, it is precisely because public schools are regulated to protect the public that advocates for children have been able to bring public pressure to expand opportunity in public schools. Legislation that addresses the rights of protected classes of children has brought funding with it and pressured schools to develop services that otherwise would not have been attempted. And when racial and ethnic groups have been left out or individual children poorly served, school boards, regulatory agencies, and the courts have been places where parents could appeal for services. Public agencies must conduct their business transparently with decisions documented in a public record. Sunshine laws provide that public agencies meet in public and provide at least minimal opportunity for public participation.

## Privatization Serves Individuals, Undermines the Common Good

Privatization, framed as free choice and freedom from government, comes with serious philosophical and moral questions. Is it possible to build an education system that offers good choices for each child while providing quality services for all children, wherever they live, whoever their parents, and whatever their abilities or needs? Is growing reliance on charters and other privatized strategies creating one set of schools for the most promising children while making the traditional public schools a system of last resort? Are we relying on a lifeboat strategy for relatively few children when instead we need to invest in buoying up the public system, especially in America's poorest communities?

While states have not permitted charter schools to select their students, many charters screen students in subtle ways—a complicated application process, an admissions interview, a parental contract. Transportation may not be provided. Services for disabled children and English language learners are the most expensive services public schools are required to provide. In June 2012, the U.S. Government Accountability Office reported that charter schools serve significantly fewer children with disabilities, especially the very serious disabilities like autism, intellectual disabilities and multiple handicaps.<sup>39</sup> Charters serve far fewer homeless children and fewer children who move in after the school year has begun, when charter schools have reached the enrollment caps they are permitted to establish. While it is alleged by many charter school advocates that a greater percentage of their graduates matriculate at colleges than their public school peers, this claim is countered by research demonstrating that during middle school or the early years of high school, many charters shed back into the public schools less promising students or those with behavior problems.<sup>40</sup> These students are therefore not counted as part of the charter school's graduating class. Major studies have indicated that charter schools are racially and ethnically more segregated than the public schools in their communities.<sup>41</sup>

In a 2010 pastoral letter, the Governing Board of the National Council of Churches warned, "We are concerned today when we hear the civil right to education being re-defined as the right to school choice, for we know that equitable access to opportunity is more difficult to ensure in a mass of privatized alternatives to traditional public schools.... We must continue to expect public school districts to provide a complete range of services accessible to children in every neighborhood of our cities."<sup>42</sup> What happens to the children who are not chosen or whose parents are not active choosers? What is the government's moral and fiscal responsibility to the students remaining in

the neighborhood public schools? Justice is systemic and can be realized only when society's laws and institutions provide access for all children, not just for those who can manage to climb into a lifeboat.

Privatization turns parents into consumers. In a marketplace where parents are encouraged to satisfy their particular family's desires by choosing schools that most perfectly meet the needs of their own children, education's goal is redefined with a private rather than a public purpose. The American Legislative Exchange Council (ALEC), an organization that pairs state legislators with corporate lobbyists to promote privatization, re-defines the goal of mass education as pleasing individual parent-consumers with a smorgasbord of choices: "Public schools meet all of the needs of all the people without pleasing anyone."<sup>43</sup> A market, however, is different from a public institution, according to Benjamin Barber, because, "The civic calling... points to collaborative norms and an ethics of care in which relationships between persons, rather than individual rights or individual preferences are a primary focus..."<sup>44</sup>

Marketplace thinking and privatization threaten equity of funding. Nine states and the District of Columbia are redirecting tax dollars into privatized schools through vouchers: Florida, Georgia, Indiana, Louisiana, Mississippi, Ohio, Oklahoma, Utah, and Wisconsin. The Douglas County School District in Colorado, a school district that includes Denver and Colorado Springs, has a local voucher program.<sup>45</sup> In Indiana's new voucher program, 60,000 children will qualify to pull money out of the public system.<sup>46</sup> A statewide voucher program recently enacted in Louisiana is designed to provide all poor and middle class students across the state up to the full cost of tuition at any private school. In 2013, Louisiana's students will also be able to apply for \$1,300 mini-vouchers for vocational training and apprenticeships offered through the private sector.<sup>47</sup> Together these programs are expected to drain at least \$3.3 billion from Louisiana's public school funding budget.<sup>48</sup>

States with tuition tax credit programs give taxpayers dollar-for-dollar tax write-offs when they elect to contribute to tuition scholarship funds for students to attend private and parochial schools. According to the *New York Times*, during the 2011-2012 school year, tuition tax credits in eight states redirected nearly \$350 million out of state public education budgets and into scholarships for 129,000 students in private schools.<sup>49</sup> By 2012, eleven states will have tuition tax credits: Arizona, Florida, Georgia, Indiana, Iowa, Louisiana, New Hampshire, Pennsylvania, Oklahoma, Rhode Island and Virginia.<sup>50</sup>

