

# **New York Fails Its Gifted Education Students**

## **The Problem:**

1. New York State is one of only 8 states that fail to mandate Gifted Education and fail to provide dedicated funding for Gifted Education
2. New York State is one of only 15 states that fail to mandate Gifted Education.
3. Four bordering states (PA, NJ, MA, and CT) mandate or fund gifted education, making them more appealing for new industrial development.
4. Lack of sufficient appropriate opportunities for every segment of New York State's school children makes the state less attractive for businesses and developers who need well educated employees of all ability levels.
5. New York State is not recognized as an educational leader in Gifted Education.
6. There is inequity of sufficient appropriate educational opportunities for gifted students across the state – some urban and wealthy suburban districts provide sufficient appropriate education to gifted students, however many rural and urban districts fail to provide these opportunities.
7. Some schools throughout the state refuse to ability group in any grade level, do not accelerate, do not offer Honors classes, do not allow students to challenge exams when ready, do not offer appropriate Gifted Education services, offer very few, if any, AP options, and have no Gifted Education certified teachers on staff, even though every New York State school has gifted students.
8. As budgets tighten around the state all non-mandated services, including Gifted Education, are targets for first cuts.
9. Although statistically every teacher in New York State has some gifted students in their assignments, very few teachers have taken coursework that increases their expertise with this population.
10. Approximately 20% of all school dropouts are intellectually gifted.
11. New York City's Department of Education requires gifted services to all eligible students, while the rest of NYS schools do not necessarily offer these services.
12. Gifted students do not reach their full intellectual potentials without sufficient appropriate educational stimulation throughout their school careers.

# New York Fails Its Gifted Education Students

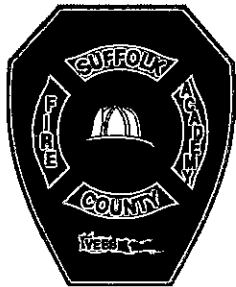
## The Solution:

1. Restore Gifted Education categorical aid funding.
2. Provide equity of opportunities by developing a comprehensive PreK-12 Acceleration Regulation for all students in New York State schools.
3. Encourage on-line courses and early college entry for students who would excel with this option.
4. Provide incentives and accountability for growth (in level 4 scores) on NYS tests, and high (over 1300) on the SATs or (scores 95+) Regents Exams.
5. Require differentiated opportunities and special programs designed to stimulate and grow the intellectual capacities of every student throughout the state, regardless of where they reside.
6. Require every school district to have at least one certified Gifted Education teacher or purchase Gifted Education services taught by a certified Gifted Education teacher through the local BOCES.
7. Consider modified IEPs for every gifted student throughout the state.
8. Support legislation that requires a dedicated three (3) credit gifted education course for every teacher before they receive certification to teach, requires gifted education taught by a gifted certified teacher for all students across the state identified as gifted by their school districts, and appropriation of \$1,000,000 or what is required to help pay for the necessary teacher training. (Assemblyman Thiele - Bill A06989 and Senator Addabbo – Bill SO6287)
9. Support legislation that ensures sufficient appropriate education for Twice-exceptional students in all schools across the state. (Senator Addabbo – Bill SO6216 and Assemblyman Thiele – Bill AO9209))

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# Vocational Education Extension Board of the County of Suffolk

Est. 1943

SUFFOLK COUNTY FIRE ACADEMY

P.O. Box 128 • Yaphank, NY 11980-0128 • Tel: (631) 924-6822 • Fax: (631) 924-6825



## **BUDGET IMPACT OF CHANGES IN 2010-2011 NEW YORK STATE EXECUTIVE BUDGET** **EDUCATION, LABOR AND FAMILY ASSISTANCE ARTICLE VII LEGISLATION**

The Executive Budget (S. 6607 / A. 9707) is seeking to amend § 1104 of the Education Law, which outlines the State Aid apportionment paid to a County Vocational Education and Extension Board. Under the current § 1104, Vocational Boards are reimbursed one-half of the salary paid to our instructors and supervisors up to a maximum amount of \$10,500.00 per person for a school year. The amendment which appears on page 6, lines 42 thru 51 indicates a change to “the amount computed by the commissioner based upon an *assumed annualized salary*”, which in effect would reduce our State Aid by 33%. This is an accurate figure since the State Education Department had been wrongly using “salary annualization” for the past few years. This was confirmed by the Appellate Division of the State Supreme Court on December 24, 2009 (ref. 507581) stating “the Department’s calculations were based upon a strained interpretation of the statutory language”.

The Vocational Educational and Extension Board of Suffolk County oversees the operations of the Suffolk County Fire Academy and is responsible for training the 11,000 “volunteer firefighters” who staff the 109 fire departments in Suffolk County. These reductions in State Aid have adversely affected our organization’s ability to provide the level of training these brave volunteers justly deserve. To put this in perspective, the State Aid award calculated by “annualized salaries” has resulted in the reduction of over 20,000 student training hours. At a time when fire departments are actively recruiting new volunteers, we will be unable to meet their training requirements. Reductions in fire training affect the safety of the firefighters and the people they have sworn to protect, the “Taxpayers of New York State”.

We urgently request no amendments be made to §1104 of the Education Law due to the dire effects it will have on the “Volunteer Fire Service”.

Respectfully submitted,

Richard W. Stockinger

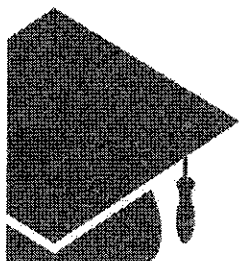
Executive Director

February 4, 2010

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Clifford Foster • William Sanok • Chief Richard Stockinger • Chief Robert Holley • Suzanne Lamitola • Louise Scarola  
President Vice President Executive Director Deputy Director Clerk Treasurer

Martin Albert • Ronald Barz • Edward Carpenter • Pascal Covello • Robert Hartmann • Dennis Magerle • Donald Nimphius



# Education Voters

**Testimony of  
Glynda C. Carr, Executive Director  
Education Voters of New York**

**Joint Legislative Public Hearings on  
2010-2011 Executive Budget Proposal**

**February 2, 2010**

**Albany, NY**

TESTIMONY BY GLYNDA C. CARR, EXECUTIVE DIRECTOR OF  
EDUCATION VOTERS OF NEW YORK

2010- 2011 Executive Budget

February 2, 2010

Greetings. Thank you for the opportunity to testify regarding the Governor's Executive Budget.

New York stands at a crossroads. Our quest to fully provide all students with the resources they need to succeed in school and strengthen our economy and communities is in jeopardy. Instead of getting us back on track to educational equity and excellence, the governor's proposed budget would unconscionably cut education funding by 5%, the largest school-aid cut in two decades, and delay the phase-in of the constitutionally-mandated Foundation Aid for our underresourced districts and most vulnerable students. In last month's State of the Union address, President Obama identified a world-class education as the best tool to fight poverty. A quality education is also the most effective means to fight economic stagnation and decline, which impact all New Yorkers.

Education Voters strongly opposes the governor's reckless cuts and encourages members of the legislature to work towards enacting a strong, sensible budget that sustains our investment in our children and a stronger and more prosperous New York.

While some states are slashing their education budgets and cutting school staff and other essential resources, others are maintaining an even keel. Massachusetts Governor Duval Patrick, for one, realizes that an investment in education today will produce great dividends tomorrow. While he has proposed cuts to most state programs, a series of proposed tax revenue initiatives will help maintain education spending at last year's level. Like New York, his state is grappling with overwhelming fiscal hardship, but its leadership is protecting education funding in order to maintain Massachusetts' standing as a national model for educational excellence. New York must show the same resolve.

