

The Significance of the Disappearance of “Diverse” from “Guaranteeing Educational Opportunities”: An Interpretation from the Viewpoint of the Victory of Formalism and the Educational Consumer*

Ichiro Kuraishi[†]

Translated by Nadezhda Murray[‡]

The so-called “Educational Opportunity Guarantee Act 2016” was adopted and established in the National Diet in December 2016. As is well known, it gained impetus through lobbying from people involved with alternative “free schools,” pursuing a stable position within the system, along with the night junior high school movement. This process, in which a discussion that shakes the foundations of public education as a whole was brought to the fore by the margins of the public education system, is extremely interesting. Elsewhere, the final text of the law is sharply distinguished from its original plan, and has been severely criticized by people involved in the movement. This paper focuses on the point among these that both in word and in deed, the concept of “diverse” has disappeared from the initial “guaranteeing diverse educational opportunities.” With guidance from the arguments of David F. Labaree, this paper interprets the process of this alteration (loss) as the triumph of formalism over actualism in education, a “victory” for the educational consumers who view public education as private property.

Keywords: Educational Opportunity Guarantee Act 2016; concept of “diverse”; actualism and formalism; public education as private property; educational consumers

1. Location of the problem

At the extraordinary Diet session in autumn 2016, the Act for Guaranteeing the Opportunity of Receiving Education equivalent to General Education at the Compulsory Grades (hereafter, the Educational Opportunity Guarantee Act), which had been under continuing de-

*This article was originally published, in Japanese, in *Kyoikugaku Kenkyu (The Japanese Journal of Educational Research)*, Vol. 85, No.2, 2018. The author takes full responsibility for the wording of this paper.

[†] Kyoto University

e-mail: kuraishi.ichiro.2v@kyoto-u.ac.jp

[‡] e-mail: bekomoya@gmail.com

liberation after submission for Diet member legislation, was finally passed and established. As is well known, the passing of the Act was occasioned by lobbying from free school personnel in search of stability within the system, later joined by others from the night junior high school movement. “Free school” here refers to private-sector classrooms and similar which have functioned to receive children not attending school who could not be sufficiently cared for by publicly run adaptation classrooms, etc. Among the reasons for long-term absence from school, “non-attendance” due to psychological issues has been on the increase since the late 1970s, and is now considered a major educational issue in Japan. In addition to free schools, discussion demanding a revision of public education overall arose from night junior high schools, schools for non-Japanese children, international schools, and others on the margins of the public education system; this process in this context is extremely interesting. In particular, the section in the Purpose section on being “in accordance with the content of” the Treaty on the Rights of the Child has been praised, and the point in the Principles section that educational opportunities must be guaranteed “regardless of age, *nationality*, or other contexts” is startling to anyone who has retained an interest for many years in education for foreigners in Japan. After all, the postwar Japanese Ministry of Education authorities’ policy has long left foreign nationals out in the cold, stating that compulsory education is not applicable to them.

However, elsewhere, the final text of the Act is very different from the original conception, and it is true that the various lobbying groups are sharply critical of the final results. This paper focuses on the point, among these issues, of the disappearance of the word “diverse” both in text and in fact from the initial “guaranteeing *diverse* educational opportunities.” Touching on the variables of assorted political issues, this paper grasps this alteration (loss) as the clash between educational actualism and formalism, and finally interprets it as a victory for the view of public education as private property versus as public property, in other words a victory of the educational consumers.

Throughout the period when the Educational Opportunity Guarantee Act was making waves in the educational world, the concept of “diverse” was consistently discussed. A focus of criticism from the opponents of the bill was that the rhetoric of “diverse educational (learning) opportunities” might serve simply to conceal the hierarchization or ranking of educational institutions lurking at the back of the current bill, and the further selection/separation/eradication of children based thereon.¹ However, when the word “diverse” came to seem likely to be deleted from the bill presented to the Diet, its “absence of diversity” became the target of attacks from the critics: this countermeasure bill for non-attending students does not even attempt to conceal its raw violence, it blames the entire problem on the children (in particular their psychological issues), it entirely fails to address the perspective of a comprehensive reappraisal of schools, it is the last bastion of assimilationism which tries to force outliers brutally into predetermined forms, and so on.² However, this paper addresses the problem area of “diversity” from an angle slightly different from that of the existing discussion. In preparation therefor, the next section will rely on the theories of David Labaree, the American educational historian and sociologist, to organize the concepts required for further analysis.

2. Framework for analysis: Relying on David Labaree

The keywords of this paper (the paired concept of actualism/formalism, the stance on education as public property/private property, the concept of the educational consumer) all rely on the work of David Labaree. This section will explain these main concepts, with reference to *Someone Has to Fail*³ of 2010, considered among Labaree’s major works.

Labaree’s focus in this book is on the clarification of what he calls school syndrome, which he views as a social disease of the US; that is, the syndrome in which problems of the entire society are foisted on school education for their resolution. However, the sufferers from this disease are not society as a whole, but those to whom he refers overall as school reformers. Elsewhere, the powerful actors moving education at its base are the consumers. They never object to or try to reform the status quo of schools (by definition, those who do are the reformers), and therefore have the advantage of a “healthiness” distinct from this syndrome.

