



Improving the
Foundation Aid Formula
in New York State

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Founded in 1973, **Education Law Center (ELC)** pursues education equity and justice to ensure that all students receive a high-quality public education effectively preparing them to participate as citizens in a democratic society. It does so through litigation, research and policy analysis, advocacy, and strategic partnerships with education and civil rights organizations across the nation. ELC focuses on state policy and practices that affect the learning and well-being of every student, with special concern for impacts on students of color and those from low-income families.

The Alliance for Quality Education is a coalition mobilizing communities across the state to keep New York true to its promise of ensuring a high-quality public school education to all students regardless of zip code. Combining its legislative and policy expertise with grassroots organizing, AQE advances proven-to-work strategies that lead to student success and echoes a powerful public demand for a high-quality public school education for all of New York's students.

The Public Policy Education Fund was founded in 1986 to address critical social, economic, racial and environmental issues facing low and moderate income New York State residents. Our areas of work have included health care, education, after-school programs, voter participation, economic development and consumer issues. PPEF uses many tools in its work, including grassroots organizing, research and policy development, public education on a wide range of policy issues, and community outreach.

Improving the Foundation Aid Formula in New York State

Introduction

New York State this month finally fulfilled a commitment to fund K-12 schools at the levels required by the state's school funding formula. The promise of a fully funded formula was made to students twice over the last 15 years: once in 2007, when Foundation Aid was first enacted, and once in 2021, when the state still lagged behind full funding by \$4.2 billion. The 2023-24 school year marks the final year of the three-year Foundation Aid phase-in. So, the question arises: now what? After 16 years, it is time for the New York State Education Department (NYSED) to take a critical look at how the formula can be improved to ensure it is delivering the resources necessary to provide an equitable and adequately funded public education to all New York students.

The following recommendations were drafted before the budget was enacted. The enacted budget did not include an allocation for NYSED to conduct the process to update the formula. Yet, even without the allocation the recommendations stand.

- **The path forward begins with NYSED engaging in a public process** that brings traditionally marginalized voices to the table to gather feedback and explore their understanding of the resources necessary for an adequate and equitable education.
- NYSED should explore using an alternative methodology to accurately assess the base cost for the Foundation Aid formula.
- NYSED should explore alternative student poverty measurements to ensure an accurate count of the number of students in need of additional services.
- NYSED should explore a study to determine the cost of the additional resource needs generated by student poverty.
- NYSED should explore a study on the costs of effective strategies for supporting multilingual learners.
- NYSED should explore a study to improve the distribution of special education funding. This should include an evaluation of the costs associated with special education and the mechanism through which funding is distributed.

- NYSED should conduct or commission a study to improve measurement of school district wealth and identify policy solutions for phasing out hold harmless and other aids that violate equity goals.
- Next year, State lawmakers must appropriate dedicated funding, as requested by NYSED, to support the research and other activities that are required to update the formula.

What Makes a Good Funding Formula?

A good state funding formula defines the level of spending that is necessary to, at a minimum, provide all students with their constitutionally guaranteed right to a public education. A funding formula should be designed to address three critical factors:

Adequacy

The formula should establish funding targets based on a research-proven method of determining the staffing, programs, and resources needed to ensure all students are given the opportunity to achieve the state's curricular standards and graduate high school prepared for citizenship, post-secondary education and the workforce.

Equity

Additional funding should be targeted to students and districts that require additional supports. This includes targeted funding for students from low-income families, multilingual learners, and students with disabilities.

Fiscal Capacity

Because most states fund schools through a mix of state revenue and local property taxes, the state funding formula must determine a state and local share based on each school district's capacity to generate revenue. The state share of funding should be highest in low-wealth districts to ensure these communities do not face an unfair tax burden.

Improving the Foundation Aid Formula

New York's Foundation Aid formula generally meets the requirements of a good formula as described above. The formula sets a base per-pupil cost for all students, includes weights for specific student populations, and directs greater levels of state aid to the lowest-wealth districts. However, after 16 years, the formula needs to be updated to reflect advancements in the field of school finance, changes in the state's curricular standards, and evolving expectations of the programs and services needed to support students' academic and social-emotional wellbeing. The following is a non exhaustive list of the formula elements that require reevaluation.