Governor Paterson is attempting to portray education cuts as fiscally sound practice, but we all know that wise investments are the hallmarks of fiscal responsibility. There is no smarter investment than our children's future. By fulfilling the state's constitutional obligation to uphold our children's educational rights, members of the legislature are fulfilling their fiscal responsibility by refusing to gamble away New Yorkers' tax dollars and future with shortsighted funding cuts.

The Executive Budget errs on two major counts. First, the governor's proposal would directly result in the loss of essential educational resources, including teachers, staff, and programs. New York children should not have to choose between an art teacher and an English teacher, or between a guidance counselor to help guide them along the path to college or a supportive and enriching after-school program that keeps them on the path to academic and life success. And yet, these are precisely the choices the governor is asking our children to make.

Second, the governor's proposal would roll back the clock on educational equity and justice. In 2007, the legislature made a valiant and wise stand to ensure all children their constitutional right under CFE by providing the court-mandated funding increases. Due to the subsequent extension of the Foundation Aid phase-in from four to seven years, three additional cohorts of students—hundreds of thousands of New York children—will be deprived of the educational opportunities to which they are entitled. Now, the governor's budget would extend the phase-in to 10 years, representing six years of denied constitutional rights and millions of students robbed of the basic resources they need to achieve their full potential. Constitutional rights cannot be simply tossed aside or continually delayed, even in tough economic times. Moreover, New York can ill afford to waste even one iota of human potential. We cannot continue to place hundreds of thousands of our least advantaged students in the discard pile; further delays in implementing Foundation Aid would do just that. Yet, with bold leadership and creative budgeting and policymaking, the legislature can ensure that our schools not only weather the economic storm but are equipped with the resources needed to fully develop New York's most valuable resource—its human capital.

In light of the current budget constraints, Education Voters urges the legislature to reduce spending by identifying and supporting cost-saving measures, enact revenue enhancers, and explore where and how federal stimulus money is being used. We encourage the legislature to explore the regionalization of procurement and other services, develop a plan to consolidate school districts, build and renovate school buildings to make them more efficient, and pressure the Executive and the Division of Budget to reexamine the distribution and use of federal stimulus funding. We recognize that closing the budget gap is no easy task, but let it not be said that when faced with great challenges, our legislature folded on our young people.

Funding is no panacea for our educational challenges. It must be accompanied by sound education reform, and we should constantly seek innovative policies and practices to allocate funding more effectively in order to maximize student achievement. However, adequate funding is the baseline. You courageously stood up to the governor to stave off midyear cuts. Together we won that battle, but now New York's children are counting on you to go the distance and win the war for high quality educational opportunities for all. Sustaining the state's investment in our children is not only the moral, constitutional, and economically sound choice—if you stand by New York's children today, your constituents—current and future—will stand by you.

On behalf of New York's children, we ask you to avoid following the governor's path to educational inequity and economic stagnation that would result from funding cuts and further Foundation Aid delays. Instead of balancing the budget on the backs of our children, we urge you to blaze a more sensible trail—one that leads to educational excellence and collective prosperity. New Yorkers are counting on you to shield our children from harm and safeguard their futures as we weather the economic crisis.

Thank you again for your leadership. We look forward to working with you to develop and pass a budget that puts children first.

**LOCAL 372  
NEW YORK CITY BOARD OF EDUCATION EMPLOYEES  
DISTRICT COUNCIL 37**

**AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES  
AFLCIO**

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**JOINT HEARING  
NEW YORK STATE SENATE FINANCE  
AND  
ASSEMBLY WAYS AND MEANS COMMITTEES  
ON THE 2010-11 EDUCATION BUDGET**

**FEBRUARY 2, 2010**

**TESTIMONY SUBMITTED BY  
VERONICA MONTGOMERY-COSTA  
PRESIDENT - LOCAL 372 AND DC 37, AFSCME, AFL-CIO  
VICE PRESIDENT - AFSCME**

**February 5, 2010**

Local 372 thanks Senator Kruger, Assemblyman Farrell and the committee members for this opportunity to comment on the 2010 Executive Budget.

Local 372, DC 37 AFSCME represents 25,000 New York City Department of Education support service employees. Among these dedicated workers are 8,912 School Aides, who serve 1.1 million students.

On November 13, 2009, 530 School Aides were laid off, predominantly in our poorer neighborhoods.

The student to School Aide ratio in the schools in our poorer communities has increased at an alarming rate since these layoffs. I have attached a chart showing the district-wide average of Student to School Aide Ratios based on our research in each of our school districts, so that some of the committee members can see what is happening in their own communities. We know that many individual schools have much higher ratios.

Local 372 has taken the 530 School Aide layoffs issue to court in a lawsuit against the Department of Education. The action of laying off these School Aides not only discriminates against the school children in our poorer neighborhoods, it devastates the lives of dedicated workers, who are predominantly female, single parents making an average of \$24,000 a year.

To add insult to injury, the School Aides are being replaced by outside contractors filling newly invented, but similar Teacher Aide positions. These outside contractors, some of which list Wall Street Boards of Directors, would be paid in part by Parents Associations in schools where parents could afford them.



**There should be a line item in the Education Budget for School Aides only. Don't give the Mayor the flexibility to double-dip the State for our School Aides.**

The Mayor and Chancellor have found a way to get the State to pay for their addiction to outside contracting.

The Mayor and Chancellor are asking the legislature for more flexibility in spending, suggesting the consolidation of funding categories.

They publicly proclaim that since personnel takes up the largest portion of their budget, the best means of saving money are layoffs.

**Here's how the Mayor double-dips the State allotment.**

First, they take the State Education allotment, then lay off enough vetted, experienced and qualified School Aides to pay for an outside contract providing uncertified, unknown, less qualified workers. Now that contract is paid by the State.

Then, the School Aides, funded by the State and laid off by the City cost the State in Unemployment, Welfare, Food Stamps and Medicaid. The City loses nothing and the State pays twice, as well as losing much needed income tax revenues.

**Local 372 School Aides are worth their weight in gold.**

Local 372 School Aides are established, active members of their school community. They are your constituents. The majority of School Aides live, vote and pay taxes in their school community and are parents/grandparents/guardians of children in their neighborhood schools. School Aides spend their wages supporting school community businesses. There is no upside to laying off School Aides.

**We need legislation to prevent layoffs to fund outside contracts.**

I have publicly urged our lawmakers to pass laws that insure that all means of reducing non-essential budget items have been exhausted — specifically outside contracts — before any City workers can be laid off.

I, for one, would gladly be a partner in passing such a law.

**Legislate to insure Charters do not bleed funds away from district public schools.**

Our State Legislators should be commended for having the foresight to freeze the cap on Charter Schools.

Legislation should be passed to prevent the proliferation of new Charter Schools and curtail the funding of existing Charter Schools, if their funding and enrollment procedures negatively impact or discriminate against students in the district public schools.

**In Conclusion:**

Local 372 asks our state elected officials to insure that the Mayor cannot double-dip the School Aide allotment and have the State pay for his addiction to outside contracting.

We urge that you take action to prevent further School Aide layoffs by making the School Aide allotment a line item, and legislate to prevent Charters from taking equal opportunity from the children left behind in our neighborhood schools.

Your community and the children in your neighborhood schools depend upon us to do the right thing. We must work together to insure all children equal access to a quality education and a rewarding future.