The reformers and the consumers hold polar opposite views on education. The reformers share the view, even if from different perspectives, that public education is a public good, and have bestowed on schools the mission of solving pressing social problems. While their fulcra may be political, economic, or otherwise, their educational views are inseparable from their vision of the social construct. In contrast, the consumers’ goals are social mobility (for their own children). Understanding public education as a private good, they seek “a school system that would support their efforts to get ahead or stay ahead in a competitive society.”⁴

One other significant difference between these educational perspectives is that while the reformers take an actualist position, valuing the content of education, the consumers take a formalist stance, valuing its form. For the former, “[the reformer] locates the source of education’s value in the skills and knowledge that students pick up in school. From this perspective, the learning that students acquire in the classroom enables them to be more productive, by supplying the abilities needed in a technologically developing economy.”⁵ Elsewhere, “[the consumer] focuses on access to jobs rather than acquisition of job skills, emphasizing the way in which educational credentials allow prospective employees to meet the minimum requirements for better positions. From this perspective, what students learn in the classroom is irrelevant; what matters is that they have acquired a form of educational currency—a diploma—which they can cash in on a good job.”⁶

Interesting in Labaree’s argument is his close focus on the point that the essence of American schools has hardly changed, even given the power of generations of imposing reformers. And yet, this fixed point also aligns with the parts that the silent actors, the consumers, have instinctively sensed and protected as the virtue of American schools. For example, they are the values of “accessibility to all and...low academic standards”⁷, all connected to the formalist rather than actualist aspects of education. The formalism of American schools treasured by the educational consumers “let[s] everyone in, ...and [doesn’t] punish people for failing but instead give[s] them multiple possibilities to reenter the system and try again.”⁸ A focus on this broad-mindedness may suggest “soft formalism” as a description.

The concept mechanisms for this analysis are as seen above. To demonstrate once again the relation between Labaree’s argument and this paper, the hidden intent of this paper is to hear and reconstruct the silent voices of the consumers from the “guarantee of educational opportunities” debate, which has a tendency to be overwhelmed by the loud voices of the re-

formers.

3. The concept of “diversity” and the politics of its loss

This section compares and considers the bill at the stage when “diverse” was positioned as a core concept in its title as well with the final text of the law⁹ that was passed and promulgated (after the loss of “diverse”). I want to pay especial attention here to the high level of “politics” contained in the concept of “diversity.” The “pre-loss” text referred to here was presented in May 2015 and subsequently amended through September of the same year,¹⁰ and is generally known as the “Chairman Hase draft.”¹¹ This nickname is derived from Hiroshi Hase, a member of the Japanese House of Representatives affiliated with the Liberal Democratic Party. As the leader of the cross-party group of Diet members responding to the demands of people involved with free schools and night junior high schools, Hase was responsible for compiling the bill. The “draft” discussed below is the result of this process.

(1) The “Chairman Hase draft” and its commitment to “diversity”

Hiroki Yamamoto has summed up the character of the so-called Chairman Hase draft as “the individual education plan bill,” pointing out that it “also contained some content far exceeding the operation of the school system within the School Education Act,”¹² and encouraging attention to its radical latent potential. Let us consider the content thus touched on first.

Individual education plans are made by parents/guardians whose children are not attending school and approved by the Board of Education. Upon confirmation that the individual education plan has been comprehensively followed, the parents’ duty to have their child attend school is felt to have been carried out, and the child’s completion of education is recognized. Below are draft articles 12, 17, and 18, which contain the core sections regarding individual education plans and school attendance approval related thereto.

Article 12. The guardian of a school-aged child who has been absent from school for a significant period and for whom attendance is difficult due to special circumstances determined by an ordinance of the Ministry of Education, Sports, Science and Technology ... may, in accordance with MEXT ordinances, create a plan for the education of the school-aged child in question (hereafter, an individual education plan) and submit this to the Board of Education of the municipality in which they reside (excluding special areas, below likewise), to receive approval that the individual education plan is appropriate. ...

Article 17. Guardians receiving approval as in Article 12, Section 1, are considered to be fulfilling their duty as set out in the School Education Act Article 17 Section 1 or Section 2.

Article 18. ...

2 Municipal Boards of Education are to bestow a certificate of completion on persons who have completed compulsory education through learning activities in compliance with an approved individual education plan.

Here I want to point out the identity of the client (user) envisioned in this structure with the

individual education plan at its core. According to the article text, it is “a school-aged child who has been absent from school for a significant period.” There are no caveats regarding psychological reasons or dislike of school whatsoever; let us note that the client image covers any absentee, be they ill, absent for economic reasons, or otherwise; that is, very simply, “a child not attending school.”¹³

Elsewhere, the most compelling issue for the free school personnel who pushed the bill into law was most likely the regulation of the roles of alternative educational organizations (learning places) other than schools in the creation and execution of these individual plans. This role is defined in Article 12 of the bill as “support[ers] regarding learning in accordance with the individual education plan,” with their “incorporation” information required upon submission of the individual education plan to the Board of Education as below.

