THE CRISIS IN K-12 EDUCATION AND EAST HIGH SCHOOL
By Joel Seligman
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There is a crisis in United States K-12 public education that has been long recognized and after many well-intentioned reform efforts is not being effectively addressed today.

In 1983, for example, the United States Department of Education memorably warned in *A Nation at Risk*, that the deterioration of United States K-12 education “threatens our very future as a Nation and a people.”¹

A current measure of the crisis in K-12 is national and state high school graduation rates. The United States today ranks 24th among the 34 economically advanced nations whose levels of educational achievement are measured by the Programme for International Student Assessment or PISA.²

In New York, in the most recent data 76.4 percent of students graduated from high school in four years.³ But this type of datum obscures the crisis. In 2015, there were 178 “priority” or “failing” schools in 17 school districts across the State, 77 of which have been failing for a decade.⁴ Among these schools is Rochester’s East High School, which in 2013-2014 had a graduation rate of 40.2 percent.⁵

These data should be read in context. East High School, like so many academically challenged high schools in our nation, is in an

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⁴ Id. at 8.
⁵ Id. at 155.
economically impoverished community. Ninety percent of East’s 1,851 students receive a free or reduced price lunch.⁶

The failure of so many of our high schools in Rochester and across the nation has implications for all of us. A 2009 McKinsey Study, entitled The Economic Impact of the Achievement Gap in America’s Schools, found:

that the underutilization of human potential in the United States is extremely costly. For individuals our results show that:

- Avoidable shortfalls in academic achievement impose heavy and often tragic consequences, via lower earnings, poorer health, and higher rates of incarceration…

- If the United States had in recent years closed the gap between its educational achievement levels and those of better-performing nations such as Finland and Korea, GDP in 2008 could have been $1.3 trillion to $2.3 trillion higher. This represents 9 to 16 percent of GDP.

- If the gap between black and Latino performance and white student performance had been similarly narrowed, GDP in 2008 would have been between $310 billion and $525 billion higher, or 2 to 4 percent of GDP.…. 

Put differently, the persistence of these educational achievement gaps imposes on the United States the economic equivalent of a permanent national recession.⁷

A 2012 Council on Foreign Relations report on U.S. Education Reform and National Security similarly highlighted:

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⁶ Ibid.
⁷ McKinsey & Co., The Economic Impact of the Achievement Gap in America’s Schools 5-6 (Apr. 2009).
America’s failure to educate is affecting its national security. Consider the following points:

- Despite sustained unemployment, employers are finding it difficult to hire Americans with necessary skills, and many expect this problem to intensify. For example, 63 percent of life science and aerospace firms report shortages of qualified workers.

- Many young people do not qualify for military service. A recent study on military readiness found that 75 percent of U.S. citizens between ages of seventeen and twenty-four are not qualified to join the military because they are physically unfit, have criminal records, or have inadequate levels of education.8

There are profound social consequences of our failing schools as well. As a recent report from the Washington Center for Equitable Growth puts it: “Children raised in poor, low-income families do worse on achievement tests than children raised in wealthy, high-income families – and the gap between them has been getting larger over the past seven decades.”9 The key implication of these data is that improvements in high school graduation will have positive consequences in reducing income inequality,10 improving race relations and reducing criminalization of so many who fail at high school and live in poverty. The Washington Center for Equitable Growth further reports: “Low-income children, in general, and children of color in particular, are more likely to experience violence and have interactions with the juvenile and criminal justice system…. Black children, for example, are 4.5 times more likely than white children to be

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9 Id. at 21.
10 Id. at 35-36.
apprehended for the same crime. Hispanic children are 2.5 times more likely than white children to be apprehended for the same crime.”

The ultimate social issue for us involves asking, in what kind of nation do we wish to live? We run the risk of living in a society like that described by British Conservative Prime Minister Benjamin Disraeli in his novel *Sybil* of “Two Nations . . . between whom there is no intercourse and no sympathy, “an England then characterized starkly as simply involving “THE RICH AND THE POOR.”

This is not the United States any of us signed up for. Both political parties in recent decades have committed themselves to support for a social safety net and programs to address poverty such as Medicaid and K-12 reform in enactments such as No Child Left Behind.

To date these programs are not working well enough. In 2007, for example, Justice Breyer, joined by Justices Stevens, Souter and Ginsburg described an increasingly racially segregated nation, not because of legally mandated segregation which was outlawed by *Brown v. Board of Education* and its progeny, but because of the expiration of our experiment with busing to integrate schools and individual residential preferences.

