

Court of Appeals State of New York

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Plaintiffs-Appellants,

- against -

THE STATE OF NEW YORK, GEORGE E. PATAKI, as Governor
of the State of New York, and ANDREW S. ERISTOFF, as
Tax Commissioner of the State of New York,

Defendants-Respondents.

BRIEF OF *AMICI CURIAE*
THE ALLIANCE FOR QUALITY EDUCATION,
THE AFTER-SCHOOL CORPORATION,
THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,
ASIAN AMERICAN COMMUNICATIONS, INC.,
BANK STREET COLLEGE OF EDUCATION,

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ADVOCACY,
TEACHERS NETWORK, and
THE WOMEN'S CITY CLUB OF NEW YORK**

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Amici curiae respectfully submit this brief in support of Plaintiffs-Appellants' appeal from the decision of the Appellate Division, First Department, decided and entered on March 23, 2006. See Campaign for Fiscal Equity v. State, 29 A.D.3d 175, 814 N.Y.S.2d 1 (1st Dep't 2006). The Appellate Division Order modified the Order of the Supreme Court, entered on or about March 16, 2005, directing Defendants-Respondents to implement a funding plan to provide the New York City school district with at least \$5.63 billion in additional annual operating funds.

INTERESTS OF THE AMICI CURIAE

The Alliance for Quality Education ("AQE"), a not-for-profit corporation, is a statewide coalition of more than 241 organizations comprised of parents, children's advocates, schools, teachers, clergy, labor unions, business leaders and others who believe that every child in New York State deserves a quality education.¹ These organizations have a vast wealth of knowledge and experience relating to education generally, and education in New York State and New York City in particular. Further, AQE actively monitors legislative initiatives at the state level and is familiar

¹ A list of AQE's current member organizations appears at the end of the Addendum to this brief.

with Defendants' failure to implement the Court of Appeals' mandate in this action.

AQE supports more effective spending of educational funds through a fair state funding formula that is responsive to the needs of students, accountability from the Statehouse to the schoolhouse, and wise investments for the future. Investing properly entails funding smaller classes, fully qualified school staffs, clean, safe and technologically up-to-date classrooms, adequate programs for at-risk students, including after-school programs, and full implementation of the statewide universal prekindergarten program.

Central to AQE's mission is ensuring that all of the children of New York State have the opportunity for a sound basic education. Accordingly, AQE has a strong interest in seeing that the Appellate Division's decision, which is before the Court on this appeal, is modified so as to fully and finally remedy the constitutional deficiencies that have deprived New York City school children of the opportunity for a sound basic education since before this lawsuit was commenced in 1993.

AQE also believes that a strong remedial order by this Court is necessary to bring about statewide reform of the current outmoded and

unfair state school aid “formula” consistent with the principles set forth by the Court in this litigation. Such legislation is necessary to address the needs of schoolchildren outside of New York City, many of whom are not receiving a sound, basic education.

The additional amici curiae include other organizations that pursue justice and opportunity for, among others, students in the public schools across New York State. The amici share the interest of the broader society in the benefits that result from having a well-educated population, and they also have special knowledge and experience relating to education. Because they are committed to the full-time pursuit of social justice and meaningful, effective public policy, the amici have intimate knowledge of the needs of their constituents and the realities of public education in New York. Collectively, the amici have vast institutional experience in identifying critical social problems and pursuing their resolution. The separate statements of interest of the additional amici are set forth in an Addendum to this brief.

PRELIMINARY STATEMENT

In the thirteen years that this litigation has been pending, the State has denied an entire generation of New York City schoolchildren the

opportunity for a sound basic education to which they are entitled under the Education Article of the New York State Constitution. Despite this Court's unequivocal mandate more than three years ago requiring Defendants to implement a remedy, the schoolchildren of New York City continue to be harmed by the ongoing violation of their constitutional rights. See Campaign for Fiscal Equity v. State, 100 N.Y.2d 893, 801 N.E.2d 326, 769 N.Y.S.2d 106 (2003) ("CFE II").

Enough is enough. In the face of Defendants' inexcusable inaction, it falls to this Court to protect the educational right guaranteed by the New York State Constitution. In its role as the ultimate protector of constitutional rights, this Court should direct Defendants to implement the remedies that, based on the recommendations of a distinguished panel of referees, the Supreme Court found necessary to provide New York City schoolchildren with the opportunity for a sound basic education.