MONEY MATTERS

Recent research on the effect of school funding increases shows that greater investments in preschool-12 public education have long-lasting impacts. Recent studies have used rigorous research methods to show that states that invested more in their education systems saw higher test scores, greater educational attainment, and higher earnings. The effects are often more pronounced for low-income students and contribute to the narrowing of persistent outcome gaps. For example, one study found that for low-income students, a 10% increase in per-pupil spending each year for all 12 years of public school was associated with 0.46 additional years of completed education, 9.6% higher earnings, and a 6.1 percentage point reduction in the annual incidence of adult poverty.¹⁷ More recent analyses of California's school finance reforms found that a \$1,000 per-pupil increase for three consecutive years led to a full grade-level improvement in math and reading across all grades.¹⁸

Of course, how the money is spent also matters. School funding formulas that adequately and equitably distribute resources, while giving districts flexibility in how funds are spent, are an integral component of educational policy reforms seeking to improve opportunities for young people. Research has shown that targeted spending on high-quality early education, prepared and experienced teachers, small class size, social-emotional supports, and community school models improve student achievement.¹⁹

Base Cost

New York's Foundation Aid base cost is derived using the Successful School Districts (SSD) costing out model. This model sets the base cost as the average per-pupil funding among a subset of "successful" school districts. "Success" is defined as meeting a minimum threshold of proficiency on the state's standardized assessments. There are several flaws with the current implementation of the SSD approach.

Though the Foundation Aid legislation requires the foundation or base amount to be revised every three years by updating the list of "successful" districts and their average spending levels, the New York State Education Department (NYSED) has not updated the list of successful districts since 2012. In the interim, New York implemented new standards aligned with the Common Core curriculum and began administering new assessments aligned to those higher standards. Because NYSED is not using these newer assessments to identify districts that are deemed "successful," the base cost generated by the SSD methodology is now disconnected from the standards to which school districts are held accountable. Without a revision of the SSD methodology, it is unclear whether the subset of "successful" districts by 2012 standards would be considered successful by current standards, and thus whether their average spending levels accurately reflect the base cost of educating all students.

Beyond infidelity of implementation, the SSD methodology is also subject to wider criticism as an accurate costing out methodology. "Successful districts" tend not to be representative, especially as analyses typically remove outliers and are left with average districts, both in size and demographics, with spending patterns that are not applicable to the fiscal needs of either large urban or small rural districts. And, because the SSD approach does not identify specific inputs in terms of staffing, programs, and other resources, it provides no indication of how funding should be spent to achieve the desired outcomes.¹

New Jersey offers an alternative to the SSD approach within a weighted foundation funding formula. New Jersey developed its school funding formula, the School Funding Reform Act of 2008 (SFRA), around the same time New

York was developing the Foundation Aid formula. New Jersey utilized the Professional Judgement Panel (PJP) methodology, relying on panels of education experts to define the staff, programs and other resources needed to operate school buildings. These experts formulated model schools with explicit direction to identify the resources needed to ensure that all students had the opportunity to achieve the state's core curriculum content standards. The costs of these resources were then calculated to determine a base funding level per pupil. This focus on standards-based school finance reform eventually convinced the State Supreme Court that New Jersey finally had a school funding formula that met the test of constitutionality under the decades-long *Abbott v. Burke* school funding litigation.²

RECOMMENDATION

NYSED should explore using an alternative methodology to accurately assess the base cost for the Foundation Aid formula. School finance experts should be consulted to explore the possibility of developing base costs through one or more of the accepted costing-out methodologies, such as PJP, the evidence-based approach, and cost function models.

Weights

A foundation aid formula relies on an accurate estimate of the additional costs of educating certain categories of students and an accurate way of identifying the number of students who fall into those categories. A weighted-student formula calculates those additional resources as a percentage of the base cost. Like the base cost, this requires using a research-proven methodology to identify the supplementary resources required for such students and costing those resources out. Accurately counting students subject to this additional funding is yet another challenge. Some of the limitations of New York's current weighted student model and potential solutions are identified below.