Income inequality in any event is growing. Census family income data show that from the late 1940s to the early 1970s, incomes across the income distribution grew at nearly the same pace. Then, beginning in the 1970s, income disparities began to widen, with income growing much faster at the top of the ladder than in the middle or bottom. From 1979 to 2007, just before the financial crisis, average income for the top

11 Id. at 42.
13 347 U.S. 483 (1954)
14 Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701, 803 (2007). Breyer wrote in part: “More recently, however, progress has stalled. Between 1968 and 1980, the number of black children attending a school where minority children constituted more than half of the school fell from 77% to 63% in the Nation (from 81% to 57% in the South) but then reversed direction by the year 2000, rising from 63% to 72% in the Nation (from 57% to 69% in the South).” Id. at 805.
1 percent of the distribution quadrupled. The increases in the middle 60 percent and bottom 20 percent were much smaller.\textsuperscript{15}

There have been national, state and local efforts to address the role of K-12 education in this breakdown.

The No Child Left Behind Act of 2001 requires the states to establish academic standards for all schools and to regularly test all students to ensure that they are achieving these standards. The Act requires states to employ teachers in core subjects who are “highly qualified” in the subjects they teach. Schools then are measured by whether they make “adequate yearly progress.” Schools that fail to make adequate yearly progress are subject to an array of disciplinary measures, culminating in restructuring. No Child Left Behind has been controversial because of its reliance on testing, its use of state rather than federal curricular and other standards, and its perverse incentives for the best teachers to avoid the poorest performing schools.\textsuperscript{16} For the Bush administration Department of Education, turning around low-performing schools involved, among other recommendations:

\begin{itemize}
  \item Signaling the Need for Dramatic Change with Strong Leadership
  \item Turning around schools required focus on improving instruction at every level of the reform process, including using data to set goals for instructional improvement, making changes to affect instruction immediately and directly, and continually assessing student learning and instructional practices to refocus goals.
\end{itemize}

\textsuperscript{15} Chad Stone, Danilo Trisi, Arloc Sherman and Brandon DeBot, Center on Budget and Policy Priorities, A Guide to Statistics on Historical Trends in Income Inequality (Feb. 20, 2015) 7-8.
• A school leader who builds a staff committed to the school’s improvement goals and a staff qualified to meet these goals. This involves changes in staff who are not fully committed to the turnaround and professional development.\textsuperscript{17}

Several states and cities also have made major efforts to address K-12 reform. In 2002, for example, the State of Pennsylvania, frustrated by a history of low student achievement and financial crisis, took over the Philadelphia public schools, replacing the School Board with an appointed School Reform Commission, which then hired a CEO who instituted sweeping changes, including a district-wide common curriculum, frequent benchmark assessments, and a “diverse provider” model that turned over the management of 45 of the district’s lowest performing elementary and middle schools to seven for-profits and nonprofit organizations, including the University of Pennsylvania and Temple University. The private managers were given additional per-pupil funding to support their work. The State Reform Commission also restructured 21 low-performing schools, providing intensive staff support and extra per-student funding and separately provided 16 other schools (known as the sweet 16) that were perceived as improving with increased funding but no additional intervention.\textsuperscript{18}

The early results of the Philadelphia experiment were mixed. In 2007, a Rand Education study reported that after four years, neither the privately operated schools nor the sweet 16 had made achievement gains different than achievement gains for school districts throughout Pennsylvania. In contrast, the restructured schools that remained under the management of the School District of Philadelphia showed significantly positive effects in math in all three years of implementation and in reading during the first year.\textsuperscript{19}

\textsuperscript{17} Id. at 10-28.
\textsuperscript{18} Brian Gill, Ron Zimmer, Jolley Christman & Suzanne Blanc, State Takeover, School Restructuring, Private Management, and Student Achievement in Philadelphia xi (Rand Educ. 2007).
\textsuperscript{19} Id. at xiii.
Rand generalized from these results:

Philadelphia provides no evidence to support private management as an especially effective method of promoting student achievement, but it does not represent a clear test of full private management in a competitive market. Whether a model of private management that involves more autonomy to managers, parental choice, and competition for students would produce better results remains an open question.20

