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CORPORATE-SCHOOL PARTNERSHIPS AND NEOLIBERAL INFLUENCES ON STUDENTS AS FUTURE PARTICIPANTS IN THE LABOR MARKET

*Adriane Kayoko Peralta**

I. INTRODUCTION

Over the past twenty years, corporations have significantly increased their presence in public schools. In 2013, one of the most talked about stories in public education was the Los Angeles Unified School District's (LAUSD) decision to equip every student with a new iPad.¹ The iPad program will eventually cost LAUSD \$1 billion.² Many criticized the cash-strapped school district for frivolously spending money on nonessentials, while others said that the technology is a step forward in education innovation.³ Either way, the program is a

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I am thankful for the invaluable feedback of Professor Katherine Stone and my colleagues of the Labor and Social Policy Seminar at UCLA School of Law. I also thank my parents, Greg and Janis Peralta, for teaching me to be critical of the status quo.

¹ See Howard Blume, *L.A. School Board OKs \$30 Million for Apple iPads*, L.A. TIMES, June 18, 2013, <http://articles.latimes.com/2013/jun/18/local/la-me-ln-laUSD-chooses-ipads-for-pilot-20130618>; Press Release, Apple *Apple Awarded \$30 Million iPad Deal from LA Unified School District* (June 19, 2013), <http://www.apple.com/pr/library/2013/06/19Apple-Awarded-30-Million-iPad-Deal-From-LA-Unified-School-District.html>.

² See Howard Blume & Stephen Ceasar, *iPad Software Licenses Expire in Three Years*, L.A. UNIFIED SAYS, L.A. TIMES, Nov. 19, 2013, <http://articles.latimes.com/2013/nov/19/local/la-me-1120-laUSD-ipads-20131120>.

³ See Sandy Banks, *L.A. Unified Stakes Reputation on iPad Program*, L.A. TIMES, Oct. 14, 2013, <http://articles.latimes.com/2013/oct/14/local/la-me-banks-ipads-20131015>; Howard Blume, *More Questions on L.A. Unified's iPad Program, but Few Answers*, L.A. TIMES, Oct. 23, 2013, <http://articles.latimes.com/2013/oct/23/local/la-me-1023-laUSD-ipads-20131023>; Michael Hiltzik, *The LA Schools' iPad Adventure Keeps Getting Worse*, L.A. TIMES, Nov. 20, 2013, <http://www.latimes.com/business/hiltzik/la-fi-mh-ipad-adventure-20131120,0,942881.story#axzz2mlkV1d00>; *Mixed Reaction to*

perfect example of the increasing, and lucrative, partnerships between corporations and public education. Corporations now understand that schools have huge profit-making potential, and thus, their presence in schools has expanded.

However, the story of corporate partnerships with schools is more than just about profits. The increasing commercialization of education has larger societal implications regarding the impact that corporations will have on students in schools. Schools hold a very special place in our society. They help shape the attitudes and skills of future generations, and, more importantly, they help prepare students to be future participants in the labor market. This Article explores how corporate partnerships with schools affect the development of students as future workers, and argues that the pervasive corporate influence in public education is detrimental to students and to society.

Part II explains why corporations are particularly interested in marketing to children in schools. Part III describes the ways in which corporations have infiltrated schools. Part IV contends that such neoliberal influences in education will have lasting effects on students as future participants in the labor market. Finally, the Conclusion calls for enhanced state regulations of corporate-school partnerships.

II. SELLING TO CHILDREN IN SCHOOLS

A. *Marketing to Children*

Part of the strategy in targeting children is that companies want to cultivate lifetime buyers who will remain loyal to their brand.⁴ This approach is smart considering today's pre-teens and teenagers "have emerged as the most brand-oriented, consumer-involved, and materialistic generations in history."⁵ In fact, more "children here than anywhere else believe that

iPad rollout from L.A. Teachers and Administrators, LOS ANGELES TIMES, Dec. 1, 2013, <http://www.latimes.com/local/la-me-ipads-survey-20131202,0,2314290.story#axzz2mlkVld00>.

⁴ See ALEX MOLNAR, SCHOOL COMMERCIALISM: FROM DEMOCRATIC IDEAL TO MARKET COMMODITY 6 (2005) (reporting "companies can virtually guarantee adult customers tomorrow if they invest in them as children").

⁵ JULIET B. SCHOR, BORN TO BUY: THE COMMERCIALIZED CHILD AND THE NEW CONSUMER CULTURE 13 (2004).

their clothes and brands describe who they are and define their social status.”⁶ Studies show that “American kids display more brand affinity than their counterparts anywhere else in the world; indeed, experts describe them as increasingly ‘bonded to brands.’”⁷ A study done by Nickelodeon in 2001 found that the average ten-year-old knows 300 to 400 brands and among eight- to fourteen-year-olds, “92 percent of requests are brand specific, and 89 percent of kids agree that ‘when I find a brand I like, I tend to stick with it.’”⁸ Children learn to value brand names at a very young age, and they arguably value brand names more than adults do.⁹

Other characteristics of children contribute to their vulnerability to advertising. Children are also more easily influenced by advertising than adults are because most have yet to fully develop the critical thinking skills that allow them to question advertising.¹⁰ Children are also more impulsive buyers and more willing to try new products, making them more attractive to marketers.¹¹ The vulnerability of children is what makes marketing to children ethically questionable.¹² Nevertheless, companies are profit driven, and they go where the money is. The combination of elevated brand consciousness and high vulnerability make children the perfect targets for marketing and advertising.

Unsurprisingly, companies have discovered the susceptibility of children, and have increased and exploited their influence. In 1983, U.S. companies spent a meager \$100 million in advertising to children, but, by 2005, they spent \$16.8 billion.¹³ Predictably, the expanded marketing and advertising has worked. Children are buying more than ever

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 25.

⁹ *Id.*

¹⁰ See MOLNAR, *supra* note 4, at 8–9.

¹¹ *Id.*

¹² See *id.*; Stephanie Clifford, *A Fine Line When Ads and Children Mix*, N.Y. TIMES, Feb. 14, 2010, http://www.nytimes.com/2010/02/15/business/media/15kids.html?pagewanted=all&_r=0; *Cookie Monster Crumbles: Are Children Fair Game for Sophisticated and Relentless Marketing Techniques? Many Countries Think Not*, THE ECONOMIST, Nov. 23, 2013, <http://www.economist.com/news/international/21590489-are-children-fair-game-sophisticated-and-relentless-marketing-techniques-many>.

¹³ MICHAEL J. SANDEL, WHAT MONEY CAN'T BUY: THE MORAL LIMITS OF MARKETS 199 (2012).

before and have turned into a powerful purchasing body.¹⁴ In 2002, children aged four to twelve spent \$30 billion in purchases, up from \$6.1 billion in 1989; children aged twelve to nineteen, spent \$170 billion; and children under twelve influenced the spending of \$500 billion through the adults in their lives.¹⁵ Corporations make a staggering amount of money from children's purchases, and, not surprisingly, these companies seek to market their products in schools where children are captive audiences.