Action by this Court is compelled not only by the need to ensure that its rulings are obeyed. Action also is compelled by the need to ensure that New York City school children finally have the constitutionally guaranteed opportunity for a sound basic education that will prepare them to become productive citizens, for the benefit of all citizens of New York.

To this end, amici support the request of Plaintiffs-Appellants (collectively, “CFE”) that this Court modify the Appellate Division decision to require Defendants, inter alia, to phase in increased funding for New York City schools over a four-year period, so as to ensure an annual increase in operating aid within the \$4.7 billion to \$5.63 billion range – a remedy endorsed, but not unambiguously ordered, by the Appellate Division. See 29 A.D.3d at 191, 814 N.Y.S.2d at 12.

Unfortunately, Defendants have demonstrated their unwillingness or inability to remedy their constitutional violation absent more active judicial oversight. In particular, Defendants have, without excuse, failed to obey this Court’s command that they implement a remedy, either by the generous July 30, 2004 deadline set by the Court, or since. This failure belies Defendants’ argument, and the Appellate Division’s conclusion, that this Court’s express mandate in CFE II can be implemented through “legislative and gubernatorial consideration and determination.” 29 A.D.3d at 184, 814 N.Y.S.2d at 7; see Br. for Defendants-Respondents-Cross-Appellants, dated July 10, 2006 (“Def. Br.”) at 70-71.

Defendants now argue that any judicial ruling implicating the budget process improperly encroaches on the political branches’ appropriations

power. See Def. Br. at 62. Similarly, the Appellate Division reasoned that under the separation of powers doctrine, it is for the legislative and executive branches, not the judiciary, to determine the specific budget for educational funding. See 29 A.D.3d at 177, 814 N.Y.S.2d at 2.

But Defendants are wrong in arguing, and the Appellate Division was wrong to conclude, that the separation of powers doctrine leaves the judicial branch impotent to order the political branches to implement a decision of this Court, where those branches have demonstrated their unwillingness or inability to remedy an admitted constitutional violation, despite more than adequate opportunity to do so. See, e.g., Montoy v. State, 112 P.3d 923, 931 (Kan. 2005) (“Montoy III”) (“[W]hen [political process] defects lead to continued constitutional violation, judicial action is entirely consistent with separation of powers principles and the judicial role. . . . As long as [the courts’ remedial] power is exercised only after legislative noncompliance, it is entirely appropriate.”).

It defies reason to suggest that, where the political branches have failed for years to remedy the violation themselves despite being directed by the State’s highest Court to do so, the judiciary lacks the power to order a

specific remedy for a constitutional violation, solely because the remedy involves the expenditure of money.

Defendants' intransigence should be met with judicial resolve, as embodied in Justice DeGrasse's remedial order. The Court of Appeals reasoned that by "offering more detailed remedial measures," it could "generate considerably less litigation" concerning remedies than in the protracted Abbott litigation in New Jersey, for example. CFE II, 100 N.Y.2d at 931-32, 801 N.E.2d at 349, 769 N.Y.S.2d at 129.

It is equally apparent, particularly in the wake of Defendants' inaction since CFE II and drawing on the experiences of other states, that the judiciary's resolute enforcement of its detailed remedial orders is necessary to prevent prolonged litigation over the remedy. See, e.g., Montoy III, 112 IP.3d at 929-30 ("Other state courts consistently reaffirm their authority, indeed their duty, to engage in judicial review and, when necessary, compel the legislative and executive branches to conform their actions to that which the constitution requires.").²

² On June 3, 2005, the Kansas Supreme Court ordered the State of Kansas to enact particularized remedies, including "a minimum increase of \$285 million" above the existing school funding levels. Montoy III, 112 P.3d at 940-41.

On June 22, 2005, the governor of Kansas called a special session of the Kansas legislature in response to Montoy III. The legislature at first came to no agreement, and

The thirteen years in which this lawsuit has been pending is equal to the time it normally takes a student to matriculate from kindergarten through 12th grade. Thus, a generation of New York City children already has passed through the constitutionally infirm New York City school system since this lawsuit began. Those still working through this system and those yet to enter should not have to wait any longer for the opportunity, guaranteed by the New York State Constitution, for a sound basic education.

Although the focus of this brief, like this litigation, is on the consequences to New York City children, amici note that Defendants' inaction since CFE II has had an adverse impact on children outside of New York City as well. All or virtually all amici have called for legislation comprehensively reforming the state school aid formula to provide all children with a "meaningful high school education," consistent with the principles set forth in CFE II. A strong remedial order by this Court would undoubtedly increase the likelihood that the Legislature and the Governor

the Kansas Supreme Court scheduled a hearing for July 8 to consider an injunction against expenditure of any funds for public schools in order to force the compliance of the legislative branches with its decision.

