



August 31, 2015

Chancellor Merryl Tisch
New York Board of Regents
New York State Education Building
89 Washington Avenue
Albany, New York 12234

Commissioner MaryEllen Elia
New York State Education Department
New York State Education Building
89 Washington Avenue
Albany, New York 12234

Re: East Ramapo School District

Dear Chancellor Tisch and Commissioner Elia:

We represent the parents of children attending school in the East Ramapo School District (“East Ramapo” or the “District”). Our clients are deeply concerned that East Ramapo’s School Board (the “Board”) has failed to provide District students with the opportunity for a sound basic education—an opportunity guaranteed to them by Article XI of the New York Constitution.

As you are well aware, the Board’s fiscal mismanagement, over the course of many years, has resulted in the loss of teachers, staff, programs, and other resources essential for a sound basic education. Under these unique circumstances, the Board of Regents, the Commissioner of Education (“Commissioner”), and the State Education Department (“SED”) must act to promptly secure the constitutional rights of East Ramapo public school students. We urge you to direct the Board to implement the recommendations set forth in this letter, which track the State’s own findings from its recent evaluations of the District. If the Board does not implement these recommendations in the coming weeks, we will have no choice but to take legal action to compel the State to intervene, as required by the New York Court of Appeals in *Campaign for Fiscal Equity, Inc. v. State of New York* (“CFE”) and the New York Constitution.

It is well-documented that East Ramapo students are being denied a sound basic education. In fact, SED itself has conducted three evaluations of East Ramapo in the past year, which, taken together, demonstrate that the Board has consistently failed to provide an education that meets constitutional standards.

Former federal prosecutor Henry R. Greenberg performed the first evaluation (the “Greenberg Report”) in 2014 at the direction of former Commissioner John B. King. The Greenberg Report concluded that the Board had: (1) diverted funds from the District’s budget for essential public school resources to programs that benefitted only Orthodox Jewish students in private schools; (2) exercised “abysmal” fiscal management, putting the District “on the precipice of fiscal disaster;” and (3) shown an “inexcusable” lack of public transparency and accountability. The Report found that these actions severely impaired District schools’ ability to

meet students' needs, particularly those of English Language Learners ("ELLs"), a growing segment of East Ramapo students.

The Greenberg Report also found that over the past five years, the Board eliminated over 450 public school personnel, including teachers, social workers, and administrators, and reduced or eliminated a host of academic and extracurricular programs, including full-day kindergarten, instrumental music, high school electives, athletics, and transportation for field trips. As the Board slashed resources, the District posted some of the lowest academic performance levels and graduation rates in the State. Yet during the same period, the Board nearly doubled its spending on transportation and special education services, which disproportionately benefitted Orthodox Jewish students attending private yeshivas. The Report further found that the Board's lack of transparency and budgeting principles had compromised the District's ability to recover from nearly a decade of unchecked financial mismanagement.

In a second evaluation in February 2015 (the "ELL Report"), SED found widespread deficiencies in East Ramapo's programs for ELL students. While ELLs constitute over thirty percent of East Ramapo's student population, the District's language programs fall far short of meeting their needs. The ELL Report showed, for example, that during the 2014-2015 school year, the Board funded only *one* Spanish Transitional Bilingual Education program, which served just 27 of the District's 1,604 Spanish speaking ELLs. The Report also revealed that the Board failed to provide core course options to Beginner and Intermediate ELLs: the District's only Beginner and Intermediate ELL courses are electives and do not lead to the accrual of credits toward graduation. SED warned that "this is a serious problem and a barrier to educational access that must be remedied immediately."

The ELL Report found several additional ELL program deficits, including inadequate translation services for parents, and a failure to implement accurate data systems or adjust the state-mandated core curriculum in order to make it accessible to ELLs. The Report also highlighted Title III funding discrepancies, and referenced statements by the District superintendent "which, at best, indicate a failure to understand the background and needs of [East Ramapo's] ELL community."

In early June 2015, SED evaluated the District for a third time, this time pursuant to East Ramapo's status as a low-performing "Focus" district. The report (the "Focus Report"), which utilized SED's Diagnostic Tool for School and District Effectiveness, documented the Board's failure to improve District schools' capacity to facilitate, support, and sustain improvements in student achievement.

Specifically, the Focus Report found that the Board failed to address inadequate staffing levels in East Ramapo's schools—levels which dropped due to the Board's draconian cuts just a few years earlier. The layoffs triggered by those cuts depleted the schools' personnel reserves, and, although remaining staff took on more responsibility to cover lost positions, the schools' capacity to improve student performance and promote student growth was greatly diminished. The Report also found that the Board had not addressed student development in any meaningful way. It did not support students' academic growth through Common Core standards or provide opportunities or initiatives to increase students' social and emotional development. And it did

not give ELLs sufficient access to programs that are crucial to their ability to learn effectively in the classroom. The Report concluded “that there is little clarity about the district’s vision for student success or alignment between school and district goals.”

The Focus Report further found that the Board has repeatedly refused to develop a financial plan to facilitate and sustain improvements in student outcomes. In fact, the Board has done the opposite by allocating funds spuriously according to its personal “views,” and not according to analysis of readily-available data on student need. This practice has allowed for enormous waste, generating “too many activities in the district [that] lack purpose.”

