



Panel  
4

# *Testimony*

to the  
Senate Standing Committee on Education  
and the  
Senate Standing Committee on Budget and Revenues  
on  
Examining the Distribution of the Foundation Aid  
Formula as it Relates to Pupil and District Needs

December 3, 2019

*Prepared by:*  
*New York State United Teachers*  
*800 Troy-Schenectady Road*  
*Latham, NY 12110-2455*  
*518-213-6000*  
[www.nysut.org](http://www.nysut.org)

*Representing more than 600,000 professionals in education and health care*  
*Affiliated with the AFT – NEA – AFL-CIO*

*Testimony of  
Andrew Pallotta  
President, New York State United Teachers  
to the  
Senate Standing Committee on Education  
Chair, Senator Shelley Mayer  
and  
Senate Standing Committee on Budget and Revenues  
Chair, Senator Brian Benjamin  
on  
Examining the Distribution of the Foundation Aid Formula  
as it Relates to Pupil and District Needs*

*December 3, 2019*

Chairperson Mayer, Chairperson Benjamin, honorable members of the Senate and distinguished staff, I am Andrew Pallotta, President of New York State United Teachers (NYSUT). NYSUT represents more than 600,000 teachers, school-related professionals, academic and professional faculty in higher education, professionals in education, in health care and retirees statewide.

Thank you for the opportunity to testify today on the distribution of Foundation Aid. I am joined by Michael Mulgrew, President of the United Federation of Teachers.

I would like to thank the committees for holding a series of five statewide roundtables to analyze the Foundation Aid distribution and pupil and district needs. These hearings have given NYSUT local presidents an opportunity to discuss these needs with you directly. In these roundtables you have heard from urban, suburban and rural districts, districts that educate students of every background, of every level of English proficiency, of every ability, from the wealthy to the most in need. All have agreed — the Foundation Aid formula must be fully funded in order to provide all students with the resources they need.

Let us first start with the Foundation Aid formula itself. The 2007 Foundation Aid formula was a significant public policy achievement. The premise of the formula — ensuring that each district has the resources to provide students with an education that prepares them for the future — should remain the underpinning of school aid policy in our state. In addition, the formula, as enacted into law, would have provided significant additional state resources to districts that have been historically underfunded and guaranteed a minimum annual increase in aid for all districts.

Foundation Aid, as we know it today, does not currently support or respond to the needs of students, teachers or school districts. The primary reason for this is the lack of funding — if properly funded, Foundation Aid would ensure that all students, regardless of where they live, attend a school that has sufficient resources to provide a quality education. However, Foundation Aid has never been close to fully funded.

Let me just give you this example. After the 2016-17 school year, districts were owed \$3.8 billion in Foundation Aid. After the 2019-20 school year, school districts were owed \$3.4 billion. At the current rate, using past performance, it will take 25 years, to fully fund the Foundation Aid formula.

The formula is designed to reflect the number and needs of students, including children in poverty, students with disabilities and English language learners (ELLs), as well as a regional cost adjustment, to reflect the range of cost-of-living levels across the state. Unfortunately, only half of the phase-in was implemented before the Great Recession occurred. At that point, the state implemented the Gap Elimination Adjustment (GEA) to help the state fill its revenue shortfall. The chart below details the amount of GEA dollars withheld from school districts. The GEA was eliminated in the 2016-17 New York State Enacted Budget.

<b>Year</b>	<b>GEA Amount</b>
<b>2010-11</b>	<b>(\$1,412,150,549)</b>
<b>2011-12</b>	<b>(\$2,556,482,217)</b>
<b>2012-13</b>	<b>(\$2,156,286,074)</b>
<b>2013-14</b>	<b>(\$1,638,788,735)</b>
<b>2014-15</b>	<b>(\$1,036,669,680)</b>
<b>2015-16</b>	<b>(\$433,599,665)</b>

Since 2012, there have only been modest annual Foundation Aid increases and there still remains \$3.4 billion in unpaid Foundation Aid. Of that amount, over two-thirds of this aid is owed to high-need districts (\$2.3 billion).

#### **Unpaid Foundation Aid 2019-20**

<b>District Need Category</b>	<b>Amount Owed</b>	<b>Percent of Total</b>
<b>High Need</b>	<b>\$2,325,802,174</b>	<b>68.1%</b>
<b>Average Need</b>	<b>\$801,565,245</b>	<b>23.5%</b>
<b>Low Need</b>	<b>\$287,209,530</b>	<b>8.4%</b>
<b>Total</b>	<b>\$3,414,576,949</b>	<b>100.0%</b>

Unless Foundation Aid is fully funded, it will not be responsive to student and community needs. New York State public schools have experienced significant changes in student composition over the past decade.