**Which school children, in what neighborhoods,  
have lost essential school life support services this year?**

<b>District-wide Average Ratio of Students to School Aides SY 2009-10</b>		
<b>NYC School District</b>	<b>Before School Aide Layoffs</b>	<b>After School Aide Layoffs</b>
<b>District 1</b>	<b>115 to 1</b>	<b>115 to 1</b>
<b>District 2</b>	<b>152 to 1</b>	<b>152 to 1</b>
<b>District 3</b>	<b>129 to 1</b>	<b>136 to 1</b>
<b>District 4</b>	<b>140 to 1</b>	<b>200 to 1</b>
<b>District 5</b>	<b>94 to 1</b>	<b>110 to 1</b>
<b>District 6</b>	<b>97 to 1</b>	<b>120 to 1</b>
<b>District 7</b>	<b>90 to 1</b>	<b>106 to 1</b>
<b>District 8</b>	<b>98 to 1</b>	<b>109 to 1</b>
<b>District 9</b>	<b>94 to 1</b>	<b>102 to 1</b>
<b>District 10</b>	<b>91 to 1</b>	<b>98 to 1</b>
<b>District 11</b>	<b>88 to 1</b>	<b>96 to 1</b>
<b>District 12</b>	<b>92 to 1</b>	<b>92 to 1</b>
<b>District 13</b>	<b>130 to 1</b>	<b>147 to 1</b>
<b>District 14</b>	<b>135 to 1</b>	<b>147 to 1</b>
<b>District 15</b>	<b>131 to 1</b>	<b>139 to 1</b>
<b>District 16</b>	<b>109 to 1</b>	<b>129 to 1</b>
<b>District 17</b>	<b>119 to 1</b>	<b>130 to 1</b>
<b>District 18</b>	<b>117 to 1</b>	<b>133 to 1</b>
<b>District 19</b>	<b>105 to 1</b>	<b>110 to 1</b>
<b>District 20</b>	<b>129 to 1</b>	<b>129 to 1</b>
<b>District 21</b>	<b>156 to 1</b>	<b>156 to 1</b>
<b>District 22</b>	<b>120 to 1</b>	<b>120 to 1</b>
<b>District 23</b>	<b>98 to 1</b>	<b>127 to 1</b>
<b>District 24</b>	<b>109 to 1</b>	<b>112 to 1</b>
<b>District 25</b>	<b>116 to 1</b>	<b>122 to 1</b>
<b>District 26</b>	<b>104 to 1</b>	<b>104 to 1</b>
<b>District 27</b>	<b>128 to 1</b>	<b>139 to 1</b>
<b>District 28</b>	<b>105 to 1</b>	<b>109 to 1</b>
<b>District 29</b>	<b>123 to 1</b>	<b>136 to 1</b>
<b>District 30</b>	<b>117 to 1</b>	<b>126 to 1</b>
<b>District 31</b>	<b>145 to 1</b>	<b>147 to 1</b>
<b>District 32</b>	<b>91 to 1</b>	<b>105 to 1</b>



**NEW YORK CITY  
CHARTER SCHOOL  
CENTER**

**Testimony of James D. Merriman, CEO of the New York City Charter School Center,  
to the Joint Fiscal Legislative Committee**

*February 3, 2010*

Senator Kruger, Assemblyman Farrell, and Distinguished Committee Members:

I represent the New York City Charter School Center, an independent, not-for-profit organization that works to improve access to first-rate public education by supporting public charter schools at every stage of their development.<sup>1</sup> Thank you for the opportunity to offer my testimony.

Yesterday about 3,000 parents, students, and teachers came to Albany to speak out on behalf of the public schools they love, which happen to be charter schools. This massive rally only hinted at the depth of parental support for charter schools, whose random admissions lotteries had to turn away over 30,000 students last year in New York City alone.

Charter schools are public schools. They receive public funding, admit students without regard to background or past performance, and are held strictly accountable for their success in raising the achievement of all students. State law directs charter schools to focus on students at risk of academic failure, and they have responded by serving high proportions of low-income and minority students in communities such as Harlem and Central Brooklyn.

The public school families who traveled to Albany yesterday did not choose charter schools to make an ideological statement, or to take sides with any political interest group. In the main, they do not care whether their public school is charter, district or otherwise. Their goal in enrolling their children in a charter school was to secure a great public education for their children, and research shows it was a good move: two rigorous studies by different Stanford University

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<sup>1</sup> Pursuant to the by-laws of the NYC Charter School Center, the Chancellor of the Department of Education, Joel Klein, sits on the Center's board as does another staff member of the Department. The board consists of nine seats and, as a result, the Department does not have formal or effective control.

researchers, using different but rigorous methods, recently found that charter school students have higher levels of academic achievement than *statistically identical* students in traditional public schools. These studies have received widespread praise from various quarters and the UFT has endorsed the methodology employed by one of those studies.

Charter schools have achieved this success despite substantial inequalities in the public resources they have to work with—most notably the lack of any dedicated funding for charter school facilities. The reasons for these gaps were present in the original Charter Schools Law, and over time it will be important for equity-minded lawmakers to address them.

Today, however, New York’s charter schools face the alarming threat of an additional disparity: a double funding cut, in the form of a freeze on per-pupil funding, that would target charter schools for a disproportionate share of budgetary pain.

The reasoning that was offered last year for such a cut is deceptively simple: *charter schools should participate in state budget cuts, so their per-pupil funding should not rise in a year when state foundation aid to districts is being cut*. This reason is also simply deceptive and the logic behind it flawed. It is based on three misconceptions about charter school financing.

First, charter schools’ per-pupil funding is *not* a line item in the state budget. Rather, it is, pursuant to state formula, transferred to charter schools by the local school district, from whatever revenue source(s) the district chooses. Changes to per-pupil funding may be advisable or not, but they do not affect the state’s budget outlook in either direction.

Second, charter schools’ per-pupil funding is *not* equivalent to state foundation aid to traditional public schools. Not only is it paid from a different budget, it (attempts to) replace the *local aid* as well as the state aid that charter schools would receive if they were traditional public schools. When traditional school districts levy local taxes to blunt the education impact of cuts in state aid, charter schools are supposed to be similarly cushioned—so the false equivalence between per-pupil funding and state foundation aid is particularly objectionable.

Third, charter schools *do* feel the impact of state budget cuts, just after a time lag.<sup>2</sup> Because per-pupil funding is set based on the expenditures of the local school district, and those expenditures take time to be audited and finalized, per-pupil rates never reflect the district's most current fiscal situation.

In practice, this means that in relatively fat years for districts, charter schools are slow to receive corresponding funding increases. In relatively lean years, they are slow to receive corresponding cuts. Over time, however, every budget change that affects school district spending will affect charter schools through the funding formula.

Obviously, this system is not ideal for anyone, and the technical and fiscal challenge of bringing charter schools into the same fiscal timing "boat" as other schools deserves thoughtful exploration. Until a solution is found, however, a freeze on per-pupil funding in a tight budget year effectively creates a *double cut* to charter schools. The freeze is the first, immediate cut. The second cut will come later, as district cutbacks automatically flow through the charter school funding formula. Even the UFT has publicly acknowledged this critical fact.

"Everybody pays now, and charter schools also pay later." That's a strange kind of fairness.

Last year, misconceptions about charter school funding had a high cost. A freeze was enacted, and public charter schools collectively were denied \$50 million—or about \$1,000 per student—compared to what they would have received according to preliminary calculations of the State Education Department. At the same time charter school funding was frozen flat, district budgets actually increased (modestly) from the year before.