B. *Marketing in Schools*

Marketing and advertising to children in schools is particularly effective for companies in pushing their products for several reasons. First, "schools provide a captive audience of children" because children are required to attend school and sit in class.¹⁶ Thus, by investing in marketing and advertising in schools, companies have a guaranteed audience. In addition, "children constitute a highly segmented market, with distinctively different characteristics depending on age, gender, and geography."¹⁷ Schools also provide an ideal forum for advertising because schools organize children by age, allowing for more focused advertising, and schools largely identify with distinct local communities that advertisers can more easily target. These characteristics combine to make schools an ideal place for companies to advertise.¹⁸

Moreover, marketing in schools is also highly sought after by corporations because marketed products in schools carry with them an implicit endorsement by the school.¹⁹ Alex Molnar,²⁰ leading expert on school commercialism, contends, "Schools by their nature carry enormous goodwill and thus can confer legitimacy on anything associated with them—including that which is marketed under the school's roof and with its tacit or explicit endorsement."²¹ Thus, companies are not only

¹⁴ See MOLNAR, *supra* note 4, at 6.

¹⁵ *Id.*

¹⁶ *Id.* at 7.

¹⁷ *Id.* at 6.

¹⁸ See *id.* at 6–7.

¹⁹ *Id.*

²⁰ Alex Molnar is Director of the Commercialism in Education Research Unit of the National Education Policy Center.

²¹ MOLNAR, *supra* note 4, at 7.

buying advertising space, they are also buying school approval and goodwill.

Finally, schools and school districts are also in desperate need of additional funding. Over the last twenty years, and especially since the 2008 recession, state governments have significantly reduced spending in schools.²² In 2013, twenty-six states cut per pupil spending from the year before, and thirty-five states are still spending less on schools than in the years before the recession.²³ Because schools can no longer afford various programs and services independently, corporate partnerships are more attractive than ever to secure added funding.

Unfortunately, marketing to children in schools is especially unsettling, and arguably more problematic than marketing to children outside of school. Molnar explains:

Marketing to children in schools is especially problematic because, as students, they are a captive audience and are asked to believe that what they are being taught is in their best interest. In contrast to schools, marketers are concerned only with buying or selling. Marketing cannot represent the best interests of society or of children. Thus, the effect of converting public schools into an arm of consumer culture necessarily undermines their essential civic function to promote the general welfare and strengthen civil society by educating children to meaningfully participate in the political, economic, and cultural life of their communities.²⁴

In other words, the profit motives of corporations are at odds with the purpose of schooling—to promote the general welfare of students. Herein lies a serious tension in the partnerships between schools and corporations; Part IV more thoroughly discusses this issue.

III. TYPES OF CORPORATE-SCHOOL PARTNERSHIPS

There are primarily nine ways in which corporations have

²² *Education Funding Drops in More Than Half of States*, HUFFINGTON POST, Sept. 5, 2012, http://www.huffingtonpost.com/2012/09/05/education-funding-drops-i_n_1855826.html; see also Motoko Rich, *School Districts Brace for Cuts as Fiscal Crisis Looms*, N.Y. TIMES, Nov. 15, 2012, <http://www.nytimes.com/2012/11/16/education/school-districts-eyeing-fiscal-crisis-brace-for-cutbacks.html>.

²³ *Id.*

²⁴ MOLNAR, *supra* note 4, at 9.

infiltrated public schools:²⁵ (1) exclusive agreements,²⁶ (2) fundraising,²⁷ (3) electronic marketing,²⁸ (4) appropriation of space,²⁹ (5) sponsored educational materials,³⁰ (6) incentive programs,³¹ (7) sponsorship of programs and activities,³² (8)

²⁵ This list has been adapted from MOLNAR, *supra* note 4, at 21–26, with the exception of corporate and wealthy individual donations.

²⁶ See *id.* at 21–22 (“*Exclusive Agreements*. Agreements between schools and corporations that give corporations the exclusive right to sell and promote their goods or services in the school or school district, and grant the school or district a percentage of the profits in return. Exclusive agreements may also entail granting a corporation the right to be the sole supplier of a product or service, and thus associate its products with activities such as high school basketball programs. References to such agreements between 1990 and June 2004 have risen 858 percent.”).

²⁷ See *id.* at 25–26 (“*Fund-Raising*. Programs linking schools or school-affiliated volunteer groups, such as Parent-Teacher Associations, with businesses to sell products or services in order to raise money for schools.”).

²⁸ See *id.* at 24–25 (“*Electronic Marketing*. The provision of electronic programming or equipment in return for the right to advertise to students or their families and community members in school or when they contact the school or district.”).

²⁹ See *id.* at 22 (“*Appropriation of Space*. The allocation of school space such as scoreboards, rooftops, bulletin boards, walls, and textbooks on which corporations may place corporate logos or advertising messages. More recently, this category has come to include naming rights agreements that allow corporations to assign their name to rooms, wings, or entire building in a school or district. From 1990 through June 2004, references in this category have risen 394 percent.”).

³⁰ See *id.* at 23–24 (“*Sponsored Educational Materials*. Materials supplied by corporations or trade associations that claim to have an instructional content. References in this category have risen 1,038 percent from 1990 through June 2004. A large number of corporate-sponsored curriculum programs have come to light over the years . . . Some programs appear to be little more than advertising, such as the ‘Elf study guides in the shape of toys’ that were distributed to ten thousand schools by New Line Cinema in advance of the release of the film *Elf* in late 2003. Other programs may impart some genuine value—along with free advertising for the sponsor. In Florida, Bank Atlantic distributed a math workbook to elementary school students with a banking theme—not incidentally building name recognition with the youngsters.”).

³¹ See *id.* at 22 (“*Incentive Programs*. Corporate programs that provide money, goods, or services to a school or school district when its students, parents, or staff engage in a specified activity, such as collecting particular product labels or cash register receipts from particular stores. Media references to such programs have risen 75 percent from 1990 to June 2004 . . . Other awards—for attendance, for reading, and for earning certain grades—include McDonald’s coupons, free concessions at AMC Theatres’ movie houses, and free admission to amusement parks operated by the Six flags chain . . .”).

³² See *id.* at 21 (“*Sponsorship of Programs and Activities*. Corporations paying for or subsidizing school events or one-time activities in return for the right to associate their name with the events and activities. This may also include school contests. From 1990 through June 2004, references in this category rose 146 percent. Sponsorship of programs and activities remains the most traditional form of corporate-school interaction. Corporate sponsorship includes supporting general fund-raising activities and academic competitions. Corporate sponsors fund National Merit Scholarships and individual scholarship programs open to children of employers or to entire

privatization,³³ and (9) corporate and wealthy individual donations.³⁴ One way to think about these types of corporate-school partnerships is to classify them into one of three categories: selling to schools (vending and product sales), selling in schools (advertising and public relations), or selling of schools (privatization and corporate models of schooling).³⁵ This Part discusses each of these categories.

A. *Selling to Schools (Vending and Product Sales)*

The commercialization category of selling to schools refers to selling any form of merchandise or good to a school. Such goods can include anything from pencils and books for students, to cleaning supplies and uniforms for janitors, and desks and computers for classrooms. This category of commercialization has existed for decades, and had previously remained largely uncontroversial. Recently, however, school contracts with unhealthy food and drink providers have raised concerns about commercialization in schools because of increasing childhood obesity rates.³⁶

The most common form of selling to schools is through exclusive vending agreements.³⁷ Exclusive agreements allow a particular company to maintain a monopoly within a school by contracting with the school district to exclude all competitors.³⁸ In exchange, the company is usually required to pay the school

communities.”).