Article 12.

2 The individual education plan must indicate the following items.

1 to 3 (omitted)

4 The following items in the case that a non-guardian of the school-aged child will provide support for learning in accordance with the individual education plan

- a) The name and address of the person providing support, or the name of the representative in the case of an incorporated body
- b) Items relating to the content and method of the support
- c) Items relating to the relationship with the guardian

While the “modern” rhetoric of a “learning supporter” is used, they are clearly envisioning alternative educational organizations such as free schools as the main alternative “education” for children not attending school.

Whether this draft earns its name of “guaranteeing *diverse* educational opportunities” or not depends on whether it stands by its stance of judging only whether the learning activity is appropriate based on the individual’s “developmental level and characteristics,” without formal regulation of any kind by educational authorities of the learning supporter (education subject). However, as far as we can judge from the text, while in a sense this mechanism with the individual education plan at its core provides guardians with more of a free hand¹⁴ even than the previous plan to certificate “free school” as regular school in accordance with the Article 1 of the School Education Act, it is also extremely ascetic with regard to the exercise of authority by public education. While serious discussion of the management and ensuring of quality of extramural learning activities has not taken place, learning activity freed from the shackles of the school is not without the potential to break the taboos of the Courses of Study and boldly take on social issues, developing into critical citizenship education. In this sense, the draft can certainly be read as going far beyond the framework of the existing School Education Act and even moving toward having the reform of the concept of public education itself in its sights.

Let us apply the actualism/formalism framework, which is this paper’s perspective, to the draft, in particular the section on the individual education plan. Noted particularly in this plan is the thorough focus on the “actuality/content” of the learning in children’s curricula, without being distracted by “forms” such as commuting to or attending school. “Where” learning takes place is a secondary issue, with the focus on ensuring the content rather than the location. However, this commitment to actualism may also involve risks for the educa-

tional personnel. In accordance with Labaree's comment that "changing how and what students learn in those classrooms has proven to be the most daunting of all reform aims,"¹⁵ schools detest the imposition of exterior reform on their core, that is curriculum-based classroom learning. In the worst-case scenario, with the heightened actualism accompanying the introduction of individual education plans as a bit of serendipity, the external gaze could invade teachers' teaching activities without consideration. As well, the interpretation of "opportunities" in the draft is also deeply connected to this actualism. "Opportunity" is a concept open to potential, but the problem here is the semi-open logic used to handle the issue, in which if the actuality (learning content) is guaranteed, the form (location) is not questioned.

Where, then, is the "political" quality of this draft? As noted above, the opposers and critics of the bill sensed the politics of hierarchization/ranking/elimination in this separation of educational spaces. As well, the movement for non-attendees speaking for themselves sensed politics¹⁶ in the intervention of official authority into the household, and the conservative wing of the parties in power further read politics in the sense of the danger of order dissolution¹⁷ due to excess liberalism. All these are interesting debates, but this paper chooses to focus on a slightly different dimension of "politics."

The certification of the performance of compulsory education via individual education plans will inevitably disturb the order of public education, which has maintained stability through forcible attendance at school, and further the social organization which has maintained a degree of stability through standing on its own obviousness. There should be little argument that the space of compulsory public education in Japan has long been "an opportunity to engage with people from other career levels under comparatively fair treatment."¹⁸ Conversely, in the social organization based thereon, the tension of encountering others and the long and difficult process of building mutual understanding reduces on a basis of the trust in the degree of filtering function provided by the experience of public education. However, this order will be transformed by the appearance of the truly diverse "bypass" created by the certification of the performance of compulsory education through individual education plans. The possibility that people who have followed diverse paths and do not necessarily share common experiences will meet for the first time in society after leaving schools is to become a reality. Moreover, this bypass is open "regardless of age, nationality, or other situational characteristics" (Chairman Hase draft Article 2 No. 1). Corporate culture, with its basis in scholastic age groups (the hierarchization of "year groups"), and the stubbornly persisting view of society as homogeneous will be overturned. In the face of this situation, everyone will inevitably be compelled to consider a society which must be shared with others with whom mutual understanding is not obvious, and one's own position therein.

As discussed above, the draft naturally works toward a reorganization of public education and calls for a revision of the concept, but also possesses the potential to drag people into a whirlpool of endless searching with regard to the future shape of society. In this sense, it can be said to have a highly "political" vision.

(2) Comparison with the law text with "diverse" missing

With regard to the text finally voted into law after one way and another passing through the Diet and deliberations, while there is some approval of the positive attitudes of those pushing for it to become law,¹⁹ on the whole it has been heavily criticized from end to side. What strikes its readers as odd is, perhaps, Article 2 and the definition of terms appearing in

the law text therein.

Article 2. The significance of the terms appearing in each section of this Act is defined as follows.

1. School (omission)
2. Students (omission)
3. Students not attending school: Students absent from school for a significant period, for whom, due to psychological burdens related to group experience at school or other reasons, school attendance has been recognized as difficult by the Minister of Education, Sports, Science and Technology.
4. Ensuring educational opportunities, etc.: Ensuring educational opportunities for students not attending school, ensuring educational opportunities equivalent to regular education at the compulsory education stage such as the provision of opportunities to attend school in schools offering classes at night or other special times, or support for those not receiving sufficient education.