#### **Statewide Change in Student Groups 2007-08 to 2017-2018**

<b>Category</b>	<b>Change in Enrollment</b>	<b>Percent Change</b>
<b>Students with Disabilities</b>	<b>+72,287</b>	<b>+17%</b>
<b>Students in Poverty</b>	<b>+175,684</b>	<b>+15%</b>
<b>English Language Learners</b>	<b>+36,354</b>	<b>+18%</b>

While overall enrollment in New York State's public schools has declined, the chart above highlights the double digit increases these schools have seen in the number of children with disabilities, students living in poverty and ELLs. These students possess a wide range of needs that require additional educational programming and services. Special education students and ELLs are entitled to a variety of services that address specific issues they may face in the academic environment. Under state and federal law, special education students have their educational programs governed by an Individualized Education Program (IEP) that outlines the support services and modifications that must be provided to the student.

As for ELLs, all school districts in New York State must comply with Part 154 of the Commissioner's Regulations, which establish standards for school districts having ELLs, to ensure that these students are provided opportunities to achieve the same educational goals and standards that have been established by the Board of Regents for all students. In accordance with these regulations, each school district shall provide all ELLs equal access to all school programs and services offered by the district, commensurate with the student's age and grade level, including access to programs required for graduation.

The Foundation Aid formula reflects those costs in the form of pupil weightings. However, as these types of students have increased, it has not driven additional aid to those impacted school districts. The failure to fully fund Foundation Aid means that when additional students in need enroll in a school district it generates additional Foundation Aid on paper. However, that does not translate into additional state aid to the school district.

Furthermore, the small increases in Foundation Aid that have been allocated in recent years have not been made according to district needs. For example, in certain years, all small cities have had the same phase-in factor, irrespective of need, and each of the Big 5 city school districts have their own phase-in factor that was not generated by neutral factors, such as student needs and community wealth levels.

We would strongly urge caution against engaging in too deep of a discussion of potential modifications to the formula unless proper funding is secured. We have some ideas that we will share, however, while a debate regarding what the proper weighting should be for ELLs is appropriate, it does potentially sidetrack us from the need to fully fund the formula. Otherwise, unless schools are fully funded, we are simply increasing or decreasing the amount of aid owed to various districts and no more aid would flow to those districts to provide proper programming for school children.

As you have already heard from NYSUT and other educational stakeholders, community groups, school boards and superintendents around the state, we all believe the state should fully fund the Foundation Aid formula. NYSUT believes that this should be accomplished by reestablishing a phase-in schedule for the Foundation Aid formula. This phase-in schedule was repealed several years ago and needs to be re-established in law. We, along with the entire Educational Conference Board (ECB), recommend a three-year time-frame to fully fund the formula.

Outside of New York City, eight different local unions testified before you across the state, seven of these eight union leaders work in school districts that are owed millions, and in some cases, tens of millions of dollars in Foundation Aid. These are largely high-need, low-wealth communities that are reliant on state aid for funding the bulk of their education programs. Without proper funding levels of Foundation Aid, these school districts cannot provide high quality educational programming for their students.

School District	Foundation Aid Owed 2019-20
<b>Brentwood</b>	<b>\$128,079,498</b>
<b>Buffalo</b>	<b>\$76,025,745</b>
<b>Yonkers</b>	<b>\$38,388,357</b>
<b>Syracuse</b>	<b>\$36,180,209</b>
<b>White Plains</b>	<b>\$11,549,523</b>
<b>Williamsville</b>	<b>\$11,313,058</b>
<b>Farmingdale</b>	<b>\$8,094,596</b>

These amounts have not changed much over the years. There is little progress being made toward properly funding our schools — especially high-need school districts.

For example, over the past couple of months, the Rochester City School District (RCSD) has identified various financial issues that have negatively affected the district; most recently the Superintendents disclosed that there is a \$30 million budget shortfall in the current fiscal year. As a result of the shortfall, a proposed plan to close the budget gap was announced. To close the gap, the district is proposing to eliminate almost 300 positions beginning in January 2020. These mid-year cuts will disrupt the academic year for the nearly 30,000 students the district serves. It should also be noted that the RCSD is owed \$85 million in Foundation Aid funding in the current year, which had they received, would have prevented this budget shortfall.

Let us turn for a moment to Hold Harmless Districts (hold harmless). In our state, 276 school districts (over 40 percent of all districts) are hold harmless, which are not owed additional Foundation Aid. The number of hold harmless districts has grown over the years, largely due to declines in enrollment. Eighty-one percent of all school districts in New York State that are hold harmless are high- or average-need districts.

#### **Hold Harmless School Districts**

Need Category	Number of Districts	Percent of Total
<b>High Need</b>	<b>77</b>	<b>28%</b>
<b>Average Need</b>	<b>146</b>	<b>53%</b>
<b>Low Need</b>	<b>53</b>	<b>19%</b>
<b>Total</b>	<b>276</b>	<b>100%</b>

Each of these districts faces increasing inflationary costs, as well as the restrictive limits of the tax cap. Moreover, even though some of these districts have lost enrollment, they are not able to recoup a proportional savings. For example, if a small rural district has 50 students in third grade (two classes of 25 students) and over time, that number is reduced to 40 students (a 20 percent decline) — that district still has two classes (of 20 students) and therefore, there are not significant cost savings. If this scenario were to play out in a small rural district with more ELLs, a greater number of students in poverty and additional students with handicapping conditions that require additional services — this may well increase the total cost of educational services, even as total enrollment declines.