Massachusetts, in contrast, was a national leader in the charter public school movement. In 1993 Massachusetts enacted the Education Reform Act, building on a model earlier proposed by educator Ray Budde and former leader of the American Federation of Teachers Albert Shanker, who in the late 1980s proposed “a distinct policy mechanism that would enable any school or group of teachers . . . to develop a proposal for how they could better educate youngsters and give them a ‘charter’ to do so.”21 In the Budde and Shanker proposal, these charters would exempt schools from district regulation, but charter schools would be subject to district evaluations with the district possessing the power to revoke a charter based on evaluation results.22

In the Massachusetts model of charter schools, these schools are required to admit all students who apply and if more students apply than there are seats, the school is required to hold a lottery, a technique designed to ensure that charter schools do not simply cherry pick the most desirable students. Massachusetts charter schools are reviewed every five years by the State Board of Elementary and Secondary Education.23 Charter schools in Massachusetts enjoy five basic freedoms:

20 Id. at xiv.
22 Cara S. Candal, Putting Children First, The History of Charter Public Schools in Massachusetts 1 (Pioneer Inst. No. 48 Nov. 2009).
23 Id. at 2.
- The freedom to organize around a core, mission, curriculum theme, or teaching method.

- The freedom to operate as a single school district and outside of teachers’ union contracts and work-rules.

- The freedom to hire and fire teachers and other staff.

- The freedom to determine school budgets.

- The freedom to extend the school day and year.24

A 2009 study of charter schools in Massachusetts reported that there were then 62 charter schools in the state with a total enrollment of 26,384 students, of whom 49 percent were African American and 46 percent were low income.25 Charter schools are limited in Massachusetts by a cap that was negotiated when the charter school law was enacted in 1993.26

The Study reported that “charter schools have consistently outperformed their counterparts in traditional district schools on the Massachusetts Comprehensive Assessment System,”27 crediting the charter schools with increasing African American performance by roughly half of a preexisting black white achievement gap.28 The average graduation rate of the charter schools in Boston was 76 percent, compared to 60 percent for the other Boston public schools.29

The most widely publicized recent efforts to address the K-12 school crisis occurred in New York City when Michael Bloomberg was

24 Id. at 3.
25 Ibid.
26 Id. at 4.
27 Id. at 17.
28 Id. at 22
29 Id. at 23-26.
Mayor and Joel Klein was Chancellor of the New York City Department of Education.

Klein began with a simple premise. “From the day I became chancellor many people told me, ‘You’ll never fix education in America until you fix poverty.’” Klein always believed the reverse was true, “we’ll never fix poverty until we fix education.” In the Preface to his 2014 book, Lessons of Hope, Klein amplified:

the best research and much firsthand experience show that children with similar economic and social challenges often fare quite differently in school, usually owing to the quality of the schools they attend and the teachers they encounter. In some instances, the differences are quite astonishing. For example, the Success Academy charter schools in New York City perform at the same level as the best schools in the wealthiest communities anywhere in New York State.

Klein emphasized school choice and competition among schools as a key to improvement. “Our four-year colleges and graduate schools have always had to compete for students and faculty and have long been considered the best in the world, something no one can say of our K-12 system.”

Under Klein, New York City followed a four-part strategy:

First, he and his team “seized control of the system we inherited, a highly politicized mess of thirty-two disparate school districts, each doing its own thing in terms of academic standards and curriculum…. We dismantled the former district offices, rolled them up into a centralized management structure, established a citywide curriculum in reading and math and invested heavily in professional development for

30 Joel Klein, Lessons of Hope: How to Fix Our Schools xiii (Harper Collins 2014).
31 Ibid.
32 Id. at xv.
our teachers.”33 Later New York State would join what Bill Gates reported in 2014 were 44 other states and the District of Columbia in following a Common Core curriculum for mathematics and English Language Arts to set standards for all covered school districts.34

Second, New York City shut down dozens of failing high schools and replaced them with hundreds of new smaller schools, an effort in part supported by The Gates Foundation, which provided $51 million in 2003 for the New York City small school efforts.35 Students were given a choice of which school they wished to attend. New York City broadly expanded the number of charter schools. As with Massachusetts and elsewhere, the New York City charter schools had broad freedoms to set their own rules. For example, the Bronx KIPP school started at 7:30 a.m. and ended at 5 p.m. “Music lessons were mandatory, as were Saturday programs.”36 The 2013 KIPP Report Card described schools across the nation that were 58 percent African American and 37 percent Latino in which the majority entered 5th grade below grade level and by the end of 8th grade the majority exited above grade level. In the 8th grade, 93 percent of KIPP classes outperformed their local districts in reading, 89 percent in math.37 In some instances, such as Success Academy Charter Schools founded by Eva Moskowitz, Klein facilitated charter school growth by offering free use of underutilized school, facilities, allowing charter school enrollment to grow from 11,000 to almost 70,000 by the completion of Bloomberg’s second term in 2013.38 “Together, these programs amounted to the most dramatic expansion of school choice ever in America.”39