The legislature thereafter approved school funding at a level consistent with Montoy III. See John Milburn, "Attorneys: School Bill Satisfies Order for More Education Funding," Associated Press, Jul. 8, 2005; "Kansas School Finance Plan Goes to Governor," Associated Press, Jul. 7, 2005.

will enact such necessary legislation, thus addressing the constitutional harm suffered by many children outside of New York City, and obviating the need for further litigation by parents in other school districts throughout the state.

ARGUMENT

POINT I.

A “GENERATION” OF NEW YORK CITY SCHOOL CHILDREN HAS BEEN DENIED THE CONSTITUTIONALLY MANDATED OPPORTUNITY FOR A SOUND BASIC EDUCATION IN THE THIRTEEN YEARS SINCE THIS ACTION WAS INITIATED

As a result of Defendants’ failure to act, New York City school children continue to be harmed by Defendants’ constitutional violation. The enacted budget for the 2006-2007 school year is the clearest evidence of this failure to act, even following the Appellate Division directive to provide a sound basic education for New York City school children. See Campaign for Fiscal Equity v. State, 29 A.D.3d 175, 814 N.Y.S.2d 1 (1st Dep’t 2006). In March 2006, the state legislature adopted a 2006-2007 budget that provides the New York City school district with \$374 million in additional funding to put towards a sound basic education, which is significantly less when factoring out normal inflationary increases. See Ch. 53, N.Y.S. Laws of 2006, as amended by A. 10652-A; Ch. 58, N.Y.S. Laws of 2006, as amended by Ch. 61.

Further, Defendants have not obeyed this Court’s directive that they “ascertain the actual cost of providing a sound basic education in New York City” and “[r]efor[m] . . . the current system of financing school funding and managing schools [to] address the shortcomings of the current system by ensuring, as a part of that process, that every school in New York City would have the resources necessary for providing the opportunity for a sound basic education.” CFE II, 100 N.Y.2d at 930, 801 N.E.2d at 348, 769 N.Y.S.2d at 128. Disregarding that directive, the State continues to allocate education funds to New York City “in an arbitrary manner that bears no relationship between educational goals and costs associated with meeting those needs.” 100 N.Y.2d at 947, 801 N.E.2d at 360, 769 N.Y.S.2d at 140 (Smith, J., concurring).

In concluding that the State was not providing the children of New York City with the constitutionally required opportunity for a sound basic education, the Supreme Court first examined measures of educational “inputs” and “outputs,” Campaign for Fiscal Equity v. State, 187 Misc.2d 1, 23-68, 719 N.Y.S.2d 475, 491-520 (N.Y. Sup. Ct. 2001), rev’d, 295 A.D.2d 1, 744 N.Y.S.2d 130 (1st Dep’t 2002), rev’d, CFE II, 100 N.Y.2d 893, 801 N.E.2d 326, 769 N.Y.S.2d 106 (2003), measurements that were later

affirmed by this Court as the appropriate gauge of the state of the educational system. See CFE II, 100 N.Y.2d at 908-19, 801 N.E.2d at 332-41, 769 N.Y.S.2d at 112-21.

In light of Defendants' inaction, it is not surprising that measures of inputs and outputs, as identified by the Court of Appeals in CFE II, show that the children of New York City continue to be harmed by Defendants' ongoing constitutional violation.

A. Measures of Educational Inputs Reflect the Ongoing Injury to New York City Children as a Result of the State's Constitutional Violation

The State's ongoing failure to provide an opportunity for a sound basic education in New York City is evidenced by the continued lack of adequate inputs. Per-pupil expenditures, teacher retention, class sizes and programs for "at risk" students are particularly important examples.

1. New York State's Under-Funding of the New York City School District.

State funding of New York City schools has not increased significantly, either as a percentage of total State educational spending or on a per-pupil basis, since this litigation began in 1993. Moreover, New York City's percentage share of increases in State educational funding continues to depend on a static, politically negotiated formula, rather than on the needs

of City students. Indeed, New York City has received the same negotiated share of total State education expenditures (38.86%) since at least 1992.

