



A PROJECT OF



November 27, 2012

By Email, Fax and Regular Mail

To: The Honorable Andrew Cuomo, Governor of New York,
The Honorable Dean Skelos, Majority Leader, New York State Senate,
The Honorable Sheldon Silver, Speaker, New York State Assembly
The Honorable John Sampson, Minority Leader, New York State Senate,
The Honorable Brian Kolb, Minority Leader, New York State Assembly

Re: FY14 Budget

On behalf of New York's schoolchildren, the Campaign for Fiscal Equity ("CFE") writes to bring to your attention a matter of paramount concern. We understand the State faces many challenges, but none is more important than safeguarding the future of our children. The reality is that today in New York State that future is in peril because our children's basic educational needs are not being met. As we explain, the State's underfunding of our public schools is so severe that it amounts to a violation of its constitutional obligation to provide New York's children with adequate educational resources.

In the landmark CFE decision, New York's highest court defined a constitutionally "sound basic education" as "a meaningful high school education, one which prepares [students] to function productively as civic participants." (100 N.Y.2d at 908).

The Court of Appeals found that State underfunding of New York City Schools resulted in a severe deprivation of critical resources, including certified teachers, reasonable class size, and textbooks, technology and other instrumentalities of learning. These deficits represented a "systemic failure" in the State's obligation to adequately fund public education. It then ordered the State to ascertain the cost of providing a sound basic education, and enact reforms to ensure "every school in New York City would have the resources necessary for providing the opportunity for a sound basic education."

While the CFE case centered on New York City, in 2007 the Governor and the Legislature recognized that the State's duty extended to all New York children and enacted a statewide school funding remedy to fulfill that constitutional obligation.

The new finance system, the Foundation Aid Formula ("2007 Formula"), established a relationship between state aid, the needs of students, and district ability to raise revenue. The Formula was designed to shift the allocation of school aid from political maneuvering to a system responsive to student need and district wealth.

Despite this historic action, the State has defaulted on its constitutional commitment to implement the CFE remedy through the 2007 Formula. In the first two years, the Legislature provided installments of Foundation Aid, totaling \$2.3 billion. However, in 2009, aid was frozen at 37.5% of the four-year target, and then cut by 2.7 billion in 2010 and 2011 through the Gap Elimination Adjustment. The GEA was regressive by imposing larger cuts in higher need school districts, resulting in a widening of the resource gap with students in wealthy districts. These cuts were further exacerbated by the highly restrictive Tax Cap Levy enacted in 2011.

Moreover, the Governor and the Legislature adopted a budget maneuver designed to prevent full funding of the 2007 Formula: the Personal Income Growth Index (PIGI) Cap commonly referred to as the cap on state school aid. This cap has the effect of relegating moderate and high need districts to long term underfunding, thereby ensuring that compliance with the constitutional obligations of CFE for students in those districts will never be fulfilled. Furthermore it locks existing inequities in place and exacerbates those inequities. The 2012-13 budget widened the gap between the 2007 Formula and actual state funding for New York's schools. The shortfall now tops \$5.5 billion dollars. As the Board of Regents noted in its November 2012 State Aid Conceptual Proposal, this shortfall, together with the accumulated GEA cuts, brings the total funding gap to over \$7.7 billion. Current school funding is below 2008-09 levels.

At the same time, student need is growing. The Children's Defense Fund reports that 21% of New York State's children live in poverty, with 10.1 % living in extreme poverty, a notable increase from 2008. In New York City, a startling 25.8% of children live in poverty, up from 22.9% in 2008. Heightened poverty means more children come to school needing additional educational and social services, thus intensifying the economic burden on school districts.

New state and federal mandates only add to the fiscal stress. Seventy-seven percent of districts report that the cost of the Race to the Top requirements significantly outpaces the grant, and 73% conclude that the new teacher evaluation mandates will necessitate a substantial increase in expenditures.

The failure to fund the 2007 Formula is depriving students of resources vital to achievement. A new White House report noted that in New York City, the number of elementary students in classes of 30 or more has tripled in the last three years. Currently, 31,079 students in first through fifth grade were now in classes of 30 or more, compared with 9,756 in 2008-09. The New York Council of School Superintendents recent survey found that 59% of districts increased class sizes this year, compared to 48% in 2011-12. Thirty-one percent reduced summer school and reduced or deferred instructional technology. Districts cut their workforce by an average of 3.9% this year, on top of 4.9% in 2011-12. The New York State School Boards Association reports that one-quarter of districts already cut more than 20 teaching positions in the last two budget years, some over 100 positions. One quarter of districts intended to cut programs that provide extra help to students most at-risk of academic failure. Almost half planned to cut electives and extra-curricular activities.

It is now plainly evident that our school districts are in a financial and educational crisis. Their outlook for the near future is dire. Forty-one percent of districts forecast

financial insolvency within four years and a vast majority, 77%, foresee educational insolvency within the same timeframe. Thus, in just a few years, districts will be unable to fulfill federal and state mandates for instruction and student services.

Even more alarming, the current legislative framework prevents full funding of the 2007 Formula until at least 16 years from now, in 2028. Thus, two more generations of New York children will pass through our schools before the State even begins to approach meeting its constitutional obligation to adequately fund its public schools through implementation of the CFE remedy.

It is incumbent, therefore, that the Foundation Aid under the 2007 Formula be restored, and that the Formula be put back on a four-year cycle to phase-in full funding. We urge you to bring New York State into compliance with the state constitution by making fulfillment of the CFE remedy a top priority for the upcoming budget and legislative session. This priority is not only necessary to reverse the educationally destructive trends of the past three years, but to ensure State fulfillment of its constitutional obligations to New York school children.

Respectfully yours,

A handwritten signature in black ink, appearing to read "David Sciarra". The signature is fluid and cursive, with the first name being more prominent.

David Sciarra
Executive Director

cc: The Honorable Eric Schneiderman, Attorney General, State of New York
Mylan Denerstein, Counsel to the Governor
All Members of the New York State Legislature