The definition of “ensuring educational opportunities” stipulated in Section 4 above is the most important. Here we find a clear answer to the question of the identity of the client (user/benefiter) of the scheme to ensure educational opportunities. It is the “students not attending school” stated, or rather called out, at the beginning of the text. As if to press the point, the text emphasizes that they are those “for whom, due to psychological burdens related to group experience at school or other reasons, school attendance has been recognized as difficult,” enabling confirmation of the sudden appearance here of a psychological/individualistic viewpoint. Consideration for non-attendees due to reasons other than the psychological, such as illness or economic issues (particularly the latter), is entirely absent.²⁰ This clearly represents the loss of “diversity” in the client.

Next, let us consider the practitioner side of the project ensuring educational opportunities. As noted in the previous section, the Hase draft allows for alternative educational institutions such as free schools. However, the established law text entirely removes any alternative institutions from the position of prime movers. Instead, it emplaces there existing schools (Article 8), special non-attendance schools²¹ (Article 10), and public learning support facilities (Article 11).

Article 8. National and regional authorities are to make efforts to provide approaches to the construction of relationships of trust between students and schoolteachers and good relations among students, and to the grasp of students’ environments and other situations as well as their intentions, and also mechanisms required for the support of school-based approaches to support suited to the individual situations of students who are struggling with life at school.

Article 10. National and regional authorities are to make efforts to provide mechanisms required for the organization of schools offering education based on a curriculum specifically compiled with consideration for the situations of non-attendant students and for the enhancement of education at schools offering this education.

Article 11. National and regional authorities are to make efforts to provide mechanisms required for the organization of public educational facilities providing support for learn-

ing for non-attendant students and for the enhancement of education at public educational facilities providing this support.

Elsewhere, while the role of private-sector organizations, envisioning free schools and so on, is regulated in Article 13, their positioning is far behind that of the Hase draft and amounts to no more than a marginal existence.

Article 13. National and regional authorities are to provide mechanisms required for the provision of information, advice, and other support (omission) to non-attendant students and their guardians, given the importance of diverse and appropriate learning activities taking place outside the school setting for non-attendant students, based on the needs for rest and recuperation of individual non-attendant students, so that learning activities suitable to the situations of the non-attendant students may take place.

It is ironic to find “diverse,” banished from the title and invalidated as a concept, just barely visible here as an adjective applied to alternative organizations. Further, the stipulation of these as places responding to “needs for rest and recuperation” must have been a serious shock for all involved. They have been contemptuously relegated to something auxiliary and secondary at best.

Article 8 states what kind of school reform is required to ensure educational opportunities. Leaving aside for the moment its emptiness of content and issues of feasibility, the most important message of this article is its proposition that ensuring educational opportunities means having children once again attend school. Neither is this denied by the regulations in Articles 10 and 11. While special non-attendance schools are open to harsh criticism as a regression to segregated/isolated education, on the point that they are still “schools” attended by children, they are aligned with the attitude that the ultimate purpose is to have children return to school. As well, the distinction between the “public *educational* facilities” described in Article 11 and public schools is unclear, and their character as institutions remains vague.

Even more interesting, the framework regulated in this law has already abandoned the “ensuring of opportunities” held up in its title. Opportunities are no more and no less than potentialities, which must be equally available possibilities for use and disuse. And yet, the system regulated by the articles above is not open to potential. When “relationships of trust between students and schoolteachers and good relations among students” are being constructed, the option for children not to attend school is not envisioned. This is not “ensuring opportunities” according to the accurate meaning of the words.

In contrast to the Hase draft, the law is clearly a strong commitment to formalism. All the legal regulations here converge on the ultimate goal of returning to school. Regardless of all else, the point that children of school age must, compulsorily, put themselves within the school setting is further absolutized. Far from the soft formalism Labaree hints at, this is rigid formalism. Attention must also be paid to the point that it is a regression from the attitude taken by the Report of the Council of Researchers on Surveys in 1992, which left open the path to flexible mechanisms such as attending school in the nurse’s office or the library.

However, this reform has probably enabled many educational professionals to breathe a secret sigh of relief. Actualism, as described above, is risky for the front lines of educational practice in the field. With the systematization of individual education plans as a catalyst, the

“actuality” of teaching and learning at the core of schools is exposed to the critical gaze of the exterior, giving rise to the possibility of interference. However, due to the formalist regression of convergence on the goal of returning to school, this risk has also been headed off. The preservation of the “one best” public education system²² was a happy message for educationalists (and, as noted below, simultaneously a sop to the desires of educational consumers).