See, e.g., N.Y. State Council of School Superintendents, 2006-07 Enacted Budget: Budget Analysis 11 (Apr. 2006).³

Further, the State's contributions to New York City schools, on a real per-pupil basis, increased by only 13 percent from 1990 (three years before this litigation was initiated) to 2005. See New York City Independent Budget Office, Inside the Budget, No. 139 (Jul. 19, 2005) (Detailed Table of 15-Year School Spending).⁴ This amount is insufficient to address the improvements necessary to provide City students with the opportunity for a sound basic education.

2. Unacceptably Low Teacher Retention Rates.

Without sufficient state funding of New York City schools, the teacher retention rate in New York City remains a problem at all grade levels, including prekindergarten.

³ This document is available at www.nyscoss.org/pdf/upload/BudgetSummary200607EnactedFINAL.pdf.

⁴ This document is available at www.ibo.nyc.ny.us/newsfax/insidethebudget139.pdf. "Real" dollar figures are defined as "Historical spending adjusted for inflation using state and local output deflators for New York State from 1990 to 2004." Id.

Based on the trial record, Justice DeGrasse identified the retention of teachers as a crucial educational input: “In addition to negatively affecting teacher quality, high turnover can negatively affect a school’s cohesiveness and ability to create cooperative effort among teachers.” Campaign for Fiscal Equity v. State of New York, 187 Misc. 2d at 29, 719 N.Y.S.2d at 495. Justice DeGrasse observed that “teachers, like any professionals, frequently require several years’ experience to achieve competency,” yet “[t]he attrition rate of new teachers is more than 50% in their first six years according to BOE data.” Id.

In the wake of the State’s failure to remedy its constitutional violation, this observation, unfortunately, remains true: As of 2004, 52% of all City teachers left the New York City school system within six years. See Randi Weingarten, Testimony Before the City Council Commission on the Implementation of the CFE (Nov. 18, 2004).⁵

More disturbing is that “[t]he [percentage] of teachers with 5 or more years teaching experience in New York City has been decreasing. It was 61.6 percent in FY 2001, 60.6 percent in FY 2002, 60.1 percent in FY 2003 and 59.7 percent in FY 2004.” New York City Council Commission on the

⁵ This document is available at www.uft.org/news/testimony/recruit_retain/index.html.

Campaign for Fiscal Equity, Fulfilling the Promise: Getting High Quality Teachers into Every New York City Classroom and Keeping Them There, 17 (Apr. 2005) (hereinafter “New York City Council Report”)⁶ (citing Mayor’s Management Report, FY 2004). A recent report by the New Teacher Center states that nearly 50% of New York City teachers have less than five years teaching experience. See New Teacher Center at the University of California, Santa Cruz, Understanding New York City’s Groundbreaking Induction Initiative 3 (Apr. 2006).⁷

Further, the median experience of New York City teachers as of the Fall of 2002 – 11 years – trails the total for all public school teachers (12), other Large City Districts⁸ (12), Urban-Suburban Districts (13), and High-Need Rural Districts (14). See The University of the State of N.Y./The State Educ. Dep’t, New York: The State of Learning: A Report to the Governor

⁶ This document is available at www.nyccouncil.info/pdf_files/reports/05_11_cfereport.pdf. This report is the first of two reports by the New York City Council Commission on the Campaign for Fiscal Equity, which, beginning in September 2004, conducted seven hearings and five town hall meetings. See New York City Council Report, *supra*, at v.

⁷ This document is available at <http://newteachercenter.org/pdfs/NYCPolicyPaper.pdf>.

⁸ Figures for “other Large City Districts” represent the average for the next largest school districts other than New York City – namely, Buffalo, Rochester, Syracuse and Yonkers.

and the Legislature on the Educational Status of the State's Schools 116, Table 4.8 (Jul. 2004) (hereinafter "2004 State of Learning").⁹

The most recent data available show that the median experience of New York City teachers has continued to decline, as more experienced teachers continue to leave either the district or teaching altogether. As of the Fall of 2003, New York City teachers had 10 years median experience (down from 11 in the Fall of 2002), lower than the average for all public school teachers (12), Large City Districts (12), Urban-Suburban Districts, and Rural Districts (14).

Even more dramatically, New York City's already extremely high annual teacher turnover rate of 19% from Fall of 2001 to Fall 2002 jumped to 25% from Fall 2002 to Fall 2003. This astounding figure of one of four New York City teachers leaving after one year dwarfs the turnover rate for public school teachers statewide (15%; an average of course heavily affected by the NYC number), and for Large City Districts (13%), Urban-Suburban Districts (11%), and Rural Districts (10%). See 2004 State of Learning, supra at 112, Table 4.8.