Student Poverty

Like most state funding formulas, the Foundation Aid formula provides additional funding for students from low-income backgrounds. However, the formula's current poverty weights are limited both in terms of measurement and the extent to which they truly capture the additional costs of student poverty.

To measure student poverty the Foundation Aid formula relies on a combination of student counts. First, the number of students in each district eligible for free and reduced-price lunch (FRL) status under the National School Lunch Program (NSLP) is counted. FRL counts are known to be inaccurate and have become increasingly so with the introduction of the Community Eligibility Provision (CEP) under NSLP. The CEP provision allows all students to receive free lunch once a school reaches a certain threshold, making accurate counts of the number of students meeting the income guidelines difficult to assess. Second, Foundation

HOW DID WE GET HERE?

The Foundation Aid formula was first implemented in 2007 in response to the Campaign for Fiscal Equity school funding lawsuit. The lawsuit, brought against the state by New York City parents led by Robert Jackson, now Senator Robert Jackson, alleged and proved that the state was systematically underfunding NYC public schools. In its 2003 ruling, the highest court ordered the state to develop a new funding formula that would infuse additional funding into NYC schools.

In 2007 New York replaced a byzantine system of more than 30 often politically manipulated formulas with the wealth equalizing, needs-based Foundation Aid formula. The implementation of the formula included a four-year phase-in of \$5.5 billion to infuse substantial amounts of funding into high needs districts to implement rapid change. Implementation included an accountability measure called the Contract for Excellence that was meant to meaningfully engage the public and invest a small portion of the funds into proven-to-work methods, such as class size reduction, expansion of pre-K from half- to full-day, extended academic day and year, and others.

The Foundation Aid formula was only funded for two years (2007 and 2008) during which the state infused \$3.5 billion into schools, with the majority going through the formula (\$2.8 billion). The following year, as the Great Recession hit state budgets, Foundation Aid was frozen. Facing a fiscal cliff as federal recession aid was depleted, Foundation Aid was cut by \$1.4 billion in 2010, and by yet another \$1.3 billion in 2011. These devastating cuts to school aid completely erased the earlier progress made by high needs schools. The highest needs school districts suffered the largest cuts, setting back their progress even more.

Following these cuts were years of negligible Foundation Aid increases, with the state making minimal progress toward fulfilling the commitment from 2007. In 2021, the Legislature enacted a three-year phase-in to fully fund Foundation Aid by 2024.

Aid includes a measure of community poverty by counting the number of school-aged children in families below the poverty threshold using U.S. Census data. For reasons that are unclear, the NYSED continues to use 2000 Census poverty data, even though the Census provides annual updates of poverty estimates through the Small Area Income and Population Estimates (SAIPE). Many districts have undergone significant demographic changes since 2000, and failing to update the poverty estimates likely means that the Foundation Aid data on community poverty are inaccurate.

The inaccuracy of the Foundation Aid poverty weight is compounded by the fact that it does not include the additional funding needed to support programs and services that would most benefit low-income students. The poverty weight should be calibrated to provide enough funding for academic and social-emotional resources known to improve achievement for low-income students, such as small class sizes, instructional supports, mental health staff, and

extended learning time.³ Advancements in educational practice might also suggest including some resources that were not considered when the poverty weights were first designed, such as community school models, high-intensity tutoring, and restorative justice.

New York may also consider expanding eligibility based on other socioeconomic circumstances. For example, including all students experiencing homelessness, as public schools are often expected to assist these students with a host of supplemental services, from basic needs, such as food and clothing, to mental health services for themselves and their families.⁴ Likewise, children involved in the foster care system may also require additional services, regardless of their family's economic status.

RECOMMENDATIONS

NYSED should explore alternative student poverty measurements. Researchers have suggested that states move away from a dependence on FRL counts and instead use state administrative data on other means-tested social programs.⁵ For example, Maryland recently adopted the use of Medicaid enrollment records to identify poor students, increasing the poverty count by 34% over the previous FRL-based measure.⁶

NYSED should commission a study on the additional needs generated by student poverty. A research-based study is needed to ensure that the poverty weight is calibrated to the actual needs of students. This will allow districts to invest in the programs and resources that can help close New York's persistent economic achievement gaps. NYSED should also consider whether the formula might include differentiated weights based on a district's concentration of poverty. For example, California's Local Control Funding Formula (LCFF) includes a concentration grant that more than doubles the weight for high-need students in districts with a concentration of student need above 55%.⁷