Finally, let us make a comparison with the discussion of the “politics” of the Hase draft in the previous section, which stated that it possessed the potential to drag people into a whirlpool of endless searching with regard to the shape of society, not limited to the reorganization of public education and revision of the concept thereof, and that in that sense it possessed an advanced “political” vision. Through the creation of the bypass known as individual education plans, how will commonality be achieved and what kind of social order will be created between people who have arrived in society through a variety of routes outside schools, such as other educational institutions and home schooling? The character of the draft raises this infinitely unbounded question. With relation to this, the law’s “politics” cut off such questions and exploration, effectively stopping thought once again in its tracks. If anything, this should more suitably be called de-politics. There is no leeway there to embark on critical citizenship education with the actualization of learning as a bridgehead, as glimpsed momentarily in the draft, and none for children to celebrate the limited freedom present in the low required academic standards of American-style soft formalism. Children are constantly exposed to demands for high performance, and placed in a sealed space where critical thought cannot occur. The only hope is to scramble up the ladder out of there, betting one’s entire existence on simulated social mobility (in actuality, the maintenance of the existing social status). In this way, with the orientation toward creating a system that stifles imagination of any other way to live, the law can be said to have completely abandoned the concept of “diversity.” And as noted in section 5 of this paper, this also resonates with the values held by educational consumers.

4. Interpreting the regulations concerning night junior high schools: formalism on the attack and the rollback of actualism

This paper has so far consistently interpreted the process by which the concept of “diversity” disappeared from the Draft Educational Opportunity Guarantee Act as the victory of formalism over actualism. However, this analysis has not included a discussion of the section addressing night junior high schools (thus called hereafter, although the text of the law uses “schools offering classes at night or other special times”), which is a significant problem. As the definition of “ensuring educational opportunities” quoted above in Article 2, Section 4 indicates, the promotion of night junior high schools (“the provision of opportunities to attend school in schools offering classes at night or other special times”) is clearly stated as the next most important pillar to non-attendance countermeasures. An actual analysis of the section on night junior high schools would require correction of the linear story of actualism turning to formalism. In this section, after briefly reviewing the history of the night junior school movement up through its entry into this process, the paper will consider the regulations concerning night junior high schools in the law.

(1) Trends in the night junior high school movement

Characteristics of this movement when compared to the free school movement include the former's long history of lobbying national and regional governments for legal recognition. According to Satoshi Eguchi,²³ a central role in this movement has consistently been played by the National Night Junior High School Research Association. Below is a brief description, after Eguchi, of its history up until entry into the movement for writing the "Draft Educational Opportunity Guarantee Act" into law.

The Night JHS Research Association has been negotiating with the government since the 1950s with the goal of "legal recognition." At the time, when they were playing a major role in the reception of students with long-term absences or who had never begun school, their immediate task was to be included in the budget by gaining a legal position. Their negotiations "led to some understanding [from the government], but thereafter the government carried out no policies regarding improvement of conditions."²⁴ As the problems of long absences and non-matriculation receded thereafter into the background, their center of gravity shifted to the acceptance of colonists returning to Japan due to the effects of the Japan-Korea Treaty of 1965, and of those who had aged out of compulsory education without completing it due to the issues raised by Masao Takano and others. Solidarity developed with the Burakumin educational movement and the movements of Koreans in Japan, with indictments from "graduates on paper" beginning in the 1970s as well. Negotiations with the government continued, but the latter's stance was that "while we approve of the role being played to some extent, the establishment [of night junior high schools] is left to the judgment of the regional authorities at all times."²⁵ Even with government negotiations at a stalemate, the independent night junior high school movement has been in action since 1976, developing actively from the 1990s on. Two major turning points came about in the 2000s: the appearance of public-private sector collaborative operation methods using educational reform policies such as structural reform special districts, and the petitioning for human rights relief through the Japan Federation of Bar Associations. The latter in particular brought legislative action much closer due to petitions to National Diet members, meetings with relevant government agencies, and gatherings within the Diet. In April 2014 the group of concerned Diet members with Hiroshi Hase as chairman was launched, bringing out the movement to expand night junior high schools within the LDP administration more clearly, including the nationwide survey carried out in September.²⁶ The "Night JHS" group of Diet members held a general meeting in May 2015 with their "Free School" counterparts, at which the Hase draft, combining both their demands for legal recognition, was presented. A detailed discussion thereof is found in Section (1) above.

Within the above brief overview of the conflict between the government and the Night JHS Research Association, there are hints for a consideration of the struggle between actualism and formalism. In opposition to the government's "stance attempting to eliminate non-completers of compulsory education through social and lifelong education,"²⁷ the Night JHS Research Association responded with the logical slogan "Ensure compulsory education for the people who have been robbed of it."²⁸ Here the government is taking the actualist position, not focusing on any one form of learning place, while the movement takes the formalist stance of insisting on a guaranteed "place." However, the government once also clung to the formalist excuses that "[night junior high schools are] in violation of the School Education Act" or "could lead to permitting child labor," dragging its feet on night junior high

schools. The commitment to formalism, on both sides, seems to be in response to the given situation. More important is that the night junior high school movement has always aimed to ensure actualist learning in a form weaving through the gaps in the law. The demands for legal recognition were not an end-all and be-all, but simply a method intended to enhance learning through acquiring budget via a positioning within the educational administration. I want to be clear that this is essentially an actualist characteristic.