⁹ This document is available at www.emsc.nysed.gov/irts/655report/2004/volume1/combined_report.pdf.

According to the New York City Council’s Commission on the Campaign for Fiscal Equity, “[r]esearch shows that teachers will choose to work and remain in the hardest-to-staff schools if they are paid well and provided with sufficient preparation and supportive working conditions.” New York City Council Report, *supra* at 19. Accordingly, the Commission has recommended, along with reforms that will channel “the highest salaries to the best teachers who work in the toughest schools,” that “the salaries of all teachers be brought closer to levels of the suburban schools with which New York City competes for teachers, so that more qualified individuals are attracted to the teaching profession.” *Id.* at 19, 26. Increases in teacher compensation and associated reforms, both of which will improve retention, will be possible when the State provides the increased funding required by the Education Article of the New York State Constitution.

3. Unacceptably Overcrowded Classrooms.

In CFE II, the Court of Appeals acknowledged that “plaintiffs presented measurable proof, credited by the trial court, that New York City schools have excessive class sizes, and that class size affects learning.” 100 N.Y.2d at 911, 801 N.E.2d at 335, 769 N.Y.S.2d at 115. Yet “[o]vercrowded classes [remain] the norm in New York City, caused in part

by a serious facilities shortage and lack of adequate school funding.” New York City Council Report, supra at 50. “Even with federal, state and city funding to reduce class sizes in grades K-3 during the 2003-2004 school year, average class sizes in these grades increased in 15 districts, while only declining in 14, despite reduced enrollment.” Id. (emphasis added).

Moreover, there is an established causal relationship between overcrowded classrooms and the New York City schools’ difficulty in retaining teachers: “[An] investigation [by the New York City Council Investigation Division] found that nearly a quarter of the teachers who reported they would be exiting the system to teach outside the City the following year cited excessive class size as one of their top reasons for departure.” Id. at 51.

4. Available Resources Are Inadequate to Provide a Sound Basic Education.

Inadequate resources prevent New York City students from obtaining a sound, basic education. New York City schools have fewer library books per student than any of the schools in the State Education Department’s Need/Resource Categories, and therefore lag all public schools in the state in this regard: New York City schools have 10.2 library books per student, as compared to 16.4 for the state as a whole, 15.1 for Large City Districts, 17.2

for Urban/Suburban Districts, and 23.8 for (high-need) Rural districts. See The University of the State of N.Y./The State Educ. Dep't, New York: The State of Learning: a Report to the Governor and the Legislature on the Education Status of the State's Schools 109, Fig. 4.5 (Jul. 2005) (hereinafter "2005 State of Learning").¹⁰

In addition, as this Court has recognized, "some exposure" to computers in school "has become essential." CFE II, 100 N.Y.2d at 913, 801 N.E. at 335, 769 N.Y.S.2d at 115. Yet, as of the Fall of 2003, New York City had only 16.7 microcomputers per 100 students, compared to 25 for the state as a whole, 23.8 for Large City Districts, 27.1 for Urban/Suburban Districts, and 37.1 for Rural Districts. Moreover, of the microcomputers in New York City schools, only 57.7% were classified as "new generation, that is, those capable of using the latest instructional technology" (i.e., Pentiums and Power PCs). This figure compares to 87.2% for public schools as a whole, 97.0% for Rural Districts, and even 89.8% for Large City Districts. See 2005 State of Learning, supra at 108-09, Figs. 4.3-4.4.

¹⁰ This document is available at www.emsc.nysed.gov/irts/655report/2005/Volume1/Volume1.pdf.

5. An “Expanded Platform” of Programs

There are several other inputs that remain inadequate in New York City schools. For example, Justice DeGrasse found that

Plaintiffs convincingly demonstrated that New York City’s public school population, with its high percentage of at-risk students, requires what [the Board of Education] terms an ‘expanded platform’ of programs that will allow students to spend ‘more time on task.’

187 Misc. 2d at 76, 719 N.Y.S.2d at 525. Among the programs that Justice DeGrasse found improve student achievement for at-risk students (and others not at risk) are pre-kindergarten, summer school and “increased hours at school via after school and Saturday programs.” Id. Justice DeGrasse further found that “[n]one of these extended time programs have been fully implemented in New York City public schools.” Id.