A particularly egregious threat to public funding of public education comes from the on-line academies, the most lucrative form of charter schools and very often for-profit corporations. When a state charters a virtual academy, the on-line school collects an amount that ranges



from 70 to 100 percent of the state's basic allocation per pupil,<sup>51</sup> and sometimes, as in Pennsylvania, a percentage of local tax dollars as well. Students attend school at home by computer, however, and the virtual school does not incur the kind of expenses public school funding is designed to cover—a brick and mortar school, school bus transportation, counselors and other support professionals, enrichment activities, and enough teachers to control class size. Teachers connect with students by phone or in simulated classrooms like webinars and function more like consultants. At K-12, the largest of the for-profit, on-line schools, teachers are responsible for three times more students per teacher than the average public school teacher's class load.<sup>52</sup> Agora, the Pennsylvania franchise of K-12, extracted income of \$72 million from public tax dollars during the 2011-2012 school year. According to the *New York Times*, Agora generated 10 percent of K-12's income nationwide.<sup>53</sup>

### Privatization Leaves the Public Unprotected

Proponents of privatization say creativity and innovation will blossom if schools are freed from the bureaucratic burdens required by government. But too often without the protection of government's checks and balances, the managers of charter networks and for-profit Education Management Organizations and those pushing vouchers have put the interests of profits or the growth of their particular enterprise ahead of the good of the public.

“As more and more government functions get privatized,” writes *New York Times* columnist Paul Krugman, “states become pay-to-play paradises, in which both political contributions and contracts for friends and relatives become a quid pro quo for getting government business.... a corrupt nexus of privatization and patronage that is undermining government across much of our nation.”<sup>54</sup> Examples abound. Stan Heffner, Ohio's state school superintendent, was forced to resign in August 2012, after less than a year on the job. Serving as interim state superintendent in May of 2011, Heffner, who had, unbeknownst to anyone, signed a contract to move to Texas to work for the Educational Testing Service, lobbied for selection of ETS as the vendor for Ohio's standardized tests. Later Heffner accepted a permanent position as state superintendent and chose not to work for ETS, but his lobbying for a contractor with whom he had signed a contract later forced his resignation because he had worked for his own, not the public's interest.<sup>55</sup> Pearson, the giant, for-profit education corporation that publishes text books, creates, sells, and grades standardized tests required by NCLB, and contracts to manage the General Educational Development (G.E.D.) alternative high school equivalency program, is being investigated by the New York state attorney general because the Pearson Foundation, a non-profit, tax-exempt foundation connected with the publishing company, has been treating state school superintendents to extravagant junkets to Australia, England, China, Singapore, Finland, and Brazil—the same

superintendents responsible for issuing contracts for the kind of standardized tests and test grading and textbooks sold by Pearson's for-profit arm.<sup>56</sup> Joel Klein left his job as chancellor of the New York City Schools to head up a new education division at Rupert Murdoch's News Corporation. “Amplify,” as this new education division is called, will develop digital learning, educational analytics and data systems, and curricula in English, science and math to sell to school districts.<sup>57</sup> Presumably Klein is expected to use his power and influence to sell Amplify's products to the school leaders with whom he is acquainted.

Charter schools offer many examples of the problems arising from privatization. At the same time federal policies like Race to the Top, School Improvement Grants, and the new NCLB waivers are driving the rapid proliferation of charter schools, the federal government has proposed no federal oversight. Charter schools continue to be



regulated solely in state law. Even in instances of influence peddling or outright fraud, state laws have often been too weak to protect students' rights and the public's financial investment.

Ohio's David Brennan, owner of White Hat Management, Ohio's largest for-profit manager of charter schools, for example, has contributed generously to the Ohio legislators who ought to be responsible for protecting the public interest by regulating for-profit charters. Since 2001, Brennan and his family have contributed over \$4 million to candidates for the Ohio legislature. In 2010 alone, Brennan contributed over \$400,000 to candidates for office.<sup>58</sup> It should not be surprising then that for over ten years, legislators have been unable to agree on regulations that would close what Ohio calls dropout-recovery schools when their performance is persistently

low. These are the schools, many of them owned by Brennan's company, that serve students who have left another school or are at risk of dropping out. While these schools serve 25 percent of Ohio's charter school students and many of the schools post failing test scores year after year, they have not yet been made subject to closure when their academic performance lags.<sup>59</sup>