³³ See *id.* at 25 (“*Privatization*. Management of schools or school programs by private, for-profit corporations, or other nonpublic entities. Although references in this category have been declining in recent years, the number recorded in the 2003–2004 study exceeded the number recorded for 1990 by 2,213 percent. The principal manifestation of privatization is in the use of for-profit corporations to manage public charter schools . . .”).

³⁴ Corporate and wealthy individual donations were not included in Molnar’s list of types of school commercialization. Nevertheless, I have included this more recent phenomenon because of its increasing prevalence in public education.

³⁵ See MOLNAR, *supra* note 4, at 7 (“Commercial activities in schools can be seen as taking three basic forms: Selling to schools (vending), selling *in* schools (advertising and public relations), and selling *of* schools (privatization).”).

³⁶ See generally *id.* at 47–72; and Carolyn VanderSchee, *Consequences of Privatization of Food Services in Schools: Undermining Children’s Health, Social Equity, and Democratic Education*, in *SCHOOLS OR MARKETS?: COMMERCIALISM, PRIVATIZATION, AND SCHOOL-BUSINESS PARTNERSHIPS* 10–23 (Deron R. Boyles ed., 2005).

³⁷ MOLNAR, *supra* note 4, at 22.

³⁸ *Id.*

district for this exclusive selling right.³⁹ Soft drinks are the most common form of exclusive agreements with schools.⁴⁰ Such agreements vary widely as far as how much money goes to the school district.⁴¹ One of “the largest such contract[s] was signed in 2003 at the Hillsborough County (Florida) school district: a \$50-million, 12-year pact with Pepsi Bottling Group ensuring that vending machines in the county’s 62 middle and high schools would sell only Pepsi products.”⁴²

An additional example of commercializing schools through food is the presence of fast food companies on school grounds.⁴³ More than 20 percent of schools now provide fast food options in their cafeterias including McDonald’s, Subway, Papa John’s Pizza, Dunkin’ Donuts, Pizza Hut, Dairy Queen, and Taco Bell.⁴⁴ The presence of such corporations on school campuses makes fast food more accessible to students on a daily basis.

Another form of product sales to schools occurs through fundraising. Fundraising activities are usually “[s]hort-term sales of candy, magazines, gift wrap, cookie dough, concession items, and the like by parents, students, or both to benefit a specific student population or club.”⁴⁵ Schools, however, have moved far beyond traditional fundraisers to now include food truck nights,⁴⁶ food festivals,⁴⁷ and online deals.⁴⁸ The need to fundraise for schools has become even more necessary since the defunding of public education that followed the 2008

³⁹ *Id.*

⁴⁰ *See id.* (“Exclusive agreements put products of one vendor on school grounds. The majority of such agreements appear to involve soft-drink bottlers.”); MARNIE S. SHAUL, PUBLIC EDUCATION: COMMERCIAL ACTIVITIES IN SCHOOLS, UNITED STATES GENERAL ACCOUNTING OFFICE 16 (2008), available at <http://www.gao.gov/new.items/he00156.pdf> (“On the national level, exclusive soft drink contracts were the fastest growing activity of all product sales . . .”).

⁴¹ *See* SHAUL, *supra* note 40, at 44–45.

⁴² MOLNAR, *supra* note 4, at 22.

⁴³ *See* SHAUL, *supra* note 40, at 8.

⁴⁴ *See* VanderSchee, *supra* note 36, at 2.

⁴⁵ SHAUL, *supra* note 40, at 8.

⁴⁶ *See* Angel Jennings, *Schools Rolling out new Fundraisers: Food Truck Nights*, L.A. TIMES, Oct. 23, 2011, <http://articles.latimes.com/2011/oct/23/local/la-me-food-trucks-20111023>.

⁴⁷ *See* Kyle Spencer, *Way Beyond Bake Sales: The \$1 Million PTA*, N. Y. TIMES, June 1, 2012, <http://www.nytimes.com/2012/06/03/nyregion/at-wealthy-schools-ptas-help-fill-budget-holes.html>.

⁴⁸ *See* Jessica Naziri, *Forget Bake Sales, Fundraising Goes Digital With Schoola.com*, L.A. TIMES, May 26, 2013, <http://articles.latimes.com/2013/may/26/business/la-fi-tn-school-fundraising-digital-social-20130523>.

recession.⁴⁹ For the most part, parents face the burden of fundraising through personal donations, having to ask for donations, or volunteering time to organize fundraising events.⁵⁰ In recent years, parents have pushed back because they have grown tired of fundraising to finance critical school programs, staff salaries, teacher training, and field trips.⁵¹ Moreover, many have criticized fundraising for exacerbating the inequalities in school funding between wealthy and low-income communities, which often have racial implications.⁵² Some parent associations at public schools in wealthy neighborhoods have raised more than a million dollars to pay for school programs.⁵³ Some call these types of public schools “semiprivate” or “public privates” due to the large amount of private donations.⁵⁴

B. *Selling in Schools (Advertising and Public Relations)*

The commercialization category of selling in schools refers to both direct and indirect advertising in schools. Perhaps one of the biggest controversies in commercializing schools is the use of electronic marketing.⁵⁵ Electronic marketing is the exchange of free technology equipment in classrooms for the

⁴⁹ See Julianne Hing, *Parent Fundraising Deepens Inequality in the New Public School Economy*, COLORLINES, June 27, 2012, http://colorlines.com/archives/2012/06/power_parent_fundraising_or_not_in_the_new_public_school_economy.html (“The fact remains that as states slash their annual school budgets, schools depend more and more on private giving, and parents are responding in kind. According to the Urban Institute’s National Center for Charitable Institutions, between 1997 and 2007 the number of nonprofit groups dedicated to supporting public education doubled to more than 19,000. As of 2007, those groups had raised \$4.3 billion, Education Week reported.”).

⁵⁰ See Kyle Spencer, *At the PTA, Clashes Over Cupcakes and Culture*, N.Y. TIMES, Mar. 16, 2012, <http://www.nytimes.com/2012/03/18/education/at-the-pta-clashes-over-cupcakes-and-culture.html>.

⁵¹ See Alane Salierno Mason, *Fed Up With Fund-Raising for My Kids’ School*, N.Y. TIMES, Oct. 10, 2013, <http://www.nytimes.com/2013/10/11/opinion/fed-up-with-fund-raising-for-my-kids-school.html>.

⁵² See Hing, *supra* note 49 (“Parents’ fundraising power falls along bright class and race lines, and some worry that power fundraising can further institutionalize the already gnawing gap between the haves and the have nots, especially as schools look to their parent groups and independent school foundations to fund the sorts of school programs that are seen as extraneous in a testing-driven public school system.”).

⁵³ See Spencer, *supra* note 50.

⁵⁴ See *id.* (quoting Troy Torrison, parent of an elementary school student at P. S. 234, which raised \$541,712 in the 2009–10 school year, “These rich schools are semiprivate. These other schools are public, public with no extras.”).