(2) Reconsideration of the regulation of night junior high schools in the Hase draft and the law text

Article 19 of the Hase draft regulates night junior high schools; the regulation itself, which lauds these schools for providing the service of “conducting classes” without regard to the “form” of students who are no longer school-age, is pure actualism. Therefore, there is no discrepancy with the keynote permeating the draft as a whole.

Article 19. Based on the large numbers of those who have exceeded the school age and who, not having been provided with the opportunity to attend school, desire this opportunity, regional authorities are to provide (omission) mechanisms required for the provision of the opportunity to attend schools offering classes at night or at other special times, etc.

However, when the regulation on night junior high schools was subsumed into the final law text as Article 14, with almost no change in the article text itself, this section conversely stands out from the whole, and its meaning is transformed.

Article 14. Based on the large numbers of those who have exceeded the school age (omission) and who, not having been provided with the opportunity to attend school, desire this opportunity, regional authorities are to provide mechanisms required for the provision of the opportunity to attend schools offering classes at night or at other special times, etc.

As analyzed in detail in the previous section, actualism is on the retreat in the final law text as a whole, which views consistent formalist logic as the solution to problems in the form of returning to school, with “school” being those schools defined in Article 1 of the School Education Act. Within this overall context, this article, bringing the real/content-based aspect of schools as “institutions offering classes” to the fore, creates a sense of dis-ease.

Beneficial for a deepened consideration is the mention of night junior high schools in the appendix resolution (6 December 2016, House of Councilors Committee on Education) added when the law was passed in the Diet, raising the rather odd combination of children not attending school and night junior high schools as a topic.

With ongoing full respect for the fact that schools offering classes at night or at other special times, including when accepting students not attending school, are playing the role of ensuring education for those over school age, etc., who were not able to receive compulsory education for various reasons, based on their actual status, there is to be expanded assignment of teaching staff, including increased numbers of teachers, and enhanced teaching staff training. (omission)

The appendix resolution above, with a background of worry and dissatisfaction at the result

by which the law ended up as a non-attendance countermeasure act, serves to suppress an inevitable drift in which night junior high schools serve as places offering countermeasures for non-attendance. That is, it hints that the reference to further organization of night junior high schools which seemed natural in the draft cannot here in the law be taken at face value. In the form of the erosion of the overall context, we must suspect that the regulation on junior high schools has also swiveled into formalism.

Actualism has been on the defensive so far, but has not failed to resist completely. The symbol of its pushback is Article 19, whose subtitle is “Provision of educational materials and other study support.”

Article 19. National and regional authorities are to make efforts to provide mechanisms required for the provision of educational materials (including those for distance learning, etc.) and other study support for those who have not received education equivalent to ordinary education at the compulsory level and who hope to acquire academic ability equivalent to that of junior high school graduates or higher.

To whom does this article’s “those who have not received education equivalent to ordinary education” refer? The reference to provision of materials for distance learning suggests that it has in mind the one-time users of night junior high schools, such as first-generation Korean-Japanese for whom old age has made attending school difficult. However, the final answer to this question is in the words “acquisition of academic ability.” This article envisions the (relatively young) age range who, though having “formally graduated” from compulsory education due to non-attendance, remain generally in need of the “acquisition of academic ability.” Viewed with this interpretation, the article can be read as a sort of counter from the actualist side with regard to the formalist-ridden whole. The words “those...who hope to acquire academic ability equivalent to that of junior high school graduates or higher” are remarkably ominous with regard to formalism. No one seems to have confirmed whether graduates have actually gained “academic ability equivalent to that of graduates or higher,” and no one seems to want to do so.

As noted above, night junior high schools have been considered educational institutions in which the actualist attitude is at its purest. However, the articles on night junior high schools within this law do not function sufficiently as a rollback for actualism. The alternative role played therefor is the sections referring to “re-learning” on the part of “formal graduates” due to non-attendance.

5. Discussion: “Victory of the educational consumers”

So far, this paper has presented its own interpretation of the process of the disappearance of the concept of “diversity,” a focus of the discussion, through a comparison of the so-called “Hase draft” prior to submission to the Diet and the finally approved law text. Here, the conclusion relates this process to the concept of the “victory of educational consumers,” with hints from Labaree’s theories.

The concept of “diversity” has disappeared from the text of the bill, and with it the high-level “politics” present in the draft have also vanished away. At the stage of this rewrite, the bill had probably already moved away from the hands of citizens’ action groups

and basically into those of Diet groups for rewriting. As well, over this process, there may also have been cooperation from relevant bureaucrats at MEXT, whether overt or covert. For this paper, without the wherewithal to consider these political issues, what is important is not who did the rewriting. Its focus is on reading the existence of educational consumers as the silent actors in the background who brought these results to pass, spurring the actual rewriters into motion.