Multilingual Learners

In recent decades, the field of bilingual education has seen significant developments in best practices for effectively serving students learning English, including developing culturally responsive instruction and honoring multilingualism.⁸ The Foundation Aid formula was developed before these practices became mainstream and therefore may not reflect a modern view of multilingual instruction. Unfortunately, few cost studies have focused on the needs of multilingual learners, and the academic research is also limited.⁹ This presents an opportunity for New York to lead the nation by utilizing the knowledge of on-the-ground experts to define the resources needed to help multilingual learners succeed.

New York provides a single weight for multilingual learners that does not reflect the diversity of the population both within and between districts. Students at different levels of English

proficiency have very different educational needs and thus may require a different intensity of interventions. These variations are compounded by the recent increase in unaccompanied minors across New York who may have experienced interruptions in their formal education as well as heightened trauma due to family separation and the conditions spurring their migration. The educational and social-emotional needs of students with interrupted formal education (SIFE) far surpass the needs of more traditional bilingual students and create enormous stress on school district budgets. While NYSED acknowledges the educational rights of these students and the responsibility of school districts to provide services, there is no funding mechanism in place to account for the fiscal impact.¹⁰

RECOMMENDATION

NYSED should commission a study on the cost of effective strategies for supporting multilingual learners. This should explore the use of differentiated weights by proficiency level, as is currently done in five other states.¹¹ This study should also explicitly include an investigation of the costs associated with educating students with interrupted formal education (SIFE).

Special education

Like many states around the country, New York uses a hybrid system to fund special education.¹² The Foundation Aid Formula provides a single weight (1.41) for special education students with additional funding available to cover expenditures for high-cost students.

Special education funding mechanisms are unique in that the identification of students eligible for services is the responsibility of the school district itself and involves complex evaluations and subjective decision-making among a group of educational professionals. Because of this, funding mechanisms themselves can put pressure on districts to either over- or under-classify students, depending on how funding is allocated.¹³ Therefore, funding special education is a complex task requiring careful consideration. Given the significant amount of funding that is devoted to special education in New York, an analysis of how the current system is working and an exploration of how special education funding could be better targeted to districts is certainly warranted. For example, a study could explore whether differentiated weights based on instructional settings would be an improvement over the current single weight.

RECOMMENDATION

NYSED should commission a study to improve the distribution of special education funding. This should include an evaluation of the costs associated with special education and the mechanism through which funding is distributed.

Additional Formula Elements

A formula review should also address some elements that have been subject to debate in both the development and implementation of Foundation Aid. Numerous studies have found that certain elements of the Foundation Aid formula act to undermine equity, jeopardizing the formula's ability to remedy the violations of students' rights at the core of the Campaign for Fiscal Equity lawsuit.¹⁴ These studies have found that mismeasurement of formula elements, such as the regional cost adjustment and the wealth equalization formula, contribute to an inequitable distribution of state funds. Further, state policy decisions around state aid floors, mandated annual increases, and hold harmless provisions drive significant amounts of state aid to wealthier communities, where it is not warranted.

RECOMMENDATION

NYSED should conduct or commission a study to improve measurement of school district wealth and identify policy solutions for phasing out hold harmless and other aids that violate equity goals.

The Path Forward

The path forward must include engagement of both experts and stakeholders to address the parts of the Foundation Aid formula that must be preserved and those that must change. To support this effort, the State Board of Regents and NYSED requested \$1 million to review and update the formula, though it was not provided in the enacted budget. This funding could support a range of activities that is crucial to ensuring that formula updates are both grounded in research and responsive to the needs of educators and families. Such activities should include:

- Meetings or focus groups with school district leadership and professional associations to gather feedback on Foundation Aid implementation;
- Stakeholder meetings with a diverse group of advocates, community members, parents and students to gather feedback and to explore their understanding of the resources necessary for an adequate and equitable education;
- Meetings with school finance and content area experts to identify advancements in policy and practice not addressed by Foundation Aid;
- The commissioning of cost studies to update formula parameters.