This year, it is critical that charter school funding not be frozen again. Charter schools face rising costs, and targeting them for a second straight year would force them to cut even deeper into educational programs and/or staff. Charter schools that have chosen to unionize would feel especially pinched, since their pension obligations ratchet up whether there is a freeze or not. Moreover, because of the double cut effect, when districts begin to recover, charter schools would continue to feel those cuts.

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<sup>2</sup> Charter schools feel these cuts if in fact the district, as a result of these cuts, ends up spending less. In such case, the charter school receives less. However, if a district chooses to hold spending constant (by making up for cuts in state aid through increases in local funding), then charters would similarly be held constant. As charter schools are educating children who live in the district, this is of course fair.

A new funding freeze would also jeopardize New York's chances at winning millions in funding for public education in Phase 2 of the federal Race to the Top competition. Like Phase 1, the next phase is expected to reward states that provide charter schools with "equitable funding compared to traditional public schools."<sup>3</sup> Since New York's Phase 1 application claimed to provide such equity "by linking charter school basic tuition to operating expenditures,"<sup>4</sup> a continued *de*-linking in the form of a freeze would undoubtedly represent a public step backward for New York's competitive chances.

A new funding freeze would do real financial damage to the state's charter schools, which receive less-than-equal public resources anyway. Even more severe would be the message sent to charter school students and families. As the thousands in Albany yesterday would be glad to tell you, they are New Yorkers and their schools are public schools. They should not be singled out for extra cuts.

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<sup>3</sup> U.S. Department of Education *Race to the Top* application form, criterion F(2)(iii).

<sup>4</sup> *New York State Race to the Top: Selection Criteria and Competition Priorities*, p. 229.



**TESTIMONY**

**OF**

**AILIN CHEN**

**SENIOR POLICY ASSOCIATE**

**EDUCATION, JUVENILE JUSTICE AND YOUTH SERVICES**

**SUBMITTED TO THE**

**NEW YORK STATE SENATE FINANCE COMMITTEE**

**AND**

**NEW YORK STATE ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**REGARDING THE**

**NEW YORK STATE EXECUTIVE BUDGET PROPOSALS FOR**

**HUMAN SERVICES**

**STATE FISCAL YEAR 2010-2011**

**February 10, 2010**



Good afternoon. My name is Ailin Chen and I am the Senior Policy Associate for Education, Juvenile Justice and Youth Services for Citizens' Committee for Children of New York (CCC). CCC is a 66- year old privately supported, independent, multi-issue child advocacy organization. CCC does not accept or receive public resources nor do we provide direct service or represent a sector or workforce. For 66 years CCC has undertaken public policy research, community education and advocacy activities to draw attention to what is or is not for working for children in New York and to advance budget, legislative, and policy priorities—all with the goal of ensuring that children are healthy, housed, educated and safe. I would like to thank Chairman Farrell and Chairman Kruger and members of the Assembly Ways and Means and Senate Finance Committees for this opportunity to testify on the Governor's Executive Budget for Fiscal Year 2010-2011.

It is clear that New York's troubled economy and staggering budget deficit demand long-term structural budget changes and not short-term fixes. That said, while all New Yorkers are reeling from the downturn, few are likely to be hit harder than poor children and their families. We must not allow this year's budget to eliminate the safety net that is needed to ensure a generation of vulnerable New Yorkers reach their full potential.

Governor Paterson's \$134 billion Executive Budget proposes to close a \$7.6 billion gap by raising revenue and reducing state expenditures. While the budget protects many essential programs for children and families, we urge you to negotiate an Adopted Budget that goes further to ensure that needed investments in programs that produce positive outcomes for children, are maintained in these difficult economic times.

**We urge the legislature to negotiate a budget that uses fairness as a guiding principle and considers the effectiveness of programs to make deliberative choices about where the expense side of the budget needs to be reduced. For example, instead of zeroing out all programs currently funded by TANF dollars (\$69 million), we urge you to look at those programs individually and restore those that are cost-effective and produce outcomes that will save the state money in the long-run—including home visiting programs, alternative to detention and incarceration programs, the Advantage After School Program, Summer**

**Youth Employment, child welfare preventive services, and homelessness prevention services. All of these programs have demonstrated that they are effective at preventing more costly interventions later such as special education, foster care, juvenile detention and the need to live in homeless shelters.**

Fairness also requires that the State's 2010-2011 Budget is not balanced by shifting costs to counties in general, and New York City specifically. Mayor Bloomberg has estimated that the Executive Budget would impose \$1.3 billion in cuts and New York City and lead to almost 19,000 layoffs to a workforce providing critical services to New York City residents. Please do not forget that this is a very difficult budget year not only for the State but for the counties as well - it is unfair and disingenuous for the State to balance its budget by shifting costs for essential services to the counties. CCC urges the State Legislature and the Governor to negotiate a budget that maintains a balance of shared responsibility so that counties are not forced to cut essential services. We strongly urge you to reconsider proposals that would eliminate New York City's AIM (the only county for whom this is proposed), shift \$51 million in mandatory summer special education costs, and shift \$55 million for adult homeless shelters.

We also ask the State Legislature to work with the Governor and Metropolitan Transportation Authority (MTA) to prioritize the restoration of state subsidies for free student MetroCards. Without this critical student resource, the 584,000 city students who receive free or half-fare MetroCards would all receive half-fare cards beginning next September and be responsible for paying the full fare in September 2011. This adds up to an additional expense of nearly \$700 per student in a school year.<sup>1</sup> This cut would disproportionately impact low-income students and families as well as families with multiple school-age children who may already be struggling to meet the ever-increasing cost of living in New York City. Most alarmingly, these cuts place students who are already at-risk for truancy and dropping out in greater jeopardy of being disconnected from the school system altogether, by taking away a basic resource that supports full attendance and positive school engagement.

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<sup>1</sup> In 2008, the cost of the student \$239 million MetroCard subsidy program was shared between the city and state at \$46 and \$45 million respectively. In 2009 however, the state share fell to \$6 million. "Students See Hard Future If Free Fares Are Ended." New York Times, December 17, 2009.

In addition, we urge you to support revenue-generating proposals, particularly those that will improve the health and well-being of New Yorkers. CCC strongly supports imposing an excise tax on sugar-sweetened beverages as a means to take a critical step towards addressing childhood obesity and the associated illnesses such as diabetes and heart disease. In addition, we support increasing the tax on cigarettes by \$1 per pack, which is estimated to prevent 100,000 children from becoming smokers. We also urge you to consider increasing the excise tax on beer, a beverage often marketed to youth and a contributor to alcohol-related illnesses and addictions.

Turning to proposals related to Human Services:

### **Juvenile Justice**

CCC supports New York State's continued efforts to improve the juvenile justice system, through right-sizing, improving conditions of care, and maintaining youth in their homes and communities whenever possible.

CCC supports the Executive Budget proposal to continue to right-size the system by closing and/or consolidating four additional OCFS operated facilities, saving state taxpayers \$2.9 million in State Fiscal Year 2010-2011 and \$15 million in State Fiscal Year 2011-2012, and maintaining the system at 81% utilization (versus the current 70%). CCC urges the Legislature and the Governor to consider reinvesting savings from facility closures into sorely needed community-based alternative to detention and incarceration programs.

CCC supports the proposal to invest \$18.2 million to improve the staffing ratios and health and mental health services in OCFS juvenile placement facilities. As documented by the Department of Justice, Citizens' Committee for Children, and other advocates, the current conditions of care of woefully inadequate at best, and at worst harmful to the children in the custody of New York State—and as such, New York State has an obligation to improve the conditions of care for these youth so that they can return to their communities poised to succeed in adulthood.