The original formula contained an annual three percent minimum increase for all school districts. There have been minimum increases negotiated on an annual basis in recent years but they have fallen short of the costs districts face. In 2019-20, the minimum Foundation Aid increase was only 0.75 percent. NYSUT is calling for a minimum increase guaranteed to all districts that, at a minimum, matches inflationary changes.

In addition to such an increase, I would also propose a three-part solution to address the various issues associated with the distribution of the Foundation Aid formula as it relates to pupil and district needs; however, two of these fixes must be completed before the other can be effective. First, NYSUT, as part of ECB, is calling for at least a \$2.1 billion increase in school aid for 2020-21. Of that amount, \$1.6 billion is earmarked for Foundation Aid and maintaining current services and programming, which also includes expense-based aids. The state must also enact a three-year phase-in of the amount of Foundation Aid owed to districts and students.

The second part of the solution is something that I have raised before — the tax cap and its harmful effects on school districts. NYSUT believes that there must be modifications made to the tax cap in order for students, and the districts they attend, to be successful.

If current inflation trends hold, as of next year, the allowable levy growth factor in the tax cap formula will have been below two percent for five of the nine years since the cap was enacted. School expenses escalate, while the Consumer Price Index (CPI) varies with the cost of educating students. With a permanent tax cap now in place, schools will continue to face difficult budgeting choices when growth in CPI is below two percent. Districts need stable sources of revenue. The need remains to amend and simplify the cap by making the allowable levy growth factor at least two percent, as our neighbor Massachusetts has done.

NYSUT is appreciative of the Legislature's support and passage of two adjustments to the tax cap formula that had been called for since the enactment of the tax cap — excluding BOCES capital projects, not unlike their school district counterparts, and including properties covered by payments in lieu of taxes (PILOTs), in the tax base growth factor. While the Legislature has repeatedly passed these provisions, they have never been implemented. NYSUT would urge you to ensure that they are, in fact, put into place. In addition, the carryover allowance should be modified to give districts an incentive to hold tax increases below two percent in certain years when they can, and provide some flexibility in tougher years. NYSUT has additional suggestions for amendments to the tax cap that I would be happy to discuss with you.

NYSUT, as part of ECB, also would suggest several potential formula modifications. We believe this is a longer-term process and should not be done as part of the annual state budget negotiations. Since 2007, much has changed: the demographics of school districts have evolved, learning standards have changed, new regulations have been enacted and students are showing up to school with issues and challenges that no one could have predicted over 10 years ago.

Below are three adjustments to the formula that should be made only after full funding is secured.

NYSUT's first recommendation would be to conduct a new cost study to determine the per-pupil foundation amount. The original per-pupil foundation amount was based on a study of the cost of education in districts that were deemed "successful" by NYSED. This amount would then be adjusted for district-specific factors, such as student needs and regional costs. That study is now more than 15 years old. We recommend a new costing-out study be performed to establish a new foundation amount per pupil, given the changes in learning standards and other requirements.

The second recommendation would be to review and update how student needs are accounted for in the formula. Since the Foundation Aid formula was enacted, percentages of students in poverty have risen in many districts, as have the number of English language learners. The initial weightings for these factors, as well as students with disabilities, should be reviewed and updated — particularly as we learn more about the impact of concentrated poverty on the learning environment and the supports needed to properly address a variety of needs.

NYSUT's third recommendation would be to restructure the Regional Cost Index. This Index adjusts the per-pupil Foundation Aid amount to reflect variations in the cost of delivering services in different parts of the state. While the state's economy has evolved, the index values have not. Further, the index organizes the state's districts into nine regions, which contributes to dramatic differences among nearby districts that could be addressed with the creation of additional regions. As part of this discussion, we suggest examining how the wealth factor is adversely affected by temporary, drastic changes, such as when a resident of a school district receives a large inheritance or receives lottery winnings.

Addressing the above recommendations will require careful study and the involvement of many stakeholders.

NYSUT strongly suggests that the process begin in early 2020-21 so that results can be evaluated, debated and refined in time to be discussed as part of the 2021-22 New York State budget deliberations. Updating and funding the formula is necessary to preserve the promise of Foundation Aid to enhance programmatic and fiscal stability for children, schools and communities.

We believe that addressing inequality in education should be a part of addressing the income inequality that harms the middle class and the impoverished throughout our state.

NYSUT looks forward to working with you as you explore all avenues, including new sources of revenue, to fully fund the Foundation Aid formula. As always, we stand ready to work with you now, and throughout the budget negotiations process, to do what is right for our students in meeting this long overdue obligation.

Thank you for the opportunity to testify today.

#47613  
ARR/AB  
11/17/19