Unfortunately, Justice DeGrasse’s conclusion remains true today. For example, the State has failed to fully fund universal pre-kindergarten for four-year-olds, greatly restricting the effectiveness of the program. In 1997, the Legislature called for \$500 million dollars in funding. Even with recent funding increases, the program is only 40% funded. If fully funded, universal pre-kindergarten could save

the State between \$555 million to \$828 million over the course of children's kindergarten through 12th grade, as a result of reduced need for remedial programs. If the program were fully funded, taxpayers would also realize an estimated return of \$7 dollars for every \$1 dollar invested in universal pre-kindergarten programs, because children who have participated in the program are less likely to go on welfare, commit crimes, and are more likely to graduate from high school. See Richard W. Riley, "The Right Start," N.Y. Times, Mar. 26, 2006, at 14-11.

In another example, roughly 400,000 New York City children presently lack access to after-school programs. See The After-School Corporation, About TASC 1 (Aug. 2005).¹¹

B. Measures of Educational Outputs Reflect the Ongoing Harm to New York City Children as a Result of the State's Constitutional Violation

The State's ongoing failure to provide an opportunity for a sound basic education in New York City is also evidenced by the continued unsatisfactory educational outputs by students. The unacceptably high city

¹¹ This document is available at www.tascorp.org/publications/catalog/factsheet/TASC_Information_Kit.pdf.

dropout rates and unacceptably low test score performance are particularly important examples.

1. High Dropout Rates and Low High School Completion Rates.

In concluding that the State does not provide the opportunity for a sound basic education to New York City children, this Court paid particular attention to the low percentage of City students who obtain a high school degree within four years, and the alarming rate of high school drop-outs. See CFE II, 100 N.Y.2d at 914, 801 N.E. at 337, 769 N.Y.S.2d at 117.

New York City's high school completion rate – which reflects the number of students who complete high school within four years – remains unacceptably low. In CFE II, the Court observed that “[o]nly 50% of New York City public school students who entered ninth grade in 1996, and who stayed in school, made it to twelfth grade in four years.” CFE II, 100 N.Y.2d at 914, 801 N.E. at 336, 769 N.Y.S.2d at 116. Using a calculation which excludes students receiving GEDs and students graduating after summer school, the State recently measured New York City's graduation rate to be an alarmingly low 43.5%. Elissa Gootman, “High School Graduation Rates Unacceptably Low, State Says,” N.Y. Times, Feb. 14, 2006, at B3. In contrast, the graduation rate of public students statewide is

64.2%. See N.Y. State Educ. Dep't, The University of the State of N.Y., NYS Education Department, Graduation and Other Results: Students Who Began 9th Grade in 2000 or 2001, slide 21 (2005).¹²

Of course, many New York City students do not delay graduation – they simply drop out altogether. As this Court explained, “[t]he evidence on why students drop out suggested mainly that the choice to drop out correlates with poor academic performance and . . . dropout rates serve as useful measures of schools’ abilities to motivate learning.” CFE II, 100 N.Y.2d at 915, 801 N.E. at 337, 769 N.Y.S.2d at 117. In any event, “it may be presumed . . . that a dropout has not obtained a sound basic education.” 100 N.Y.2d at 914, 801 N.E. at 317, 769 N.Y.S.2d at 117.

New York City schools’ already unacceptably high drop-out rate has increased over the past decade: 15.9% of all students who began high school in 1997 (i.e., the graduating class of 2001) dropped out before completing four years of schooling, while the equivalent number for the class of 2004 was 16.3%. See New York City Dep’t of Educ., The Class of 2005 Four-Year Longitudinal Report and 2004-2005 Event Dropout Rates

¹² This document is available at http://www.emsc.nysed.gov/irts/press-release/20060213/home_files/textonly/home.html.

32 (Feb. 2005).¹³ For 2005, although the New York City dropout rate declined slightly to 14.8%, that rate remains unacceptably high – roughly three times the New York State average of 4.6% for 2003. *Id.* at 5. Further, by 2003-2004 (the latest years for which data are available), New York City’s “annual” dropout rate was two percentage points higher than in 1997-1998, the last year for which the evidence in CFE II was based, indicating further that the City of New York is making limited or no progress in reducing drop-out rates.