⁵⁵ SANDEL, *supra* note 13, at 198–97.

right to advertise to students.⁵⁶ One of the most well-discussed cases of electronic marketing occurred in the 1990s when Channel One launched a program in which children were forced to watch twelve minutes of student-centered programming, including two minutes of commercials, during class time in exchange for televisions, video equipment, and satellite wiring.⁵⁷ The program was largely successful and, by the year 2000, eight million students in twelve thousand schools had seen Channel One programming, reaching more than 40 percent of the nation's teenagers.⁵⁸ Channel One was able to charge companies \$200,000 per thirty-second advertising spot (comparable to rates on network television).⁵⁹ A Channel One executive explained the lucrative success of the program:

The biggest selling point to advertisers [is that] we are forcing kids to watch two minutes of commercials. The advertiser gets a group of kids who cannot go to the bathroom, who cannot change the station, who cannot listen to their mother yell in the background, who cannot be playing Nintendo, who cannot have their headsets on.⁶⁰

Although New York banned Channel One from entering classrooms, many other states did not.⁶¹ Critics of the program contend that the commercials waste valuable teaching time and that schools are morally reprehensible for forcing kids to watch commercials.⁶² Even though the popularity of the

⁵⁶ *Id.*

⁵⁷ See Andy Meisler, *The World According to Channel One*, N.Y. TIMES, Jan. 8, 1995, <http://www.nytimes.com/1995/01/08/education/the-world-according-to-channel-one.html?pagewanted=all&src=pm>; SANDEL, *supra* note 13, at 197.

⁵⁸ See SANDEL, *supra* note 13, at 197.

⁵⁹ See *id.*

⁶⁰ *Id.*

⁶¹ See *id.* at 196–97.

⁶² See Constance L. Hays, *Channel One's Mixed Grades in Schools*, N.Y. TIMES, Dec. 5, 1999, <http://www.nytimes.com/1999/12/05/business/channel-one-s-mixed-grades-in-schools.html?pagewanted=all&src=pm>. For both sides of the debate, see SHAUL, *supra* note 40, at 27 (“Since Channel One was first introduced, critics have argued against it on many grounds: (1) its 2 minutes of daily commercials take up class time and take advantage of students as a ‘captive audience,’ (2) showing commercials in schools gives products extra credence and credibility, (3) Channel One commercializes the classroom and education, and (4) schools do not have any control over the content of the program or commercials. On the other hand, supporters say that (1) Channel One exposes students to news that is current and relevant to them, particularly because many students are not exposed to news in any other way; (2) students learn media literacy; and (3) financially strapped schools receive needed technology resources free of charge.”).

program has since abated, many credit the Channel One program for opening the schoolhouse gates to intense forms of electronic commercialism.⁶³

Another form of selling in schools is appropriation of space.⁶⁴ Appropriation of space is advertising in schools, on school facilities, on school busses, or in school publications.⁶⁵ Students can find corporate advertising along school hallways, floors, cafeteria tables, benches, lockers, scoreboards, banners in gymnasiums, and bulletin boards.⁶⁶ By 2011, seven states had approved advertising on school buses.⁶⁷ Students can also view printed advertisements in various school publications including high school sports programs and schedules, yearbooks, school newspapers, and online school websites.⁶⁸ One school district in Colorado even sold advertising space on report cards.⁶⁹

In addition to printed advertising, naming rights are another form of appropriated space in schools. In 2001, a New Jersey elementary school became the first public school to sell naming rights to a corporate sponsor.⁷⁰ For \$100,000, the school agreed to rename its gym after a local supermarket, ShopRite.⁷¹ Shortly after, other public schools followed suit with lucrative deals ranging from \$10,000 to \$1 million in naming football fields, performing arts centers, science labs, visitor's centers, and even rooms, wings, or entire buildings in a school.⁷² One school in Massachusetts offered naming rights to the principal's office for \$10,000, while another public high school in Philadelphia offered \$5 million to name the school itself.⁷³ It seems corporations have commercially appropriated almost every space imaginable in schools.

A more indirect form of selling in schools is through corporate-sponsored educational materials. These materials

⁶³ See Hays, *supra* note 62; SANDEL, *supra* note 13, at 197.

⁶⁴ See MOLNAR, *supra* note 4, at 22.

⁶⁵ See SHAUL, *supra* note 40, at 8.

⁶⁶ See MOLNAR, *supra* note 4, at 22; SANDEL, *supra* note 13, at 200; and SHAUL, *supra* note 40, at 18.

⁶⁷ See SANDEL, *supra* note 13, at 199–200.

⁶⁸ See SHAUL, *supra* note 40, at 18.

⁶⁹ See SANDEL, *supra* note 13, at 199.

⁷⁰ See *id.*

⁷¹ See *id.*

⁷² See *id.*

⁷³ See *id.*

are often supplemental curricula created by corporations that, while containing instructional material, also promote the corporation's goals or products.⁷⁴ There are over two hundred examples of corporate-sponsored educational materials⁷⁵ including lesson plans on nutrition provided by Hershey's Chocolate and McDonald's, a video made by Exxon on the effects of oil spills, and an environmental curriculum from Proctor & Gamble that explains why disposable diapers are good for the earth.⁷⁶ A study conducted by the Consumers Union found that although "the materials rarely contained advertisements, almost 80 percent contained biased or incomplete information or promoted a viewpoint that favored consumption of a sponsor's product or service or a position that favored a company or its economic agenda."⁷⁷ Such one-sided curricula is concerning because there is a hidden ideological agenda that is not being fairly discussed, analyzed, or questioned. Hidden, and not so hidden, corporate agendas are influencing students everyday through educational curricula.

Corporate incentive programs, in which companies agree to give discounts or free products to students, are another type of indirect commercialism in schools. One of the most well-known incentive programs is the Pizza Hut "Book It" program in which children receive a free pizza for reading a certain number of books.⁷⁸ The program has reached tens of millions of students,⁷⁹ and has resulted in huge profits for Pizza Hut.⁸⁰ Since students are too young to go to the restaurant alone to redeem their free pizza, adults often accompany them, which results in an average family bill of \$16.50 per visit.⁸¹ Critics argue that the program removes the intrinsic value of reading and coerces families to eat at Pizza Hut, while proponents contend that the program encourages students to read.⁸²

⁷⁴ See MOLNAR, *supra* note 4, at 23–24; and SHAUL, *supra* note 40, at 8.

⁷⁵ See SHAUL, *supra* note 40, at 29.

⁷⁶ See SANDEL, *supra* note 13, at 198.

⁷⁷ SHAUL, *supra* note 40, at 29.

⁷⁸ See MOLNAR, *supra* note 4, at 22.

⁷⁹ See SCHOR, *supra* note 5, at 90.

⁸⁰ Deron R. Boyles, *The Exploiting Business: School-Business Partnerships, Commercialization, and Students as Critically Transitive Citizens*, in SCHOOLS OR MARKETS?: COMMERCIALISM, PRIVATIZATION, AND SCHOOL BUSINESS PARTNERSHIPS, *supra* note 36, at 217, 218 (Deron R. Boyles ed., 2005).

⁸¹ *Id.*

⁸² See SHAUL, *supra* note 40, at 30.

Incentive programs can also include rewarding schools with money or educational equipment when parents, students, or staff shop at certain stores or purchase certain goods. For example, General Mills sponsors the Box Tops for Education program that allows elementary schools to receive 15 cents per cereal box top and 10 cents for every snack box top redeemed.⁸³ Target also offers an incentive program called Take Charge of Education where shoppers can donate one percent of their total receipt to a local school when using a Target credit card.⁸⁴ Additionally, Campbell's Soup sponsors the Labels for Education program in which schools can redeem labels from Campbell's Soup products for educational merchandise, such as computers, software, and sports equipment.⁸⁵ The purpose of these incentive programs is not only to increase profits, but also to provide positive public relations by giving the impression that these corporations care about children and schools.