Yet these steps to align capacity with current population trends and improve the conditions of care for youth in OCFS facilities do not go far enough to ensure that we can successfully prevent children from entering this costly placement system in the first place. CCC is deeply disappointed to see that the Governor's Budget fails to maintain the State's commitment to juvenile justice reform by significantly reducing resources for the programs that have been proven effective at enabling young people to safely remain in their homes and communities without being re-arrested.

Specifically, the Executive Budget reduces the State's commitment to Alternative-to-Detention (ATD) and Alternative-to-Incarceration programs to a mere \$2 million by cutting \$15.75 million in funding from these programs (10.75 million in TANF funds for ATD and ATP programs and \$5 million for Community Reinvestment/Alternatives-to-Detention).

These proposed cuts run counter to best practice, research and recent reports<sup>2</sup> from a number of child advocacy organizations as well as the Governor's Task Force to Transform the Juvenile Justice System. All research and reports recommend protecting and enhancing funding for community-based alternatives and youth services in order to improve outcomes for court-involved youth. At a time when the state is facing enormous deficits, it is quite simply irresponsible to reduce resources for cost-effective community-based alternatives that produce lower re-arrest rates than state juvenile placement.<sup>3</sup>

We ask that the Legislature work with the Governor to restore the State's investment in community-based alternatives to avert the need for more costly government interventions. Closing facilities without a strategy to protect and increase investments in community-based

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<sup>2</sup> Inside Out: Youth Experience Inside New York's Juvenile Placement System. Citizens' Committee for Children, December 2009. A Need for Correction: Reforming New York's Juvenile Justice System. Child Welfare Watch. Vol. 18 Fall 2009. Getting Juvenile Justice Right in New York: Proven Interventions Will Cut Crime and Save Money. Fight Crime Invest in Kids. July 2009. Vera Institute of Justice. *Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State*. December 2009.

<sup>3</sup> Research has proven that youth are at greatest risk for delinquency between the hours of 3-6pm and that for every \$1 invested in youth services, \$140 are saved in future criminal justice costs. Fight Crime Invest in Kids. *New York City's Out-of-School Time Choice: The Prime Time for Crime or Youth Enrichment and Achievement*. 2008. Citizens' Committee for Children of New York. *Keeping Track of New York City's Children Eighth Edition*. 2008. While OCFS placement costs upwards of \$210,000 per youth annually and results in a re-arrest rate of approximately 80%, community-based alternatives-to-detention and incarceration can cost between \$5,000-\$17,000 per youth annually and report a 30% re-arrest rate on average. Vera Institute of Justice. *Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State*. December 2009.

programs will dramatically undermine New York State's ability to transform the juvenile justice system and improve youth outcomes.

### **Youth Services**

With regard to youth services, CCC is pleased to see that the Executive Budget includes \$3 million to begin to implement the Safe Harbor Act. While the Executive Budget proposal calls for these funds to be used for one or more long-term safe houses for sexually exploited girls, CCC urges the State to consider the use of some of these funds to create a short-term, crisis center where these youth can go when they first come to the attention of the agencies seeking to assist them. While long-term safe houses are a critical component of meeting the needs of sexually exploited youth, it is also necessary to have a therapeutic intake/crisis center where these youth can go to have immediate safety needs as well as medical and psychological needs, met.

CCC was very troubled by many of the other Executive Budget proposals related to youth services. Youth development programs are the very community-based programs that the Governor's Task Force on Transforming the Juvenile Justice System has cited as being effective in deterring delinquency and preventing re-entry into the juvenile justice system. These services must be protected from budget cuts.

First, CCC is extremely concerned that the State proposes to withdraw all support for the Summer Youth Employment Program (SYEP) by eliminating \$35 million in TANF funds. Not only does SYEP provide young people with their first job experiences, it also provides low-income families with much-needed additional income, which is spent in their local communities and generates tax revenue during these tough economic times. In 2009, while New York City received more than 130,000 applications, NYC was only able to serve approximately 52,000 young people with the assistance of one-time federal stimulus funds. The proposed zeroing out of TANF funds for SYEP would trigger a loss of 25,000 slots state-wide and 17,000 slots, in New York City making it even more difficult for localities to meet the needs of youth.

Similarly, CCC is concerned that the SFY10-11 Executive Budget proposes to reduce funding to the Advantage After-School program by \$11 million, which reduces total program funds by almost half and would eliminate 9,000 after school slots state-wide. We urge the Legislature to work with the Governor to restore funding for the Advantage After-School program back to \$30.50 million. This restoration is critical to the more than 400,000 New York City youth who remain unserved by out-of-school time programs.<sup>4</sup> Now more than ever, working families must be able to rely on after-school programs to keep their children safe and engaged in developmentally appropriate activities that support educational, social, and emotional growth.

### **Child Welfare**

CCC is pleased that the Executive Budget maintains its commitment to core child welfare services, including support for protective, preventive and foster care services, as well as the Bridges to Health (B2H) Medicaid Waiver Program, New York/New York III supportive housing program, and the modernization of the CONNECTIONS computer system.

CCC is extremely disappointed that the Executive Budget fails to maintain the State's support for various home visiting programs, such as Nurse-Family Partnership and Healthy Families New York, which are proven to be cost-effective in preventing more long-term costly interventions such as special education, hospitalizations, and foster care. CCC urges the legislature and the Governor to adopt a budget that restores home visiting funding to \$25 million, and restores the \$5 million cut to Nurse-Family Partnership and \$2.9 million cut to COPS (which also funds home visiting).

CCC is also concerned that the zeroing out of TANF-supported programs eliminates \$18.8 million for preventive service contracts, which includes funding for post-adoption services.

In addition, while CCC appreciates the Executive Budget's efforts to address child welfare policies through critical Article VII bills, CCC has concerns with some of the bills. First, CCC is fully supportive of subsidized kinship guardianship, and is hopeful that the state will pass

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<sup>4</sup> Citizens' Committee for Children of New York, *Using Out-of-School Time to Create Opportunities for New York City Youth: A Summary Report of Parent Survey, Focus Groups and Supply and Demand Analysis*. July 2004.

legislation to take advantage of new federal support for this permanency option. That said, we have concerns with the proposed bill itself. Notably, the proposed New York State mechanism to fund this permanency option is through the Foster Care Block Grant. This structure would provide little to no state support at the county level and it would divert funds intended for abused and neglected children who are in the custody of the counties to support children who have already achieved permanency. CCC strongly urges the state to fund the guardianship subsidy similar to how it funds adoption subsidy, while providing an incentive to counties to continue to pursue adoptions. Thus, instead of 75% state reimbursement of the non-federal share (as in adoption subsidy), CCC recommends 65% state reimbursement of the non-federal share for relative guardianship subsidies. In addition, CCC urges the Article VII Bill be amended to only permit children to achieve permanency through this option after the fact-finding proceeding is concluded—so that before a relative obtains permanent guardianship of a child, the court has first found that the child has actually been abused or neglected.

Similarly, CCC applauds the State's attempt to create efficiencies within the court system, by allowing for the use of electronic court appearances, but urges the State to amend the Article VII bill so that due process rights are protected, particularly for children. While appearing by telephone or web camera would be efficient for many foster parents and witnesses, CCC does not think it is appropriate for children who do not consent, for the dispositional hearing in a JD case, or for parents in termination proceedings who have not knowingly and freely consented. We ask that the Article VII bill be amended to include these protections.

