

NEW JERSEY LAWYER

MONDAY JUNE 9, 2008

Education Law effort expanding nationally

By Robert G. Seidenstein

It hardly would be a stretch to say that over the decades, New Jersey's Education Law Center (ELC) has generated as much law on education funding as any single group.

Indeed, ELC pretty much wrote the book for New Jersey and the nation on funding and related remedies for disadvantaged students.

Now, it's offering its lessons to education advocates and lawyers elsewhere.

ELC, the force behind the 35-year battle over school funding for the poor here, has become in part a resource for states nationwide where similar fights are being waged.

Earlier this year, ELC Executive Director David Sciarra announced the center's second major foray into the national arena - the Education Justice (EdJustice) initiative.

Meanwhile, most of ELC's work is on New Jersey cases, including those involving individual students and their rights, for example, to special education.

Leading the EdJustice effort is Molly Hunter, a New York University School of Law graduate who worked at Teachers College, Columbia University.

EdJustice will be spreading knowledge - and controversy, too. The numerous education-finance cases in New Jersey, under either the original *Robinson v. Cahill* or the current *Abbott v. Burke*, have raised core political issues such as the distribution of society's resources and whether money alone solves problems.

Supporters see ELC as a champion of the poor; critics ask just how much difference the additional spending has made.

EdJustice is complementing ELC's Starting at 3, which supports efforts to include pre-kindergarten education in school-finance litigation and legislation nationwide. That's a commitment that has some fiscal conservatives in New Jersey hopping mad.

EdJustice has the financial backing of the Education Testing Service (ETS) in Princeton. Starting at 3 is supported by the Pew Charitable Trusts. Newark-based ELC and ETS recently collaborated on a symposium titled School Finance and the Achievement Gap: Funding Programs that Work.

EdJustice and Starting at 3 account for approximately \$350,000 of ELC's \$1.9 million budget, Sciarra said.

Cry for help

The two programs "come out of a demand for help" from education advocates across the nation, he said.

Hunter summed up EdJustice's work this way: "We provide answers to a thousand and one questions about what has happened in other states, what might happen in their state."

She noted, "Litigators who take these cases are great litigators, but they don't necessarily know anything coming in about teaching quality and class size."

She said that even though the cases are based on the constitution of the particular state, "the courts do look to their sister states. We see that time and time again."

Hunter said issues such as teaching quality and the impact of poverty on children are really national in scope. "Our research comes into play on those," she added.

Recently, an intermediate appeals court in Indiana cited an ELC brief giving the national perspective on school financing. The court ruled for the plaintiffs.

Cases can go "on and on and on," especially when they get into issues of compliance with court rulings, she said.

However, in a couple states, once cases were filed the legislature reacted by improving the educational-finance system to the point that the plaintiffs were willing to withdraw their suits, Hunter said.

In all, cases have been filed in 45 states, with 17 currently in litigation over education funding, she said.

She noted ELC co-sponsors an annual conference in Washington, D.C., for litigators and policy advocates from all states. This year's conference is June 11 and 12.

National efforts

Hunter and Ellen Boylan of Starting at 3 are joined on ELC's national programs by a third full-time lawyer, Daniel Goldman.

Boylan is involved in 10 states, including filing an *amicus* brief in the South Carolina Supreme Court for NAACP chapters and that state's League of Women Voters. She said the brief is presenting the court with social science research that supports early childhood education. The brief focuses on the "deficits that young children in poverty start school with" and the programs that are effective in dealing with that deficit, she said.

She also is working on a lawsuit in Florida, which has the only state constitution that explicitly allows for pre-kindergarten education. A constitutional amendment passed in 2002, but she said there are major concerns with its implementation.

Boylan said Starting at 3 is the only organization that does litigation support on the pre-kindergarten issue. It helps find witnesses and presents both legal and social science research.

"Education is the key to democracy," she said. It is "absolutely essential to a child's development and later success in life and productivity in life. So, what could be more vital?"

Middle-class children "get everything in school plus a ton on top. The other kids are missing out on so much - music lessons, travel, books, everything - everything that makes a complete life," Boylan said.

Sciarra said ELC intends for its national work to grow. "The demand is tremendous," he said.

He envisions a pool of large law firms nationwide to take on education-funding cases. In turn, ELC would become a resource for those firms.

Another priority is posting information on ELC's website to help education advocates.

"We've dealt with so much," he said.

Indeed - and there is an irony to that, too. The battling over school funding in New Jersey that began nearly four decades ago continues here today.