Finally, indirect advertising also comes in the form of corporate sponsorship of programs and activities. These are often one-time events where corporations award money to students in exchange for a company's name to be associated with a particular scholarship or competition.⁸⁶ For example, Coca-Cola offers a \$20,000 college scholarship to students who demonstrate academic excellence, positive leadership, and dedication to service.⁸⁷ Dunkin' Donuts offers a \$6,000 grand prize for a student competition in developing the best one-minute commercial.⁸⁸ Angel Soft toilet paper gives money to students as part of a community service program.⁸⁹ Corporations sponsor these programs in part to bring about positive public relations through corporate-school partnerships.

⁸³ See Jason Kandel, *Kids Saving Box Tops for School Funding*, L.A. TIMES (Oct. 17, 1998),

<http://articles.latimes.com/1998/oct/17/local/me-33365>.

⁸⁴ See Press Release, Target, *Targeting Education* (Apr. 16, 2010), <http://pressroom.target.com/backgrounders/targeting-education10>.

⁸⁵ See *Labels for Education*, CAMPBELL SOUP CO., <http://www.labelsforeducation.com/> (last visited Dec. 8, 2013).

⁸⁶ See MOLNAR, *supra* note 4, at 21; SCHOR, *supra* note 5, at 90.

⁸⁷ *Coca-Cola Announces New Selection Process of 150 \$20,000 Scholarship Winners*, COCA-COLA SCHOLARSHIP FOUNDATION (Jan. 19, 2014), <http://www.coca-colascholarshipfoundation.org/news/coca-cola-announces-new-selection-process-of-150-20000-scholarship-winners/#.VGIXpJPF-Zo>; see also MOLNAR, *supra* note 4, at 21.

⁸⁸ See SCHOR, *supra* note 5, at 90.

⁸⁹ See *id.*

Arguably, such efforts are insincere even though some would say scholarships of any form are overall beneficial to students.

C. *Selling of Schools (Privatization and Corporate Models of Schooling)*

The selling of schools category is primarily a function of increased privatization of schools in which public control is forfeited to private organizations—mainly in the form of charter schools.⁹⁰ Charter schools are publicly funded schools, but managed by private operators outside of the local school district. Most charter schools do not have teachers unions, although a few do,⁹¹ and many charter schools are more willing to experiment in their approaches to educating students.⁹² Such experimentation includes implementing merit-based or performance-based pay programs that reward teachers based on student performance, which usually includes students test scores.⁹³

In recent years, corporations and wealthy individuals have donated large sums of money to schools and school districts. Yet, these donations have come with some costs: a corporate agenda of privatization and corporate models of schooling. In 2010, Mark Zuckerberg, chief executive and founder of Facebook, agreed to donate \$100 million to Newark, New Jersey schools as part of a deal in which Governor Chris

⁹⁰ Privatization also includes voucher systems in which parents can use public funds to send their children to private schools. The voucher movement is not discussed in this Article because it has not been nearly as successful as the charter school movement. In fact, most states no longer even allow voucher programs. See James Forman, Jr., *The Rise and Fall of School Vouchers: A Story of Religion, Race, and Politics*, 54 UCLA L. REV. 547–604 (2007).

⁹¹ Richard D. Kahlenberg & Halley Potter, *The Original Charter School Vision*, N.Y. TIMES (Aug. 30, 2014) available at <http://www.nytimes.com/2014/08/31/opinion/sunday/albert-shanker-the-original-charter-school-visionary.html> (“Only about 12 percent of the nation’s charter schools afford union representation for teachers.”). My former employer, Green Dot Public Schools, is one of the few charter management organizations that has a teachers union.

⁹² See Claudio Sanchez, *What’s a Charter School if not a Game Changer?*, NPR (Aug. 31, 2012, 4:22 PM), <http://www.npr.org/2012/09/01/160401996/whats-a-charter-school-if-not-a-game-changer>.

⁹³ See, e.g., Rob Kuznia, *Green Dot Charter Schools Move Toward Merit Pay Instead of Seniority for Teachers*, L.A. DAILY NEWS, July 5, 2012, available at <http://www.dailynews.com/social-affairs/20120706/green-dot-charter-schools-move-toward-merit-pay-instead-of-seniority-for-teachers>. Teachers unions and merit-based pay for teachers are hotly contested issues in public education, and ones that I do not take up in this Article. I only raise these matters as examples of corporate models of schooling.

Christie agreed to relinquish some state control over the school district to Mayor Cory Booker.⁹⁴ The three men announced the plan on the Oprah Winfrey Show and urged other corporations to join the donation campaign.⁹⁵ As a result, major contributors to the campaign included Pershing Square Foundation, Goldman Sachs Gives, and the Ford Foundation.⁹⁶ The plan suggested increased privatization and corporate models of schooling through school choice, charter schools, rigorous testing, and rewarding teachers and administrators for student performance.⁹⁷ In fact, most of the money, \$50 million, went towards ratifying the collective bargaining agreement between the school district and the teachers union to allow for a merit-based pay system related to student performance.⁹⁸

Nevertheless, Zuckerberg's \$100 million donation is small compared to the three biggest foundations behind privatization of public schools: the Bill and Melinda Gates Foundation, formed by Microsoft founder Bill Gates; the Walton Family Foundation, established by Walmart founder Sam Walton; and the Broad Foundation, created by SunAmerica and KB Home founder Eli Broad.⁹⁹ To this day, these three foundations have donated over \$4 billion towards privatization efforts.¹⁰⁰ For

⁹⁴ See Richard Perez-Pena, *Facebook Founder to Donate \$100 Million to Help Remake Newark's Schools*, N.Y.TIMES, Sept. 23, 2010, at A27, available at <http://www.nytimes.com/2010/09/23/education/23newark.html>.

⁹⁵ See *id.*

⁹⁶ See Rahim Kanani, *What Ever Happened to Mark Zucerkberg's \$100M Gift to Newark?*, FORBES (Sept. 12, 2013, 10:21 AM), <http://www.forbes.com/sites/rahimkanani/2013/09/12/what-ever-happened-to-mark-zuckerbergs-100m-gift-to-newark/>.

⁹⁷ See Steven Nelson, *Cory Booker Accused of Mismanaging \$100 Million Zuckerberg School Donation*, U.S. NEWS (Aug. 1, 2013, 5:31 PM), <http://www.usnews.com/news/blogs/washington-whispers/2013/08/01/cory-booker-accused-of-mismanaging-100-million-zuckerberg-school-donation>; Perez-Pena, *supra* note 94; Valerie Strauss, *The Secret E-Mails About Mark Zuckerberg's \$100 Million Donation to Newark Schools*, WASHINGTON POST (Jan. 6, 2013), <http://www.washingtonpost.com/blogs/answer-sheet/wp/2013/01/06/the-secret-e-mails-about-mark-zuckerbergs-100-million-to-newark-schools/>.

⁹⁸ See Kanani, *supra* note 96; Nelson, *supra* note 97.