### **Child Care**

The State's subsidized child care system has been in crisis for some time now. The minimal amount of state general fund support, the decrease in federal child care funds to New York (due to the young child factor), the increased Market Rate every two years, the requirement to serve all families on public assistance needing child care (without additional federal or state support), and the increased costs of providing quality care for children, have left the system desperately short of resources.

While the Executive Budget proposes to fund the Child Care Block Grant with the same \$508.2 million as last year, this will be \$40-\$50 million short of the total amount of state/federal support that was available in SFY09-10 because of counties that used their rollover funds from prior fiscal years. Thus, even though more families will need child care and more families will receive child care due to the increased number of families receiving public assistance grants (44,000 family increase last year), there will be less support to counties for child care and fewer resources available to provide care for the children of working poor households.

CCC urges the state to increase its general fund commitment to this critical, and often mandatory, service for families, by at least \$50 million so that counties can serve the same number of families this coming year as they are currently serving.

### **Income Support**

Given the economic downturn and the very difficult time low-income families are having maintaining food, shelter and other basic necessities, CCC opposes delaying the implementation of the public assistance grant increase. We urge the legislature to restore this reduction.

### **Homelessness**

The economic downturn has dramatically increased homelessness throughout the country, in New York State, and notably in New York City. Currently, 9,000 families with 16,000 children are residing in New York City's homeless shelters on any given day. Given that it is much more expensive to the state and localities when families become homeless and that the instability created by homelessness is harmful to the well-being of children, CCC urges the State to negotiate a budget that protects and enhances the services that prevent families from becoming homeless.

Thus, CCC supports the Executive Budget proposal to expand the Low Income Housing Tax Credit Program by \$4 million in aggregate credit towards taxpayers that develop qualifying housing projects for low-income New Yorkers. On the other hand, CCC opposes the proposals to eliminate state operating subsidy (\$3 million) for the New York City Housing Authority (NYCHA) and cutting \$1 million from the Homeless Intervention Program.



In closing, we ask the Assembly and the Senate to negotiate a budget with the Governor that protects our youngest New Yorkers from paying for this economic downturn for the rest of their lives. While we appreciate that very difficult choices about revenue increases and expense reductions that need to be made, we urge you to protect the services that will ultimately be less costly to the children of today and the taxpayers of tomorrow.

Thank you for the opportunity to testify.



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**Testimony of**  
**Geri D. Palast**  
**Executive Director**  
**Campaign for Fiscal Equity, Inc.**

**before**  
**New York State Senate Finance Committee**  
**and**  
**New York State Assembly Ways and Means Committee**  
**Executive Budget – Education, 2010-2011**  
**Elementary and Secondary Education**

**February 2, 2010**  
**Albany, New York**

TESTIMONY BY GERI D. PALAST, EXECUTIVE DIRECTOR  
OF THE CAMPAIGN FOR FISCAL EQUITY (CFE)

2010- 2011 Budget Testimony  
February 2, 2010

Good morning, my name is Geri Palast. I am the Executive Director of the Campaign for Fiscal Equity (CFE). Thank you for the opportunity to testify today on making the promise of our state constitution – the right to a sound basic education - a reality for all children in the state of New York.

I would especially like to thank Senator Carl Kruger, Chair of the Senate Finance Committee, and Assembly Member Herman Farrell, Jr., Chair of the Assembly Ways and Means Committee, for holding these joint hearings on the Governor's Executive Budget. Thank you also to the members of both Committees as well as the Chairs of the Senate and Assembly Education Committees, Suzi Oppenheimer and Catherine Nolan, and other members of the Senate and the Assembly who are here today.

**Overview: Campaign for Fiscal Equity Court Order and Legislation**

In April 2007 after 13 years of the Campaign for Fiscal Equity litigation, the governor and the legislature enacted the State Education Budget and Reform Act of 2007-2008, an unprecedented victory for the State's 2.8 million public school students, parents and education advocates. The law addressed four main concerns raised in the litigation.

First, the law made the historic commitment to a \$7 billion increase in state school aid over four years through 2010-2011, \$5.5 billion in foundation aid, classroom operating aid. For New York City, that translates to \$3.2 billion total aid increase, \$2.35 billion in foundation aid. In addition, the State mandated that New York City provide an additional \$2.2 billion over the same period to provide constitutionally required adequate funding to ensure a sound basic education.

Second, the law instituted the use of a transparent and reliable formula based on need to ensure that the foundation aid is distributed to serve the neediest students and schools and not politicians. The law firmly committed to a four year phase-in to achieve adequate foundation aid funding: Statewide- \$1.1 billion in 2007-2008, \$1.24 billion in 2008-2009, \$1.51 billion in 2009-2010, and \$1.65 billion in 2010-2011; New York City-\$470 million in 2007-2008, \$528 million in 2008-2009, \$646 million in 2009-2010, and \$705 million in 2010-11. This commitment, along with

the additional funding for expense driven aids and other specified programs, provided the districts with the promise of predictable and reliable funding which would allow them to plan the improvements necessary to provide the constitutional standard of a sound basic education.

Third, the law provided an accountability tool, the Contract for Excellence (Contract). The Contract requires low performing districts receiving substantial increases to propose transparent plans for the Commissioner to approve. The plan must detail how the district will distribute money to the schools, which specific strategies they will invest in, what programmatic supports will be utilized and project the outcomes they will achieve with the new investments.

Fourth, the law also provided for meaningful public participation in the development, review, approval and enforcement of the Contract.

### **Governor Paterson's Executive Budget Proposal**

Under this original legislative settlement of the court order, this year, FY2011, would have phased-in the final payment that would have brought our schools to minimally adequate funding to achieve the right to a sound basic education. Instead, last year, FY2010, foundation aid was frozen for two years at SY2008-09 levels and the CFE phase-in was stretched out from four to seven years. Now the Governor's proposed budget goes further, cutting foundation aid funding below the freeze level and stretching out the CFE phase-in to ten years thus depriving another generation of school children of their rights. What's more, delays and cuts in foundation aid disproportionately affect the neediest schools and students, who were the greatest beneficiaries of these equitably distributed funds. Finally, the executive budget briefing book insinuates that increased education spending since 2007 was an excess born of the Wall Street boom rather than a hard won legislative mandate to adequately fund low-performing, high-need schools to ensure that these students can achieve academically and contribute to our collective economic prosperity.

The State reports that it will face a budget deficit of approximately \$8.2 billion. The Governor states that to meet this deficit, he will take \$1.4 billion out of the classrooms this year. These proposed cuts to school aid represent the largest cuts in decades. To bill these cuts as cost savings is tantamount to stating that it is acceptable for schools to operate at funding levels deemed insufficient by both the courts and the legislature. Once again, the Governor is proposing to balance the budget on the backs of our children.

The Governor's budget statements are misleading. He states that he is freezing foundation aid at 2008-2009 levels. That would in and of itself be a cut from the increases promised increases under CFE. However, the situation facing our schools is far graver. In fact, the Governor is actually compounding the current freeze with an overall five percent cut to foundation aid (known as the Gap Elimination Adjustment (GEA)). This will not only result in a net loss of dollars distributed to classrooms based on need, but will cut the amount of funding subject to the Contract for Excellence which ensures that a portion of the funding in low performing districts is spent on six strategies proven to increase student achievement: class size reduction; teacher/principal quality; full day pre-k; middle and high school reform; more time on task; and model programs for English Language Learners.

The Governor's Budget would have made far deeper cuts to schools, \$2.1 billion, were it not offset by the proposed use of the remaining \$760 million in federal stimulus. Once again, as in the FY2010 budget, the Governor proposes to allow expense aid to increase by \$367 million, giving this inequitable aid priority over foundation aid—classroom operating aid distributed based on need. This flies in the face of the constitutional commitment to increase equity, and the language in the federal stimulus that urges States to fund “adequacy and equity adjustments enacted prior to October 1, 2008”, as in the case of CFE.