Designing a school funding formula with the goal of ensuring all schools are equitable institutions that deliver a “sound basic education” to every single student requires collaboration.¹⁵ The Regents and Education Department must ensure that a diverse group of stakeholders are engaged in this process. This includes prioritizing the voices of those who may have been previously marginalized, including school staff, parents, students and community partners. Research has shown that when parents and community members are involved in the educational process, greater buy-in is generated, and educational outcomes improve.¹⁶

Conclusion

New York State at last fulfilled the promise of a fully funded Foundation Aid formula to the Black, Latinx, brown and low-income students across the state, albeit over a decade late. The state **MUST** keep its promise and invest in students.

But the state now faces its next challenge: updating the Foundation Aid formula so it appropriately defines the resources that will give all students the opportunity to achieve the state’s academic standards. After sixteen years, a period that has seen major changes to educational standards and curriculum, and an evolving definition of the resources schools need to meet those expectations, New York’s funding formula is clearly out of date. Updating the Foundation Aid formula to ensure that it is fair, adequate and equitable is a necessary first step in ensuring economic and racial justice for students across New York.

Endnotes

- 1 Odden, A.R. and Picus, L.O. 2014. *School Finance: A Policy Perspective, Fifth Edition*. McGraw Hill.
- 2 Education Law Center. 2014. [Linking Standards to Resources - New Jersey's School Funding Reform Act of 2008](#).
- 3 McKillip, M. and Luhm, T. 2020. [Investing Additional Resources in Schools Serving Low-Income Students](#). Education Law Center.
- 4 Levin, S., Espinoza, D., Griffith, M. 2023. [Supporting Students Experiencing Homelessness: District Approaches to Supports and Funding](#). Learning Policy Institute.
- 5 Urban Institute, 2021. [Measuring Student Poverty: Dishing Up Alternatives to Free and Reduced-Price Lunch](#).
- 6 Cox, E. 2023, February 16. [Maryland sought an accurate poverty count. It found 110,000 more kids](#). Washington Post.
- 7 California Department of Education. [LCFF Frequently Asked Questions - Local Control Funding Formula](#). Accessed March 2023.
- 8 Teaching Tolerance. 2017. [Best Practices for Serving English Language Learners and Their Families](#).
- 9 Sugarman, J. 2021. [Funding English Learner Education: Making the Most of Policy and Budget Levers](#). Migration Policy Institute.
- 10 Rosa, B.A. 2021, May 26. [Provision of Educational Services for Recently Arrived Unaccompanied Children and Youth](#). New York State Education Department.
- 11 Education Commission of the States. 2021. [50 State Comparison, K-12 and Special Education Funding, English Learner Funding](#).
- 12 Education Commission of the States. 2021. [50 State Comparison, Special Education Funding](#)
- 13 Kolbe, T. 2021. [State Funding for Special Education: Aligning Policy With Priorities](#). *Journal of Special Education Leadership*.
- 14 New York Advisory Committee to the U.S. Commission on Civil Rights. 2020. [Education Equity in New York: A Forgotten Dream](#); Baker, B.D. and Corcoran, S.D. 2012. [The Stealth Inequities of School Funding](#). Center for American Progress. Citizens Budget Commission. 2016. [A Better Foundation Aid Formula](#).
- 15 Jimenez-Castellanos O., Farrie, D. and, Quinn, D.. 2022. Toward Transformative Justice in School Finance. in J. Bishop (ed.) *Our Children Can't Wait*, Teachers College Press.

- 16 Ross, E. 2017, January 3. [The 5 Pillars of Whole School Transformation](#). Getting Smart.
- 17 Jackson, C. K., Johnson, R. C., & Persico, C. (2015). *The Effects of School Spending on Educational & Economic Outcomes: Evidence from School Finance Reforms*. *The Quarterly Journal of Economics*, 131(1), 157-218.
- 18 Johnson, R. C. & Tanner, S. (2018). *Money and Freedom: The Impact of California's School Finance Reform on Academic Achievement and the Composition of District Spending*. Palo Alto, CA: Learning Policy Institute.
- 19 Education Law Center. 2023. [Money Matters: Evidence Supporting Greater Investment in PK-12 Public Education](#).