⁹⁹ See DIANE RAVITCH, *THE DEATH AND LIFE OF THE GREAT AMERICAN SCHOOL SYSTEM: HOW TESTING AND CHOICE ARE UNDERMINING EDUCATION 199-222* (2010); Jack Gerson, *The Neoliberal Agenda and the Response of Teachers Unions*, in *THE ASSAULT ON PUBLIC EDUCATION: CONFRONTING THE POLITICS OF CORPORATE SCHOOL REFORM* 97, 109 (William H. Watkins ed., 2012); Kenneth Saltman, *The Rise of Venture Philanthropy and the Ongoing Neoliberal Assault on Public Education*, in *THE ASSAULT ON PUBLIC EDUCATION: CONFRONTING THE POLITICS OF CORPORATE SCHOOL REFORM* 55 (William H. Watkins, ed., 2012).

¹⁰⁰ See Joanne Barkan, *Got Dough? How Billionaires Rule Our Schools*,

example, in 2009, the Gates Foundation donated \$60 million to five Los Angeles charter school organizations to use in developing merit-based pay systems for teachers, dependent in part on student test scores.¹⁰¹ Again, in 2012, the foundation donated \$25 million to charter schools in seven cities to enhance collaboration between charter schools and public schools.¹⁰² In 2011, the Walton Foundation donated \$159 million to sixteen cities around the country to promote school choice and charter schools.¹⁰³ During the 2008 presidential campaign, the Gates and Broad foundations joined in contributing \$60 million towards a political project advocating for national standards, longer school days, and merit-based pay.¹⁰⁴

Clearly, corporations and business leaders are interested in increasing the privatization of public schooling. Unfortunately, their efforts are “in support of reform strategies that mirror their own experience in acquiring huge fortunes, such as competition, choice, deregulation, incentives, and other market-

DISSENT: A Q. OF POL. AND CULTURE (Winter 2011), <http://www.dissentmagazine.org/article/got-dough-how-billionaires-rule-our-schools>; Catherine Cloutier, *Deep-Pocket Reformers: The Shadow of Secretaries of Education*, USC ANNENBERG SCH. OF COMM’N & JOURNALISM, <http://usc.news21.com/katie-story2/deep-pocket-philanthropists-shadow-secretaries-education> (last visited Dec. 8, 2013); Jonathan Pelto, *Funding “Education Reform”: The Big Three Foundations*, THE PROGRESSIVE INVESTIGATES (June 24, 2013, 4:43 PM), <http://www.publicschoolshakedown.org/funding-education-reform>.

¹⁰¹ See Howard Blume & Seem Mehta, *Charter Schools in L.A. Area Win \$60-million Grant*, L.A. TIMES, Nov. 20, 2009, <http://articles.latimes.com/2009/nov/20/local/la-me-gates20-2009nov20>; Press Release, Bill & Melinda Gates Foundation, *Five California Public Charter Networks Receive \$60 Million to Promote Effective Teaching and Prepare More Students to Succeed in College*, [http://www.gatesfoundation.org/Media-Center/Press-Releases/2009/11/Five-California-Public-Charter-Networks-Receive-\\$60-Million-to-Promote-Effective-Teaching](http://www.gatesfoundation.org/Media-Center/Press-Releases/2009/11/Five-California-Public-Charter-Networks-Receive-$60-Million-to-Promote-Effective-Teaching) (last visited Dec. 8, 2013).

¹⁰² See Motoko Rich, *Grants Back Public-Charter Cooperation*, N.Y. TIMES, Dec. 5, 2012, at A20, *available at* <http://www.nytimes.com/2012/12/05/education/gates-foundation-gives-25-million-to-charter-school-collaboration.html>; Press Release, Bill & Melinda Gates Foundation, *Gates Foundation Invests Nearly \$25 Million in Seven Cities Dedicated to Bold Collaboration Between Public Charter and Traditional Schools*, <http://www.gatesfoundation.org/media-center/press-releases/2012/12/gates-foundation-invests-nearly-25-million-in-seven-cities> (last visited Dec. 8, 2013).

¹⁰³ See Valeria Strauss, *Who Won Millions in Walton Foundation Grants in 2011*, WASHINGTON POST (Mar. 7, 2012, 9:17 PM), http://www.washingtonpost.com/blogs/answer-sheet/post/who-won-millions-in-walton-foundation-grants-in-2011/2012/03/07/gIQAPMwwwR_blog.html.

¹⁰⁴ See RAVITCH, *supra* note 99, at 217; David M. Herszenhorn, *Billionaires Start \$60 Million Schools Effort*, N.Y. TIMES, Apr. 25, 2007, <http://www.nytimes.com/2007/04/25/education/25schools.html>.

based approaches.”¹⁰⁵ Some find the spending of such billionaires on education to be antidemocratic because they are not subject to public oversight or accountability.¹⁰⁶ Indeed, if the public does not like the corporate education agenda, they cannot vote them out of office.¹⁰⁷ Nor do such billionaires face any risk of repercussions, should their reform efforts prove to be unsuccessful.¹⁰⁸

Unfortunately, the Obama Administration is also a supporter of increased privatization and competition,¹⁰⁹ and the Administration has aligned its education policy with corporate agendas.¹¹⁰ In 2009, after President Obama gave his first major education speech as president, Eli Broad called the Obama presidency “our golden moment.”¹¹¹ The Obama Administration supports a corporate agenda for schooling by advocating for merit-based pay for teachers, increasing the number of charter schools, firing ineffective teachers, allowing competition for scarce resources, closing down schools in low-income neighborhoods, and pushing for high-stakes testing.¹¹² Interestingly, labor unions, including teachers unions, continue to support the Democratic Party.¹¹³ For the reasons discussed in the next Part, labor unions need to hold elected officials accountable for their corporate (neoliberal) education agenda.

IV. NEOLIBERAL INFLUENCES ON STUDENTS AS FUTURE PARTICIPANTS IN THE LABOR MARKET

Corporate-school partnerships promote neoliberal ideology in public education.¹¹⁴ Neoliberal ideology follows free-market

¹⁰⁵ RAVITCH, *supra* note 99, at 200.

¹⁰⁶ *See id.*

¹⁰⁷ *See id.* at 200–01.

¹⁰⁸ *See id.*

¹⁰⁹ *See* Adriane Kayoko Peralta, *A Critical Discourse Analysis of the Obama Administration's Education Speeches* (2012) (Ed.D. dissertation, Loyola Marymount University), available at <http://gradworks.umi.com/3519107.pdf>.

¹¹⁰ *See* Saltman, *supra* note 99, at 57 (“The Obama administration’s approach to education share the venture philanthropy perspective and agenda, imagining public schooling as a private market within which schools must compete for scarce resources.”).

¹¹¹ *See* Gerson, *supra* note 99, at 113.

¹¹² *See id.* at 111–13.

¹¹³ *See id.* at 102.

¹¹⁴ *See* KENNETH J. SALTMAN, *THE EDISON SCHOOLS: CORPORATE SCHOOLING AND THE ASSAULT ON PUBLIC EDUCATION* (2005).

principles and abhors government intervention and regulation.¹¹⁵ These values influence public education through increased privatization, corporate models of schooling, and an increased reliance on private funding through advertising and marketing to students (discussed *supra* Part III).¹¹⁶ Because one of the primary purposes of schools is to prepare students to be participants of the labor market, it is important to examine how corporate-school partnerships influence students as future workers.