### **CFE's Views**

**Make a downpayment on CFE funding.** CFE strongly disagrees with the Governor's approach. We believe that there is not only a budget deficit, but an education deficit. By law as well as economics, education must remain one of the state's top priorities. New York's public school children have lived with this education deficit for over 17 years as documented and acknowledged by the courts in the CFE litigation. The 2007 Education Budget and Reform Act provided the four year timeline and financial commitment to address this education deficit.

While we recognize that we are in tough economic times, at a minimum, New York cannot cut schools below a freeze that has held classrooms at the same level for two years. Funding the “minimum” is the wrong message to send our young people who are under increasing pressure to achieve and excel in the knowledge economy. The Board of Regents spoke realistically in requesting a small funding increase of \$523 million in school aid, adding \$170 million for modest progress on equity by prioritizing funding foundation aid for the neediest schools and students.

Their request is mindful of both the practical realities of the economy and education as well as the moral and constitutional imperatives. It will help sustain educational progress and at the very least ensure that schools can continue to build on the tangible gains they have already made. CFE strongly urges the Governor to consider this proposal as an alternative to cutting foundation aid.

**Prioritize Foundation Funding Based on Need.** Cutting below the freeze level and any further stretch-out of the phase-in of CFE must be resoundingly rejected. CFE strongly urges the Senate and Assembly to put a priority on funding foundation aid and making a downpayment on increasing adequacy and equity, to fund foundation aid in the same manner as expense aids so that the burden of the current funding environment is equitably shared, and to hold the line on, if not reduce, the phase-in of the CFE settlement to seven years or sooner. There must also be a commitment to make up for at least the monetary losses for these delays and prioritize the restoration of this funding. The tragedy is that we can never make up for the losses to the lives and education of our children.

Given this long-term deprivation of the constitutional right to a sound basic education for millions of children, any actions by the Legislature to further modify or compromise the full CFE promise must only be considered as a last resort in the context of true shared sacrifice. Since the remaining federal stimulus funds are already incorporated in the Governor's budget, this means raising additional revenues. Then, and only then, should we consider a scalpel not a meat axe approach to making temporary funding adjustments for this year only based on principles of equity with a guaranteed restoration with adjustments for inflation reflecting the purchasing power of the education dollar. Compliance with this constitutional mandate is a legal, economic and moral necessity. This should be the bottom-line fact in all budget decisions.

**No Further Stretch-Out for CFE.** The further stretching out of the CFE phase-in from now seven to 10 years is unconscionable! This proposal condemns yet another generation of school children, our best resource for building a strong economic future, to an inadequate education and a life of limited opportunity. Extending the funding period does more than just break the CFE promise. It undercuts the efficiency of the planned spending phase-in. The original funding structure was designed with strong accountability measures and spending guidelines so that the taxpayers of New York could feel confident that their dollars were being put to good use. Disrupting, extending and otherwise altering the funding phase-in creates an environment of funding instability, which

exacerbates the difficulty that districts have efficiently allocating funds and implementing improvement programs. The current proposal calls to mind the original climate of the CFE lawsuit in which students were expected to meet certain academic expectations without the resources, programs and services necessary to achieve those standards. In the face of flat-lined funding and active disinvestment, foundation aid cannot keep pace with the resource-based challenges that New York schools continue to face. At the same time, the State's education needs and its graduation standards continue to rise. An entire cohort of students passed through the public school system during the course of the CFE lawsuit. Another generation should not be denied their constitutional right because of an extended phase in.

**Preserve the Contracts for Excellence.** As noted above, the Contract for Excellence (Contract) is the "reform" agreement between the state and low performing school districts that receive substantial foundation aid funds. It is the transparent accountability tool tied to foundation aid that prioritizes strategic investments for high needs students in the low performing schools, and that requires input and active participation by parents and the public. Contract dollars are high impact money that must be spent on research-proven strategies for increasing student achievement: smaller classes, full day pre-kindergarten, teacher and principal quality initiatives, extended time for student instruction, and restructuring high schools and middle schools, programs for English Language Learners and innovative local research-based reforms. These scarce dollars are essential to leverage other school funding to assist the most vulnerable students.

Under normal circumstances, the application of the Contract is contingent on a trigger level of new foundation aid funding: 10% or \$15 million whichever is less in one year, or a 2-year increase of 20% or \$27.5 million. Further each district continuing to receive these funds must maintain the total foundation aid investment to date in allowable programs serving the predominately neediest schools and students, defined as 75% of the funds must go to 50% of the lowest performing schools and students.

In the FY2010 budget, the Governor and the legislature wisely preserved the Contracts in spite of a spending freeze for those districts under the Contract in FY2009. The same should apply this year, even if modest increases in foundation aid do not technically trigger the contract. All these "Contract" districts must be required to continue to ensure that those funds already invested in the Contract since FY2007 remain in the Contracts for the duration of the CFE payout. This is

important both to ensure that the neediest are served, and so that we are able to hold districts accountable for CFE dollars and we are able to demonstrate that this new investment made a difference in children's lives. To his credit, the Governor has proposed this maintenance of effort to ensure that the Contracts are preserved. We urge that the Legislature follow suit.

**Allow no Supplantation; Enforce the Mandated New York City Funding of \$2.2 billion.**

The Education Reform Act provided funding increases to raise the quality of education for all New York's public school students. The State has provided in both statute and regulation that additional school aid provided to resolve the CFE law suit must be used to supplement not supplant local school funding. Otherwise, state funds will simply be used to fill budget holes rather than building the school funding base. This applies to every district in the state. This is particularly relevant for New York City, both the subject of the litigation, and also specifically mandated by the State to make a local contribution of \$2.2 billion over four years to reach the funding level determined to resolve the litigation. These funds are due to be paid in full in FY2011. If this requirement is to be stretched out to match the State's CFE phase-in to up to seven years, provision for appropriate inflation factors and restorations must be included.

If the obligation to supplement not supplant and tracking of state dollars are not crystal clear, this is an invitation for districts to use state dollars to substitute for their own spending resulting in an endless cycles of insufficient resources. This has already begun. In a preliminary analysis submitted to the State Education Department, CFE challenged New York City's 2008-2009 Contract allocations. CFE's analysis shows that New York City has already supplanted, thus undermining both the constitution and statute. The new proposed state and local cuts will further exacerbate this underfunding and undermine the state constitutional obligation. CFE has recommended clear definitions and remedies to the State Education Department (SED) that should be operationalized immediately to ensure that foundation aid funding made to districts, including New York City, is used to ensure that the neediest schools and students get resources intended by the state to fund their rights and opportunities to achieve educational excellence.

Further, we believe that because the foundation aid funding increases are subject to the Contract, there is a unique opportunity to demonstrate that funding and implementing effective programs can improve achievement for all students. We will also be better able to identify those programs that are most effective. Allowing districts to use Contract funds to supplant programs



previously funded by local or unrestricted state funds diminishes the value that might be added by Contract funds. Further, the failure of districts to accurately track expenditures by program and strategy at the school level prevents evaluators from determining those programs and strategies that are most effective. We are concerned that the Legislature will question additional funding increases if achievement cannot be directly linked to expenditures of Contract dollars.