2. Poor Standardized Test Performance.

These data indicate a systematic failure by the State in educating New York City students, and temper the partial improvements in City test scores due to statewide curriculum changes. As the New York City Department of Education has explained, “whenever standards are raised without the necessary academic and social supports, graduation rates tend to decline and dropout rates increase.” See New York City Dep’t of Educ., Flash Research Report #5 – An Examination of the Relationship Between Higher Standards and Students Dropping Out 1 (Mar. 1, 2001).¹⁴

¹³ This document is available at schools.nyc.gov/daa/reports.

¹⁴ This document is available at http://schools.nyc.gov/daa/reports/flash_report_5.pdf.

Aggregate test results in New York City schools, consistent with statewide trends, have increased in some respects, generally rising for fourth graders, but generally falling for eighth graders. See, e.g., David M. Herszenhorn, “A Gold Star for Schools: Overview; 4th Graders Post Big Reading Gains,” N.Y. Times, May 19, 2005, at A1; see also David M. Herszenhorn, “Math Scores Statewide Show Gains in 4th Grade,” N.Y. Times, Sept. 23, 2005, at B5. However, the former director of testing for New York City schools says “[t]here is some evidence here to suggest that the grade four test results last year were inflated,” because more than 8,900 of those students (now fifth graders) failed both the reading and math exams in 2006, and are in danger of being held back. See David M. Herszenhorn, “More at Risk of Repeating Fifth Grade,” N.Y. Times, June 17, 2006, at B1. Overall, test scores in New York City have not kept pace with improvements in other State districts, and test results have decreased in some critical respects.

3. Poor Elementary and Middle School Math and English Test Performance.

New York City elementary and middle school test results showed improvements in some areas, but City students still performed worse than State public school students as a whole and often when compared to other

“high need” districts in New York State. Since 1999, virtually all students in New York State schools have to take mathematics and English language tests upon completion of the fourth and eighth grades. See N.Y. State Educ. Dep’t, The University of the State of N.Y., High Need Schools Make Major Gains in Elementary English 1 (May 18, 2005).¹⁵ The tests are graded on a 1-to-4 scale: Level 4 exceeds the required standards; Level 3 meets the standards; Level 2 meets some of the standards (but is not a passing score); and Level 1 indicates that the student “shows serious academic difficulties.” Id.

The percentage of New York City eighth graders failing the English language examination has increased from 64.7% in 1999 to 67.2% in 2005. See N.Y. State Educ. Dep’t, The University of the State of N.Y., Elementary and Middle School English Results slide 14 (May 18, 2005).¹⁶ The City’s percentage of Level 1 English language students has decreased since 1999, but still remains substantially above the comparable State average for both

¹⁵ This document is available at www.emsc.nysed.gov/deputy/Documents/2005-4-8ela/pressrelease.htm.

¹⁶ This document is available at www.emsc.nysed.gov/deputy/Documents/2005-4-8ela/2005-4-8ela-all.ppt.

fifth grade (7.8% City, 5.4% State average) and eighth grade (10.4% New York City, 6.6% State average). Id. at slides 15, 29.

Although the percentage of New York City students scoring at Level 1 on the mathematics examination – i.e., those with serious academic difficulties – has decreased at both the fourth and eighth grade levels, the percentage of such students has consistently been higher than the State average and remains unacceptably high. Fourth and eighth graders in New York City scored lower than their counterparts in high need districts in the State, with the exception of Large City Districts. See N.Y. State Educ. Dep’t, The University of the State of N.Y., Elementary and Middle School Math 1999-2005 slide 7 (Sept. 22, 2005).¹⁷ In fact, New York City’s eighth grade pass rate has been significantly lower than the State average since 1999, a statistic which shows a historical lack of progress. Id.

For the first time in 2006, new state tests were administered as part of the No Child Left Behind legislation. See David M. Herszenhorn, “More at Risk of Repeating Fifth Grade,” N.Y. Times, June 17, 2006, at B1. Reading and math tests were administered to all students in grades three through eight this past winter. The full results of the new tests will not be available

¹⁷ This document is available at www.emsc.nysed.gov/irts/ela-math/math-05/grades4_8_files/textonly/home.html.

until later this year. Preliminary results, however, show an increase in the number of students who are in danger of being held back in every grade with the exception of third and seventh. Id

Further, data from the National Assessment of Educational Progress (NAEP), sometimes called the “Nation’s Report Card,” indicates a slight decline in performance by New York City eighth graders in reading between 2003 to 2005, while students in five of the other nine large cities in the nation for which data was available improved during this period. See National Center for Education Statistics, Institute of Education Sciences, U.S. Dep’t of Educ., National Assessment of Educational Progress: 2005 Trial Urban District Assessment New York City Highlights slide 20 (Dec. 1, 2005).¹⁸

4. Low Qualification Rates for Regents Examinations.

The most crucial fact about high school test results in New York City is not the overall passage rate, but the significant number of students who do not even qualify to take the tests. In order to obtain a general high school diploma, all New York State students must take five “Regents

¹⁸ This document is available at http://schools.nyc.gov/daa/reports/NAEP_DEC_1_WEB.pdf.