There are three major consequences to the commercialization of schools and its neoliberal influences on students as future workers. First, such commercialization teaches students to be consumers, instead of citizens.¹¹⁷ This is problematic because students will learn that the primary purpose of working is to be able to afford more consumption. In addition, students will not understand their obligations to society as a citizen. Second, corporate-school partnerships promote neoliberal notions of deregulation.¹¹⁸ Students will learn that government regulation should be avoided and the labor market should be left alone. Finally, corporate-school partnerships teach students to be uncritical workers who do not question the inequitable status quo.¹¹⁹ Instead, students will learn to fall in line, follow directions, and not challenge inequality of economic opportunity.¹²⁰ Students will learn not

¹¹⁵ *Id.* at 183 (“Neoliberalism, which has its origins with the economists Fredrick Hayek and Milton Friedman, suggests that markets can be trusted to resolve economic and social problems. As a corollary, the failure to embrace markets fully enough explains economic and social problems. Within this perspective, the role of social welfare and care-giving parts of the public sector should be minimized and the private sector should be allowed to do its magic.”).

¹¹⁶ *See id.* at 186 (“Neoliberalism is the dominant ideology of the present moment but also the one most affecting schooling at every level. The central aspects of neoliberalism in U.S. education involve three intertwined phenomena: (1) structural transformations in terms of funding and resource allocations: the privatization of public schools including voucher schemes, for-profit charter schools, and school commercialism initiatives; (2) the framing of educational policy reform debates and public discourse about education in market terms rather than public terms . . . ; and (3) the ideology of corporate culture in schools that imagines the school as ideally being recreated to model the corporation.”); Saltman, *supra* note 99, at 58 (“In education, Neoliberalism has taken hold with tremendous force, remaking educational common sense and pushing forward the privatization and deregulation agendas.”).

¹¹⁷ SALTMAN, *supra* note 114, at 186.

¹¹⁸ Saltman, *supra* note 99, at 58.

¹¹⁹ *See* HENRY A. GIROUX, AGAINST THE TERROR OF NEOLIBERALISM 87 (2008).

¹²⁰ *See* Randy Hewitt, *Priming the Pump: “Educating” for Market Democracy, in SCHOOLS OR MARKETS?: COMMERCIALISM, PRIVATIZATION, AND SCHOOL-BUSINESS*

to question the current labor market system and the inequalities that exist, but rather, students will learn their place in the system and accept those positions.¹²¹ All three of these consequences will negatively influence the future of our labor system, and this Part will discuss each in turn.

A. *Consumers Instead of Citizens*

Commercialism in schools is problematic because it teaches students to be consumers instead of citizens. Kenneth Saltman explains, “In neoliberal ideology, the individual is conceived privately in economic terms as a consumer or worker rather than publicly and politically as a citizen.”¹²² As future participants in the labor market, students will view work as a way to provide for the purchase of goods. Anticommodificationists contend that commercializing schools corrupts the nature of education.¹²³ In response to the Consumers Union study, which showed that 80 percent of corporate sponsored educational materials are biased toward the sponsor’s objectives (discussed *supra* Part III.B.), Michael Sandel writes:

But even if corporate sponsors supplied objective teaching tools of impeccable quality, commercial advertising would still be a pernicious presence in the classroom, because it is at odds with the purpose of schools. Advertising encourages people to want things and to satisfy their desires. Education encourages people to reflect critically on their desires, to restrain or to evaluate them. The purpose of advertising is to recruit consumers; the purpose of public schools is to cultivate citizens.¹²⁴

Sandel describes an underlying tension between the purposes of marketing and schooling. The purpose of advertising, marketing, and the overall commercialization of schools encourages students to be unquestioning consumers. Commercialism in schools teaches students that the sole

PARTNERSHIPS, at 47 (Deron R. Boyles ed., 2005).

¹²¹ See *id.*

¹²² SALTMAN, *supra* note 114, at 186.

¹²³ See generally I. Glenn Cohen, *The Price of Everything, the Value of Nothing: Reframing the Commodification Debate*, 117 HARV. L. REV. 689 (2003) (“A second type of objection to commodification is that an exchange ‘corrupts,’ ‘taints,’ or ‘denigrates’ the things being exchanged . . .”).

¹²⁴ SANDEL, *supra* note 13, at 200.

purpose of working is to be able to purchase merchandise. This mentality is termed the “work-and-spend cycle.”¹²⁵ In other words, the more we work, the more we spend; and the more we spend, the more we need to work.¹²⁶ Such a lifestyle is unfulfilling because the worker will never be satisfied as he or she will always want more. In addition, the worker will not seek ways to contribute to society because the worker primarily focuses on making more money.

Instead, the purpose of public education should be teaching students to be critical thinking citizens who participate in our democracy. Student-citizens learn that work is more than just about making money: having a career or a job is about contributing to the functioning of society. A career should include a sense of being a member of the community and taking part in the success of society. However, “[i]t isn’t easy to teach students to be citizens, capable of thinking critically about the world around them, when so much of childhood consists of basic training for a consumer society.”¹²⁷

This conception of working for the purpose of consumption is troubling because future workers will not understand their role as a citizen in a democracy. Perhaps future workers will not value the importance of a collective voice and worker representation through labor unions. This is particularly concerning because of the declines in union representation and the connection to widening income disparities.¹²⁸ Saltman contends, “Social subjects are increasingly interpellated as consuming subjects; citizenship collapses into consumerism. As democracy becomes a market, democratic traditions such as the ideal of equality, the respect for human rights, and the vision of a more just future go up in smoke.”¹²⁹

B. Deregulating Labor

As a result of corporate-school partnerships, students are

¹²⁵ See JULIET B. SCHOR, *THE OVERWORKED AMERICAN: THE UNEXPECTED DECLINE OF LEISURE* 107–38 (1991).

¹²⁶ See *id.*

¹²⁷ SANDEL, *supra* note 13, at 200.

¹²⁸ See Bruce Western & Jake Rosenfeld, *Unions, Norms, and the Rise of U.S. Wage Inequality*, 76 AM. SOC. REV. 513 (2011); *Unions, Inequalities, and Right to Work, Interactive Graphic*, THE TELLTALE CHART (June 19, 2012), <http://telltalechart.org/2012/06/165>.

¹²⁹ KENNETH J. SALTMAN, *COLLATERAL DAMAGE: CORPORATIZING PUBLIC SCHOOLS—A THREAT TO DEMOCRACY* 79 (2000).

learning to value neoliberal ideology and to rarely question a winner-take-all society. Neoliberal principles promote an unregulated free market, which is concerning because the economic inequality gap between the rich and poor is currently at its widest in United States history.¹³⁰ An unregulated labor market will only result in even greater economic disparities. Neoliberalism leaves no room for social justice “as everybody is now a customer or client, and every relationship is judged against the bottom line.”¹³¹

The labor market is also in considerable need of new regulations due to the changing nature of the workplace. Legislators developed current labor and employment law during the New Deal Era, but these regulations are no longer appropriate for the current work environment in which employees often change jobs and worker status is more nontraditional.¹³² Now, arguably more than ever, we are in desperate need of new regulatory schemes that not only promote equality, but also protect workers.¹³³ If the next generation of workers do not demand enhanced government regulation, inequality will presumably grow and protections for workers will disappear. Allowing pervasive neoliberal ideology to permeate our schools should be a cause for concern to us all in adapting to the changing nature of our labor system.

C. *The Uncritical Worker*

Neoliberalism also creates a market system of winners and losers, where the gap between the haves and have-nots is not

¹³⁰ See KATHERINE V. W. STONE, FROM WIDGETS TO DIGITS: EMPLOYMENT REGULATIONS FOR THE CHANGING WORKPLACE 126 (2004) (“The pay gap between the top quintile and the bottom quintile of the work force is the greatest it has been at any time since 1947 when the U.S. Department of Labor first collected such statistics.”).