In the face of threatened state and district budget cuts, particularly in New York City, it is critical that the State ensure that districts provide the statutorily required school expenditure reports provided for in Education Law § 2590-r and the regulations promulgated thereunder and Education Law § 211-d and 8 NYCRR 100.13. as relates specifically to the requirement under the Contract for Excellence. These reports must detail the district's baseline spending to provide the necessary comparison data so that it is possible to document whether a district has supplemented or supplanted. The State should examine CFE's recommendations for determining supplementing versus supplantation and formally adopt these criteria into its definition and current oversight framework. Additionally, the State should further require that local funding cuts that result from improper supplantation be restored with inflation adjustments reflecting the purchasing power of the education dollar.

In the case of New York City, the State must reiterate that the additional \$2.2 billion does not include pension and debt service, and demand compliance with the regulations requiring a full accounting of the investment of state foundation aid funds in light of mid-year school cuts in the last three school years.

**Education Deficit Persists: New York City—A Case Study.** As noted above, the CFE court record is replete with examples of how chronic underfunding has deprived high need students (poor, minority, English language learners, students with special needs) in low performing schools of their constitutional rights. Lack of highly qualified teachers, appropriate class sizes, and the instrumentalities of learning are chief among them.

New York City is home to some of the highest need public school students in the state. As of 2008:

- ✓ Only 26.2% of English Language Learners graduated within four years, compared to 61.1% of English proficient students, and over 50.5% of ELLs dropped out of high school over the course of seven years.

- ✓ 432 of the city's schools, representing 435,600 students, were identified by the state as needing improvement under the No Child Left Behind legislation.

At present, New York City students are still not receiving the resources they need to secure their constitutional right "to the opportunity for a sound basic education":

- ✓ More than half a million New York City school children attend overcrowded schools, a number larger than the total enrollment of the Chicago school district.
- ✓ 254,603 New York City students attend schools that have been identified as low performing. This number is greater than the number of children enrolled in the Houston school system.
- ✓ According to CFE's "Maxed Out" study, 167,274 of children attend schools that are both overcrowded and designated as low performing by the state. This number is greater than the number of children enrolled in the Dallas school system.
- ✓ New York City has the largest class sizes in the state. Twenty-six percent of kindergarten students are in classes larger than 25 students. More than 80 percent of students in grades 6-8 are in classes of 25 or more. Twenty-five percent of high school students in the four core subject areas required for a Regent's diploma are in classes of 34 or more students.

Without the resources for an adequate learning environment, students face significant challenges achieving strong academic results:

- ✓ 215,278 New York City students did not meet English Language Arts or Math standards in 2009. That is more students than the Philadelphia school district enrolls.
- ✓ New York City graduates 60.7 percent of its students in four years with only 44 percent of students receiving a Regents diploma. Among minorities, only 31.2 percent of Hispanic students and 32.8 percent of black high school students graduate in four years with a Regents diploma.

Beginning with the 2007-2008 9<sup>th</sup> grade cohort, the New York State Board of Regents proposed a phase-out of the local diploma, making the Regents diploma the new standard for high school graduation. The original CFE lawsuit argued that one of the long term goals of a sound basic education is to produce adults who can be competitive in the global economy. The fact that fewer than half of New York City high school students, and less than a third of minority students, can achieve the new state-decreed baseline for high school graduation strongly suggests that more work

and more funding are needed to bring New York City's schools up to a level of educational adequacy.

At a time when so many students are attending under-resourced schools and not meeting the benchmarks of adequacy, the state should not be disinvesting from its equitable funding programs. Furthermore, the State and City cuts being proposed at this time will hurt the New York City school system and will likely undercut some of the strides towards equity that New York City's educators, students, and parents have made.

**Address Education Spending in a Fair and Transparent Manner.** In his budget briefings, the Governor has singled out education, particularly formula aid funding, as an example of excessive spending in need of reduction. The executive budget makes no fewer than three explicit arguments that New York State education spending has increased in an unchecked manner and is currently in excess of the State's true education funding needs. Specifically, the Governor's budget briefings allege that "school aid increased at a rapid and unsustainable rate." In making these claims the Governor makes no mention of the court mandated and legislature approved funding increase that comprises the CFE promise. The briefing also fails to note that these funds are allocated as part of spending reform and specifically targeted at bringing low performing schools to levels of adequacy and that it was enacted to counteract past disinvestment.

The increase in formula aid between 2006 and the present is largely a function of the CFE phase-in. Contrary to the assertion that it is an instance of unchecked spending growth, this money is carefully monitored and subject to strict accountability measures, including but not limited to the Contract for Excellence. Furthermore, the claim that New York spends too much on its schools is refuted by a substantial body of evidence, including the resource and performance statistics detailed in the New York City case study. Though the budget briefing claims that New York public schools spend more per pupil than almost any other state, it does not take into account the relative difference in teacher salaries or cost of living in New York State, particularly New York City, and the rest of the country. Furthermore, citing statewide average per pupil spending as a justification for cuts conceals that major per pupil spending disparities exist within the state. The schools receiving equitably distributed funds have below per pupil spending that is well below the cited average.

**CFE calls on the Senate and Assembly to:**

- **Make a downpayment on full funding of the original legislated CFE promise for the third year of \$1.5 Billion in n Foundation Aid, at least fund the \$523 million, \$170 million in foundation aid, proposed by the Board of Regents;**
- **Prioritize increased funding Foundation Aid prior to making cuts. Treat Foundation Aid at least the same as expense and other school aids;**
- **Prevent another extension of the CFE phase-in period for increases in Foundation Aid;**
- **Preserve the Contracts for Excellence;**
- **Allow No Supplantation;**
- **Enforce the Mandated New York City Funding of \$2.2 billion**
- **Truth in Budget Reporting**

**Conclusion**

New York State has come a long way in the 17 years since CFE began the litigation to establish and fund the constitutional right to a sound basic education. The Education Budget and Reform Act of 2007-2008 provided a historic solution that must be preserved and protected to make the right a reality in our schools and for our students. The goal of a sound basic education is to prepare New York's children to become engaged-citizens and productive contributors to our-state's economy. Without investing in the necessary educational resources, New York State is shortchanging its own economic recovery.

We thank the Legislature for its leadership in enacting the original law and can continue to help schools build on past successes and tackle both persistent and newly arising challenges. Cutting below the freeze level and any further stretch-out of the phase-in of CFE must be resoundingly rejected. The Legislature can make clear its commitment to its fundamental goals, even in these tough times, by rolling back the Governor's proposed cuts to foundation aid, prioritizing foundation aid and funding at least part of a promised increase in the 2010-2011 budget, and fully utilizing the Contract for Excellence. A budget that prioritizes equitable funding and

commits to going no longer than seven years to implement CFE is a step toward renewing the State's commitment to students, parents and educators. There must also be a commitment to make up for at least the monetary losses for these delays and prioritize the restoration of this funding. The tragedy is that we can never make up for the losses to the lives and education of our children.

Given this long-term deprivation of the constitutional right to a sound basic education for millions of children, any actions by the Legislature to further modify or compromise the full CFE promise must only be considered as a last resort in the context of true shared sacrifice. Since the remaining federal stimulus funds are already incorporated in the Governor's budget, this means raising additional revenues. Then, and only then, should we consider a scalpel not a meat axe approach to making temporary funding adjustments for this year only based on principles of equity with a guaranteed restoration with adjustments for inflation reflecting the purchasing power of the education dollar. Compliance with this constitutional mandate is a legal, economic and moral necessity. This should be the bottom-line fact in all budget decisions.

CFE looks forward to working closely with you to continue advancing toward the ultimate goal of providing the opportunity for a sound basic education for every child as guaranteed by the New York State Constitution.

Thank you.