The stance of this paper has been that, to some extent, the process of the loss of the concept of diversity and its accompanying high-level “politics” can be clearly interpreted by overlapping it with the shift from actualism to formalism with regard to education. According to Labaree, actualism is closer to the stance of reformers who grasp education as a public good and attempt to use it as a method of solving social problems, while formalism has affinities with the stance of consumers who grasp education as a private good and try to use it as a method of social mobility (for their own children). Actualism involves many people and awakens their public awareness regarding education. To that extent as well, it causes many people to incur risks. When the “form” as the common space is no longer primary, the triangle of citizens/public education/society must be reconsidered from the ground up. The structure in which society stands on the basis of public education is no longer safe and stable, and thus a degree of filtering of otherness by going through a common public education experience (or one thus envisioned) before meeting in society can no longer be counted on. When trying to reconstruct commonality, naturally the “actuality/content” connecting different places of learning arises as an important issue. For educational consumers, it is less than pleasant to find schools robbed of their power in approaches to this essentially “political” issue.

However, the consumers’ fears were for nothing. The individual education plan structure disappeared, and the law (bill), absent the concept of diversity, while rolling back a partial actualism in the parts related to night junior high schools, was essentially approved and established as an “Act on Encouraging the Return to School” which basically simply repeats and extends MEXT’s existing non-attendance countermeasures. This is an almost complete victory for formalism, and is in accordance with the will of the educational consumers, who place great weight on the acquisition of proof that education has been completed (educational credentials) as opposed to the actual learning at school. And yet, how do the activists at the origin of the legalization movement feel? The finally established text was aimed not at them, the people involved with the issues who have been calling for legalization, but at the mass of general consumers who have been quietly watching the process with concern and bated breath over how it will influence them. The text took into account the will not of the people involved but of the silent consumers in general. Adding further complexity, the people involved with the movements are themselves a part of the mass of consumers. They are cleaved into two stances. The people involved, seen as the clients of this law, are reacting to it with nothing but despair and disappointment; however, perhaps there may also be a few people involved with school non-attendance who are deeply relieved at this reform which has ended in the victory of formalism. Whether it be the legalization of free schools or the individual education plans, the first steps on a path leading to a sort of multiple-route structure created by reorganization of the public education, the only ladder to social mobility, were there. But with these steps eradicated, the last hope of the educational consumers—the hope that their children would be able to participate in this very unpromising game called social

mobility through the school ladder—alone has been, barely, retained.

Issues remain for the discussions raised by this paper as well. The paper has approached the phase of modern Japanese education with the concept of “rigid formalism,” but many phenomena which cannot easily be encompassed with this concept are present within current trends. For example, the approaches to improved verification based on results of national academic/achievement surveys and the trend of “maintaining quality” in university reforms, if anything, bring to mind the rise of actualism. The author feels that the basis of formalism is unlikely to be shaken by reforms of this kind, but the actualist opportunities included within the Educational Opportunity Guarantee Act resonate with the above trends, and may well resolve in unexpected occurrences. Continued attention to future trends is called for.

Finally, I want to mention the subtle discomfort caused in applying Labaree’s framework to an analysis of the current situation. At the root of Labaree’s discussion of educational consumers, educed from observation of the history of school reform in America, is a respect for something we might call popular sensibility or wild knowledge, linked with the concept of soft formalism. And while Labaree does not say so in so many words, one may surmise that what has bestowed this sensibility or knowledge on consumers in America is the history of school reform itself, gaining dynamism through the existence of reformers even as it fails over and over again. Even if consumers are the silent actors, the final results of school reform are suited to the consumers’ level of awareness and insight on education.²⁹ If this is so, the terminus of the Educational Opportunity Guarantee Act must also be a mirror reflecting the level of Japanese educational consumers. The formalism may be the same, but Japan’s is a rigid formalism, and the level of autonomy as consumers is incredibly low compared to the US. This is a reflection of the fact that Japan’s educational consumers are not yet fully “consumers” in the American sense. The world of education in Japan has never yet seriously approached the issue of training and cultivating educational consumers.

However, if we trust Labaree’s observation that there is nothing but the dynamism of the history of school reform for training consumer insight, the current trends concerning the Educational Opportunity Guarantee Act have left many people involved with indelible impressions of the scenery of “reform” which differs greatly from the top-down domination of MEXT. Perhaps because many civil reformers have been involved as actors, and, to put it somewhat ironically, their roles have been to a degree that of tricksters, they have been able to revitalize the community. Consumers’ development will come from nothing else. Now is the time to find a faint thread of hope there.

Notes

- 1 Masaya Minei, “Kore wa inclusion to aiirenai: ‘Tayo na kyoiku kikai kakuho ho (kasho) an’ no mondaiten (This doesn’t work with inclusion: Problems of the ‘Draft Law on Guaranteeing Diverse Educational Opportunities),” in *Kikan Fukushi Rodo (Seasonal Publication: Welfare and Labor)* Vol. 148, 2015, pp.120-123; Chieko Sakurai, “(Tayo na) kyoiku kikai kakuho hoan ga maneku shinjiyushugi no gakko seido (The neoliberal school system made possible by the Draft Law on Guaranteeing (Diverse) Educational Opportunities),” in *Kikan Fukushi Rodo (Seasonal Publication: Welfare and Labor)* Vol. 150, 2016, pp.16-26, etc.
- 2 Toshiyuki Kanai, “Futoko taisaku to gakushuken no jisshitsuteki hoshō: Monkasho kyoryokusha kaigi hokoku no kento (Non-attendance countermeasures and effective guarantee of the right to learn: Considering the MEXT Council of Researchers’ Report), in *Kyoiku to Bunka (Education and Culture)* Vol. 85, 2016, pp.24-34; Jun Yamada, “‘Riso no kyoiku’ wo oimotomeru toro kara mazu wa jiyu ni naru (First, let’s set ourselves free of the useless effort to achieve ‘ideal educa-