Brennan's White Hat Management requires its schools to turn over 96 percent of state funding and any federal funds to the parent corporation without reporting to the schools or the general public how much money has been spent operating the schools and how much has profited the owners. In 2010, ten White Hat charter schools, all tax supported, tried to withdraw from the White Hat network and eventually were forced to sue the company for a detailed accounting, including the amount spent on rent, salaries, and other services. In February of 2012, a Franklin County judge finally ordered White Hat to turn over to the schools filing the lawsuit—but not to the public—“detailed financial records, including tax returns, building leases and transactions with its subsidiaries, to show how it spent millions in public tax dollars received each year.”<sup>60</sup>

Powerful individuals have been able to leverage their political connections for the benefit of their own chains of schools but not necessarily for the good of the public. On June 25, 2012, the State University of New York's Charter Schools Committee granted a 50 percent increase in the tax-generated per-pupil management fee to Harlem Success Academy Charter Schools, run by politically powerful, former New York City Councilwoman Eva Moskowitz. Ignoring public criticism, the Committee granted the increase despite that the Success Network had posted a year-end surplus of \$23.5 million and spent nearly \$883,119 on publicity and student recruitment in the past year including fees of \$243,150 to SKD Knickerbocker, a New York public relations firm, and \$129,000 to a Washington, D.C. consulting firm.<sup>61</sup> Moskowitz's per-pupil increase demonstrates how power and political connections operate in a privatized system. Many of Moskowitz's Success Academy charter schools are "co-located" (a New York term) in buildings with public schools that lack money to purchase the kind of equipment and programming Moskowitz's schools provide. New York City public school parents allege that when several different schools share the same building, the more powerful charter chains are often permitted to claim extra time in labs, libraries and playgrounds.<sup>62</sup>

One of the most disturbing aspects of privatized school reform is the loss of democracy itself as parents have nowhere to turn to provide input into their children's placement or to seek redress when they need to appeal a decision that affects their child. Very often large scale privatization has been implemented in school districts where the power of the school board has already been abrogated through mayoral governance with an appointed school board or the imposition of state control. In a public system, locally elected school boards protect at least minimal access for parents and the community. In 2010 in New Orleans, five years after Hurricane Katrina, the turnover of the majority of the schools to state control, and the subsequent charterization of the majority of the public schools, parents represented by attorneys from the Southern Poverty Law Center and the Loyola Law Clinic were forced to file a lawsuit against the Louisiana Board of Elementary and Secondary Education and several charter schools. The lawsuit charges that the charter schools do not offer appropriate services for children with disabilities, services guaranteed by the federal Individuals with Disabilities Education Act. With schools in New Orleans reporting to over 40 different boards, many of them private and not required to meet in public or hear parents' needs, the parents filed the lawsuit when they could find no other avenue to address their children's needs.<sup>63</sup>

Three very poor school districts in Michigan most tragically exemplify what it means to lose democratic

protection of students' right. A Michigan law passed in March of 2011 permitted Michigan's governor to appoint an emergency manager for any municipality or school district in financial distress and for the emergency manager to override previously negotiated labor contracts. Emergency managers have been able to make decisions with a free hand without oversight by the elected school board, local officials or local voters. In July 2012, for example, Roy S. Roberts, Emergency Manager of the Detroit Public Schools, imposed a new three-year contract "agreement" on the Detroit Federation of Teachers. Claiming, "It's a good contract for our children," Roberts announced he will permit up to 41 students in grades K-3 and up to 61 students in grades 6-12.<sup>64</sup> Two other school district emergency managers have used their power to leave the public unprotected by privatizing entire districts. For example, the emergency manager in the financially troubled Muskegon Heights School District contracted with Mosaica, a for-profit charter management company to run the public schools for five years.<sup>65</sup> Muskegon Heights laid off all teachers in June 2012, and Mosaica spent the summer hiring teachers at an average salary of \$35,000, far less than the average salary of public school teachers.<sup>66</sup>

In Highland Park, one of the poorest school districts in Michigan, the American Civil Liberties Union filed a lawsuit in July of 2012 on behalf of plaintiff students who have chronically failed standardized tests in reading. The words of the legal complaint profoundly name the injustice: "Defendants know that children enrolled in (Highland Park School District) HPSD schools... face severe literacy deficits, yet they have taken no meaningful action to address this crisis....

The state of Michigan's responsibility for this failure... is all the more inexcusable in light of its direct involvement in the management of HPSD through the State-appointed Emergency Manager who superintends the district and is now responsible for its day-to-day operation... From the initial appointment of the Emergency Manager... little or no attention has been paid by that office to the deficient learning conditions described in this Complaint... On or about June 18, 2012, the Emergency Manager announced that she would place the operation of HPSD out for bidding to charter school operators... State Defendants have not made delivery of the reading intervention programs required by MCL380.1278(8) (state law) a prerequisite for qualifying to operate schools, nor have they even inquired as to the track record that the applicants to operate HPSD's schools have in addressing basic literacy needs of their students or as to the quality of literacy services (if any) that the operators have provided."<sup>67</sup>

When, in August 2012, Michigan citizens gathered sufficient signatures to place a referendum on the November 2012 ballot to repeal the law establishing emergency managers and a court subsequently suspended the current law until after the referendum, elected school boards struggled to regain a foothold. In Detroit and



Muskegon Heights, with all teachers laid off in May, confusion and legal wrangling complicated the struggle during August to staff schools for the 2012-2013 school year. The private contract with Mosaica will likely be upheld in Muskegon Heights; whether Highland Park will become a privatized district remains in question.