¹³¹ See GIROUX, *supra* note 119.

¹³² See STONE, *supra* note 130, at 124 (“The former regulatory structure was based on the template of long-term employment relationships and strong employer-employee attachment, and thus it is not well suited to the newly emerging employment system comprised of implicit promises of employability security, human capital development, lateral employment mobility, and networking opportunities. Therefore, as internal labor markets decline in importance, many features of the regulatory framework need to be reconsidered.”).

¹³³ Professor Katherine Stone has identified five key areas where the regulatory framework needs to be reconsidered: (1) how to resolve disputes about an employee’s use of intellectual property post-termination; (2) how to properly address new forms of discrimination against women and people of color; (3) how to develop better employee representation; (4) how to improved benefits structures that provide a better safety net for shifting workers; and (5) how to improve income equality. *Id.* at 124–26.

only acceptable but wider than ever.¹³⁴ Such an ideology in schools means that not all students will succeed. Instead, neoliberal schools will create what some have termed a “disposable population” of students who will be unable to compete in the labor market.¹³⁵ They will be “warehoused in schools that resemble boot camps, dispersed to dank and dangerous workplaces far from the enclaves of the tourist industries” or “consigned to the increasing army of the permanently unemployed.”¹³⁶ This is a depressing reality of competition in education. When market principles guide schooling, underperforming schools will be “used as a means to train obedient and uncritically minded workers who, unwittingly, are eager to serve as fodder for predatory capitalism.”¹³⁷

Moreover, the neoliberal and corporate agenda requires uncritical workers who will not question inequality and injustice in the labor market. Critical workers would demand government regulation through democratic participation and advocacy. Thus, the corporate influence in schools will train students to be uncritical workers who will go along with the inequitable status quo. Randy Hewitt explains, “The systemic avoidance of the spirit of criticism in the public schools not only keeps students ignorant that gross socioeconomic and political inequalities exist in their world but prevents them from developing the critical abilities to identify and evaluate the ideological justifications for such inequalities”¹³⁸ The neoliberal agenda in schools is a form of social control, and it must be stopped if we are ever going to see a more equitable labor system.

V. CONCLUSION: REGULATION OF CORPORATE-SCHOOL PARTNERSHIPS

Considering the negative consequences discussed in the previous Part, states should enhance their current statutes and regulations in order to draw brighter boundaries between corporations and public schooling. A report by the U.S.

¹³⁴ See GIROUX, *supra* note 118.

¹³⁵ *Id.* at 84.

¹³⁶ *Id.*

¹³⁷ Hewitt, *supra* note 120, at 48.

¹³⁸ *Id.* at 50.

General Accounting Office found that “[s]tate laws and regulations governing commercial activities in public schools are not comprehensive.”¹³⁹ Nationwide, “19 states currently have statutes or regulations that address school-related commercial activities, but in 14 of these states, statutes and regulations are not comprehensive and permit or restrict only specific types of activities.”¹⁴⁰ In most states, local school boards have the authority to make policy decisions about commercial activities or to delegate these decisions to school district superintendents and principals, who often make decisions on a case-by-case basis.¹⁴¹ Molnar et al. write, “This largely unregulated environment, coupled with insufficient public funding for education, has helped erode barriers to marketing in schools.”¹⁴²

Professors Alex Molnar, William Koski, and Faith Boninger developed a thorough legislation policy brief, which provides an exemplar of statutes and regulations that states should adopt in order to prevent the harms of corporate-school partnerships discussed in this Article.¹⁴³ The brief calls for mandates that limit commercial activities on school campuses and minimizes the harms to students.¹⁴⁴ Such legislative measures are necessary, if we hope to raise students who are citizens, critical thinkers, and mindful of social justice issues.

Some may argue that if we remove corporate spending in schools, then schools will suffer from serious underfunding. Many schools depend on funds from corporations because states have reduced school spending to the bare minimum. Although I sympathize with this argument, I contend that states have cut public funding for schools, in part, because of our reliance on private funding. Sandel puts it this way:

As the markets storm the schoolhouse gates, cash-strapped schools, reeling from recession, property tax caps, budget cuts, and rising enrollments, feel no choice but to let them in. But the fault lies less in our schools than in us citizens. Rather

¹³⁹ SHAUL, *supra* note 40, at 3.

¹⁴⁰ *Id.*

¹⁴¹ *See id.* at 10.

¹⁴² Alex Molnar, William S. Koski, & Faith Boninger, *Legislation Policy Brief: Policy and Statutory Responses to Advertising and Marketing in Schools*, COMMERCIALISM IN EDUC. RES. UNIT ARIZ. ST. U., Jan. 13, 2010, available at <http://nepc.colorado.edu/files/CommerLege.pdf>.

¹⁴³ *See id.*

¹⁴⁴ *See id.*

than raise the public funds we need to educate our children, we choose instead to sell their time and rent their minds to Burger King and Mountain Dew.¹⁴⁵

We, as a society, should value public education enough to properly fund it.¹⁴⁶ Relying on private funding to fill public school budget deficiencies is not an acceptable option. In order to restrain our reliance on private funding, states should implement corporate-school partnership regulations.

Moreover, studies have shown that revenue produced through commercialism is actually minimal in comparison to overall school district operating budgets.¹⁴⁷ One report concludes:

Although some districts and advertising agency middlemen claim that advertising will bring “millions” into the school systems, little evidence of such lucrative arrangements is available. Most districts raise less than a half a percent of their operating budget through school advertising. Yet, the students feel the costs of these arrangements, regardless of how unprofitable they may be. As districts turn to commercial advertising within schools as a revenue stream, they also provide justification for future cuts and weaken the sense that the public is responsible for public education.¹⁴⁸

We must get back to a place where the public feels responsible for properly funding public education, and in order to do that we must discontinue our reliance on corporate funding. Otherwise, states will continue to slash school district

¹⁴⁵ SANDEL, *supra* note 13, at 201.

¹⁴⁶ Some may ask where the funding should come from and whether there are any options besides raising taxes. One solution is to redistribute tax funds that are currently going towards funding prison systems. This is a viable option considering the serious problem of mass incarceration in this country and the incredible amount of money that states spend on incarcerating inmates. See MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2012). In California, for example, voters recently approved Proposition 47, which reduces prison penalties for nonviolent crimes. Part of the Proposition includes redistributing tax funds based on savings accrued from decreasing the prison population. Some of the redirected funds will go towards public education. Paige St. John, *Pros. 47 Passes, Reducing Some Crime Penalties*, L.A. TIMES, Nov. 4, 2014, available at <http://www.latimes.com/local/political/la-me-ff-prop-47-drug-possession-201411103-story.html>.

¹⁴⁷ See Molnar et al., *supra* note 142. (“While corporate-school arrangements do often provide fundraising opportunities or entertaining activities, their benefits tend to be modest compared with their damage.”); *School Commercialism: High Costs, Low Revenues*, PUB. CITIZEN, Feb. 2012, available at http://www.commercialalert.org/PDFs/SchoolCommercialismReport_PC.pdf)

¹⁴⁸ *School Commercialism*, *supra* note 147, at 19.

budgets with the hopes of relying on private funds. Unfortunately, those private funds come with a serious detriment to our children and reduce the public's sense of duty to properly support public education.