- tion’)” in *Kyoiku to Bunka (Education and Culture)* Vol. 85, 2016, pp.35-41, etc.
- 3 David F. Labaree, *Someone Has to Fail: The Zero-Sum Game of Public Schooling*, Harvard University Press, 2010. (Japanese edition: *Kyoiku Izon Shakai America: Gakko Kaikaku no Taigi to Genjitsu*, trans. Ichiro Kuraishi and Minoru Kobayashi, Iwanami Shoten, 2018)
 - 4 *Ibid*, pp.195-196
 - 5 *Ibid*, p.196
 - 6 *Ibid*, p.196
 - 7 *Ibid*, p.220
 - 8 *Ibid*, p.220
 - 9 http://www.mext.go.jp/a_menu/shotou/seitoshidou/1380960.htm (confirmed January 17, 2018)
 - 10 Hiroki Yamamoto, “Kyoiku kikai kakuho hoan no seiji shakaigaku: Josei bunseki to kenri hoshō jishitsuka no tame no shiron (The political sociology of the Draft Law on Guaranteeing Educational Opportunities: An analysis of the state of affairs and a tentative discussion of actualizing the guarantee of rights), in <*Kyoiku to Shakai*> *Kenkyu* (<*Education and Society*> *Studies*), Vol. 26, 2016, p.6
 - 11 Quoted from “Unconfirmed draft: Draft Law on Guaranteeing Diverse Opportunities for General Education Equivalent to the Level of Compulsory Education” as of August 11, 2015. <https://futoke.publishers.fm/article/9058/> (confirmed January 17, 2018)
 - 12 Yamamoto, *op. cit.*, pp.6-7
 - 13 Akira Sakai “Gakko ni ikanai kodomo (Children who don’t go to school)” in *Kyoiku no Shakai-gaku [Shinban] (Sociology of Education [New Edition])*, Takehiko Kariya/Yoko Hamana/Ryoko Kimura/Akira Sakai, Yuhikaku, 2010
 - 14 Yamamoto, *op. cit.*, pp.6-7
 - 15 Labaree, *op. cit.*, p.122
 - 16 Yamamoto, *op. cit.*, p.7
 - 17 *Ibid*, p.7
 - 18 Hisao Nakai, “Kyoiku to seishin eisei (Education and mental hygiene),” in “*Shishunki wo kangeru*” *koto ni tsuite (On “Thinking about Adolescence”)*, Hisao Nakai, Chikuma Shobo, 2011, p.106
 - 19 Akito Kita, “Futsu kyoiku kikai kakuho ho no seiritsu to tayo na manabi no kore kara (Establishment of the Act Guaranteeing General Educational Opportunities and the future of diverse learning), in *Kodomo no Kenri Kenkyu (Studies on the Rights of Children)*, Vol. 28, 2017, pp.68-78
 - 20 Reina Toki, “Tayo na kyoiku kikai no kakuho to gakushuken hoshō: Koko kyoiku to no hikaku (Ensuring diverse educational opportunities and guaranteeing the right to learn: A comparison with high school education)” in *Chiba Daigaku Kyoikugakubu Kiyō (Proceedings of the Faculty of Education of Chiba University)*, Vol. 65, 2017, pp.119-128
 - 21 The term “special non-attendance school” does not appear in the text of Article 10, but the additional resolution by the House of Councillors Committee on Education contains the phrase “The organization of special non-attendance schools as determined by Article 12 of this law...”. http://www.mext.go.jp/a_menu/shotou/seitoshidou/1380963.htm (confirmed January 17, 2018)
 - 22 David Tyack, *The One Best System*, Harvard University Press, 1974
 - 23 Satoshi Eguchi “Yakan chugaku seisaku no tenkanten ni oite towarete iru koto wa nani ka: Sono rekishi kara mirai wo tenbo suru (What is being addressed by the turning points of night junior high school policy? A view from their history through their future),” in <*Kyoiku to Shakai*> *Kenkyu* (<*Education and Society*> *Studies*), Vol. 26, 2016, pp.35-48
 - 24 *Ibid*, p.36
 - 25 *Ibid*, p.38
 - 26 As a result of this survey, it became clear that the percentage of foreign nationals among the total enrollees at public night junior high schools throughout the country would reach 81% (*ibid*, p.40). This result is connected to the phrase “regardless of nationality” in Article 3 (Basic Philosophy).

27 Eguchi, op. cit. p.37

28 Ibid, p.37

29 Research discussing Japanese education based on this kind of awareness of the issues includes *Kyoiku Retsui Shakai: Kyoikuhi wo Meguru Yoron no Shakaigaku (The Anti-Education Society: The Sociology of Public Opinion on Educational Costs)*, Masakazu Yano/Junko Hamanaka/Katsunori Ogawa, Iwanami Shoten, 2016.