Benjamin Barber describes the loss of democracy inherent in privatization: “Privatization is a kind of reverse social contract: it dissolves the bonds that tie us together into free communities and democratic republics. It puts us back in the state of nature where we possess a natural right to get whatever we can on our own, but at the same time lose any real ability to secure that to which we have a right... Private choices rest on individual power... Public choices rest on civic rights and common responsibilities, and presume equal rights for all.”<sup>68</sup>

### **Privatization Has Begun to Affect How We Think About Public Education**

Marketplace language and values have also begun to creep into thinking about public school policy, undermining the moral bedrock of the public system. For example, a growing percentage of federal funding for education is being allocated according to the marketplace value of competition. Federal competitive programs include Race to the Top and School Improvement Grants—“best practice” programs that require states and school districts to submit formal proposals to be evaluated by panels of judges. The challenge, of course, is that races with winners always create losers. When 38 states were losers in the original Race to the Top competition, all the children in those states were losers. As the U.S. Department of Education has introduced competitive grant programs, it has frozen formula programs from the civil rights era that awarded funds according to the specific needs of the children to be served. Title I is an important example of a formula program frozen in recent federal budgets and being slowly transformed into competitive programs. Title I was created in 1965 in the original Elementary and Secondary Education Act to provide federal aid for schools serving children in poverty. Although the Title I formula program is small relative to state and local funding, it has been one of the federal government’s primary tools for equalizing educational opportunity as a civil right for every child. “There are those who would make the case for a Race to the Top for those who can run,” declares the Rev. Jesse Jackson. “Instead ‘lift from the bottom’ is the moral imperative because it includes everybody. We should be fighting for one set of rules—a common foundation beneath which no child falls.”<sup>69</sup>

### **Recovering the Moral Promise of Public Education**

Today in the United Church of Christ we must act on our heritage of social justice. In the tradition of at least a dozen resolutions that endorse education as a project of the



public and that have been passed by the UCC’s General Synods since the merger of several communions into the United Church of Christ in 1957, General Synod 18 upheld the principle of a democratically controlled public system of education: “The public schools belong to us, the people, and are controllable by democratic means. If we have the will, we can act to ensure that all schools offer equal education for all children, that the funding, multicultural and academic offerings, and enrichment programs which exist in one school system exist in or are accessible to all schools and all children. We can and must act to protect the public schools against those who slander them out of hidden anti-democratic, racial or class biases. But most particularly, we must protect the children in those schools, for such is not only the kingdom of heaven but also the future of our country and of the yet-to-be-realized democratic dream of equal opportunity for all...”<sup>70</sup> General Synod 25 explicitly affirmed: “the role of public institutions paid for by taxes for ensuring essential services and protecting the good of the wider community,” including providing “opportunity for every child in well-funded, high quality public schools.” The resolution continues: “The Tax code should be progressive, with the heaviest burden on those with the greatest financial means.”<sup>71</sup>

These are hollow statements unless, in this new gilded age, we can learn to speak with one voice to turn the attention of our political leaders to the urgent necessity for improving public schools in our poorest communities. Privatization undermines public purpose and the capacity of government to protect the public through well-regulated institutions. Poverty, income inequality and segregation by income as well as race are public problems best addressed systemically on a scale that can be accomplished only by government. We will need to halt the anti-tax demagoguery of today’s politics and invest in quality pre-school for all children and widespread public school reforms including more teachers and counselors to ensure that all children have personal connections to adults at school as well as services designed for the students’ particular needs. Large infusions of federal and state assistance will be necessary to compensate for the wide variation in local taxing capacity.

New York professors Michael Fabricant and Michelle Fine castigate privatization as merely another excuse: “Ultimately, charter policy hides a profound failure of political will—more specifically, a failure of business, legislative, and media leadership to support the kinds of budgets, taxation, and targeted investment necessary to revive public education as a key element of social and economic development and racial justice in the poorest communities.”<sup>72</sup> “While individual charter schools might or might not serve well the children in their community, the charter school campaign’s influence on national policy is ultimately a deception... that benefits a few at the expense of many... a market based political solution grafted onto growing inequality and an intensifying neglect of social crises in the poorest urban areas.”<sup>73</sup>

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