“Third,” Klein reported, “we put in place policies and programs that empowered principals and enabled them to be the real leaders of

33 Id. at xvi.
35 Klein, supra n.30, at 105. In 2009, the Bill & Melinda Gates Foundation reported that their Foundation had decided to invest $2 billion in grants to create better high schools.
36 Id. at 82.
37 KIPP 2013 Report Card at 14, 20, 22.
39 Klein, supra n.30, at xvii.
their schools, rather than puppets of the bureaucracy.” Among other
decisions, principals were empowered to hire teachers, contract with
outside support and training programs and make overall budget
decisions. In turn, the principals were held accountable for meeting
academic performance targets based largely on student progress.40 For
many the inspiration of Albert Shanker here was of consequence. As
Shanker explained, “The key is that unless there is accountability, we’ll
never get the right system. As long as there are no consequences if kids
or adults don’t perform, as long as the discussion is not about education
and student outcomes, then we’re playing a game as to who has the
power.”41

Fourth, the Klein model emphasized innovation. “To do this, we
established a cluster of some two hundred schools called iZone (for
innovation), and gave them additional funding so they could try new
ways of organizing themselves, teaching students, and using
technologies . . . Nothing like this,” according to Klein, “had ever been
tried in public schools.”42

The biggest frustrations Klein experienced were negotiating
changes to teacher work rules to achieve such outcomes as an “end to
the system that permitted senior teachers to claim jobs in specific
schools based solely on seniority,” “a return of teachers to hall duty,
lunchroom duty, and bus reception,” “more teaching time in each day.”43

The consequences of the Klein and Bloomberg approach to K-12
education were both controversial and impressive. “In seven years the
passing rate for fourth graders taking the state math test had risen from
53 percent to over 80 percent, and the gap separating the city’s kids from
students across New York State had nearly closed. . . . High-school
graduation rates had gone from 45 percent to 62 percent, even though

40 Ibid.
41 Shanker quoted in id. at 289.
42 Id. at xvii-xviii.
43 Id. at5 136.
the state had made graduation requirements more demanding. In 2007, New York City won the Broad Prize, endowed by philanthropists Eli and Edythe Broad, which is given annually to the urban school district that shows the greatest improvement based on statistical analyses of test scores and other metrics.

This was some of the background to the East High School initiative that began in the spring of 2014 when Rochester City School District Board of Education President Van White reached out to the University of Rochester and its Warner School of Education for help in saving East High School, which was on the verge of being closed by New York State for inadequate academic performance. Van White emphasized in initial meetings with the University that the University could proceed under a special New York State statute that permitted the School Board and the State Education Department to approve the University as an Educational Partnership Organization (EPO) for East High School. As an EPO, the University would be the equivalent to the Superintendent of East with broad powers, but would have to secure agreement from each of the four unions that operated at East to achieve amendments to workplace conditions. The University agreed to proceed with the further understanding that our participation would be budget neutral – meaning that we would provide the benefit of key faculty, but would not subsidize the City School District.

We were the beneficiary in this effort of an extraordinary faculty at the Warner School led by Dean Raffaella Borasi and Professor Steve Uebbing, who for 17 years had served as Superintendent of the Canandaigua City Schools. Steve mobilized a dedicated team of faculty and other professionals at Warner who worked with East High School faculty, staff and students to develop a detailed Scope of Services plan that was submitted to the Rochester City School District in December

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44 Id. 246-247.
45 Id. at 186.
46 N.Y. Edn. Law § 211(e).
2014 and subsequently was approved by the City School District and the State Department of Education.

Critical to the submission was the flexibility shown by each of the four unions who operated at East High School, notably the Rochester Teachers Association led by Adam Urbanski, and the willingness of the City School Board to approve the resources that will be necessary to transform East High School into a national model of how to revitalize a failing high school.

What the University-East High School partnership sought was fundamental change:

- East High School will be transformed into two separate schools, a Lower School (grades 6 to 8) and an Upper School (grades 9 to 12). A separate Freshman Academy would be created in the Upper School for first time 9th graders. Among other things, this transformation meant adding 6th grade to East High School to provide students a jump start on developing the skills necessary for success in high school.