Shortly after SED released the Focus Report, one of our clients, David Curry, appealed to the Commissioner, seeking the reinstatement of recently-eliminated elementary school art and music programs. Mr. Curry alleged that the Board “has not provided any training to the elementary school teachers to enable them to provide instruction in art or music.” The Board did not refute these allegations. Instead, it averred, incredibly, that it did not have knowledge or information sufficient to respond to Mr. Curry’s claim, a position that, according to the Commissioner, “appear[ed] to be disingenuous and evasive.” The Commissioner responded that if the Board does not know whether Mr. Curry’s son is receiving a constitutionally-guaranteed education, “it is its duty to find out.” To date, the Board has not addressed Mr. Curry’s petition, and his son continues to be deprived of essential educational resources.

The findings in these three SED reports require immediate State action.

In 2003, the New York Court of Appeals made clear in *CFE*¹ that the State is obligated under Article XI of the New York Constitution to ensure that all public school children have the opportunity for a sound basic education; *i.e.*, “a meaningful high school education, one which prepares them to function productively as civic participants.” The Court held that the provision of such an education requires local school districts to provide all students with essential educational resources, such as an adequate number of qualified teachers, small class size, an expanded platform of services for children with additional needs, and an adequate curriculum, among other things. The Court also held that the State must ensure that districts have adequate funds, and that they use those funds to give all district students an opportunity to achieve State-established performance benchmarks. The Court stated in a later *CFE* proceeding that “[e]vidence of whether students are receiving a sound basic education may include, in addition to proof about [adequate resources and teaching], facts showing the outcomes of the educational process, such as examination results.”²

Under this standard, the SED reports confirm that public school students in East Ramapo are being denied a sound basic education. The Board has allocated too few resources to public schools, such that those schools cannot provide students—particularly ELLs—with the tools they need to succeed in school and become productive civic participants. Testing outcomes reflect the impact of these shortfalls with stunning clarity: East Ramapo has been among the worst-performing New York school districts for over five years.

¹ 801 N.E.2d 326 (N.Y. 2003).

² 861 N.E.2d 50 (N.Y. 2006).

As State actors, the Board of Regents, the Commissioner, and SED must remedy this deprivation of constitutional rights. In *CFE*, the Court of Appeals held that school boards are agents of the State, and that “*the State remains responsible when the failures of its agents sabotage the measures by which it secures for its citizens their constitutionally-mandated rights.*” The Board’s actions have indisputably sabotaged the delivery of a constitutional sound basic education to District students. As the State agents responsible for maintaining New York’s public school system, the Board of Regents, the Commissioner, and SED have an affirmative constitutional duty to ensure that the Board’s mismanagement does not continue to deprive District students of a sound basic education.

We are aware that on August 13, 2015, the Commissioner announced the appointment of a Monitor and two assisting experts to once again examine the District’s operations and make recommendations to the Board. We have no doubt that these appointments are a good faith effort to hold the Board accountable and improve public education in East Ramapo, and we understand that the Monitor must be given an opportunity to achieve results. But we will be following the Monitor’s progress closely in the coming weeks, and we expect to see substantive Board actions to address the deficits in essential resources, outcomes, and opportunities for District students.

As a start, we strongly urge the Monitor request the Board immediately implement the Greenberg and Focus Reports’ key recommendations, including, but not limited to:

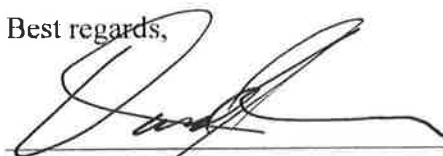
- Developing an analytical framework for allocation of state funds which considers available data and public comment;
- Analyzing and reallocating appropriately the Board’s excessive and discriminatory funding of transportation and special education accommodations that benefit only the private school population;
- Reducing the amount of District funds spent on legal fees;
- Implementing services which address the growing and increasingly underserved ELL population in East Ramapo, such that those students have a viable path to graduation;
- Restoring public school funding for extracurricular and after-school programs, as well as full-day kindergarten, high school electives, art and music programs, and field trip transportation;
- Developing and complying with a long-term fiscal plan to bring the District out of debt, replenish its reserve funds, and restore some of the estimated \$30 to \$40 million cut from public school budgets over the past 3-4 years;
- Increasing the transparency of the Board’s decision-making process by reducing the amount of time the Board spends in closed sessions, and by allowing a reasonable opportunity for public comment; and

- Establishing temporary or permanent Board oversight to ensure that the constitutional deficiencies in the District do not persist.

It is imperative that the Board adopts these and other corrective measures as soon as possible so that meaningful and necessary improvements to the District's educational programs can take effect during *this school year*. If the Board fails to adopt such measures in the coming weeks, and if the State fails to intervene directly, we will have no alternative but to take legal action to compel such intervention.

We stand ready to assist in your efforts to ensure the provision of a sound basic education to our clients and all East Ramapo students. Please do not hesitate to contact us if you have questions or would like to discuss this matter further.

Best regards,



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