- East High School over time will be reduced in size from about 1800 students to 1350 students, but no current East student would be asked to transfer. Future admission to East High School would be by student choice with priority given to students living in closest proximity to East High School.

- School days would be extended to 7.5 hours, with students in Grades 6 to 9 provided increased instruction in math and literacy supported by a high quality and culturally relevant curriculum.

- Students will be organized into “family groups” of about 10 students each that meet daily with a faculty, staff or
administrative mentor to best address student interests and needs.

- The UR-East High School plan provides special attention to student social and emotional support, better support for English language learners and intensive ongoing professional training for all school staff, including extensive summer work.

- There will be expanded career and technical educational programs, including Health Related Careers developed in partnership with UR Medicine, Culinary Arts developed with Wegmans, Information Technology and Advanced Manufacturing.

- The UR-East High plan is results driven. East High’s current attendance is not conducive to credit completion and graduation. We intend to focus on increasing attendance for middle school students to 92 percent by year one by closely monitoring attendance with interventions to motivate students and improve attendance. Our aspiration is to approximately double graduation rates for the 6th graders who enter East High School during the first year and to improve graduation rates for all other classes.

- There will be an overriding expectation that faculty, staff and students at East High School are “all in . . . all the time.” Teachers and school leaders will engage in teaching and learning as a collaborative experience. Each day they will work together planning lessons, assessing student progress and sharing their practice. Both the schedules – which for teachers will be longer – and compensation have been adjusted to facilitate the teachers’ greater responsibility.
The University is deeply supportive of the East High School initiative, but I want to highlight the nature of this support.

First, none of us at the University of Rochester has any delusions that progress at East High School or at any failing K-12 school will be easy. We do, however, begin with the view that mere tinkering will not save a failing school. We do not believe that many of the remedies employed to dismantle legally required segregation such as consolidation of school districts or busing likely can be implemented at this time.

Second, while efforts that focus solely on a failing school can make progress, greater progress for the school’s students and indeed our society is possible when a full symphony of social programs simultaneously is in force. In Rochester the Community Agenda this year and earlier advocated an investment of $10 million over the next four years for the Hillside Work Scholarship Connection, a program which helps at-risk youth complete high school and move on to post-secondary education or middle skills jobs. Today Hillside is providing 2,400 jobs for Rochester’s High School students. Separately the Finger Lakes Regional Economic Development Council has made workforce development for high school students and others a priority. Collectively these efforts when combined with K-12 initiatives can make significant progress.

Third, nonetheless, to make progress in a single school requires tremendous and sustained effort. The UR-East High School initiative potentially can be a model for revitalizing schools in Rochester and potentially across our nation. But our initial model will evolve with experience. Success requires humility as well as perseverance.

47 Several Warner School faculty have been leaders in articulating this point. See, e.g., Joanne Larson, Radical Equality in Education: Starting over in U.S. Schooling (Routledge 2014); Jennifer Holme & Kara Finnigan, School Diversity, School District Fragmentation and Metropolitan Policy, 115 Teachers College Record 1 (Nov. 2013); Kara Finnigan & Alan Daly, Mind the Gap: Organizational Learning and Improvement in an Underperforming Urban System, 119 Am. J. of Educ. 41 (Nov. 2012).
Fourth, we have entered a new era in K-12 education. There is no single right system of providing K-12 education, whether it be traditional public schools, charter schools, private schools or parochial schools. Each of these approaches has had successes and failures. A system including all of them potentially may prove to be the most effective. But I know that invidious comparisons and finger pointing are not constructive and impede the most effective coordination of education in any district. It is too easy to take pot shots at school boards, teachers’ unions or school bureaucracies. I have been deeply impressed in our experience at East High School by the high level of talent and dedication that we have found throughout the Rochester City School System. The paradox is that the System is not working well now. But the reality is that the people who work in this System are as determined as those of us at the University to find a way to succeed.

Finally, for the foreseeable future in Rochester and virtually all other major metropolitan areas, the traditional public high school system will be the largest and most critical for student success. We are determined at the University to help show that a challenged traditional public high school can be transformed. We are doing so above all else because of our commitment to the students and citizens of our City.

Our aspiration can be explained simply. The students of East High School deserve the same chance to succeed as so many of us who grew up in more privileged communities have enjoyed. This will be good for them. This will be good for all of us in Rochester who will benefit from a stronger economy and a thriving community.

We have signed on for a five-year EPO agreement. At the University of Rochester, when we begin a project, we complete it. In the words of Susan B. Anthony, “failure is impossible.”