Examinations” (English, Math, Global History and Geography, U.S. History and Government, and Science) and pass with a score of 65 or greater. See N.Y. State Educ. Dep’t, The University of the State of N.Y., School Report Cards slide 1 (Mar. 9, 2005).¹⁹ Thirty percent of New York City students did not take the Regents English examination within four years of beginning high school in 2000 because they failed their courses and therefore were not eligible to take the examination. Id. at slide 22. This number is large both in an absolute sense and when compared to the state average (17.7%); it is also almost 10 percent higher than the average of other Large City Districts (27.5%). Id. The New York statistics for the other four Regents Exams are similar.²⁰

* * * * *

In CFE II, the Court of Appeals concluded that “whether measured by the outputs or the inputs, New York City schoolchildren are not receiving the constitutionally-mandated opportunity for a sound basic education.” CFE II, 100 N.Y.2d at 919, 801 N.E.2d at 340, 769 N.Y.S.2d at 120. The

¹⁹ This document is available at www.emsc.nysed.gov/irts/reportcard/2005/3-9-pr-src.htm.

²⁰ Those numbers are: 31.1% for Mathematics, 28.2% for Global History and Geography, 37.1% for U.S. History and Government, and 29.1% for Science. See id. at slide 23.

data in the record before that Court were principally from the 1996-1999 time period. See 187 Misc. 2d at 30-33, 719 N.Y.S.2d at 495-498. The data summarized above show that the State’s ongoing constitutional violation continues to be reflected in measures of both educational inputs and outputs in New York City schools, to the continued detriment of increasing numbers of New York City children.

POINT II.

**THE APPELLATE DIVISION ERRED IN
VACATING THE ACCOUNTABILITY
PROVISIONS IN THE SUPREME COURT’S ORDER**

In CFE II, this Court directed the State to “ensure a system of accountability to measure whether the reforms actually provide the opportunity for a sound basic education.” 100 N.Y.2d at 930, 801 N.E.2d at 348, 769 N.Y.S.2d at 128. Accordingly, Justice Degrasse, on the recommendation of a distinguished panel of referees, ordered the State to require the New York City Department of Education (“DOE”):

- (1) to improve the current system of educational accountability by requiring it to develop a comprehensive sound basic educational plan (‘Comprehensive Plan’) setting forth precise management reforms and instructional initiatives, to be coordinated with the four-year phase-in of additional operational funding, that will ensure that every school “will have the capacity to provide all of its students the opportunity for a sound basic education” and

(2) to issue an annual Sound Basic Education Report ('SBE Report') that will provide all stakeholders with the information necessary to measure the educational system's performance, consolidating plans and reports that the DOE must currently submit separately into a single, accessible document.

Campaign for Fiscal Equity v. State, No. 111070/93, 6-7 (N.Y. Sup. Ct.

Mar. 16, 2005).

But when the Appellate Division vacated the Supreme Court's confirmation of the Referee's Report, it vacated these requirements for the constitutionally required accountability system – perhaps inadvertently. See 29 A.D.3d at 191, 814 N.Y.S.2d at 12.

Amici urge the Court also to reinstate the accountability provisions in the Supreme Court's order, which were limited to accountability enhancements that were essentially agreed upon by the parties.

Additionally, because “a system of accountability” will require additional elements in order “to measure whether the reforms actually provide the opportunity for a sound basic education,” amici further urge the Court to order the State not only to include accurate outcome measures and decisive consequences but also to include (1) assurances of adequate funding, fair distribution and effective application of resources to meet student needs and

(2) meaningful stakeholder participation in the development of the City's Comprehensive Plan.

The effectiveness of any remedy for the State's constitutional violation can be assured only through a comprehensive accountability system and the full enlistment of all stakeholders, such as teachers, parents, administrators and the public, in the process.

Richard P. Mills, President of The University of the State of New York and Commissioner of Education, has emphasized the importance of involving all stakeholders in the accountability process. On November 5, 2005, he called a "Summit on New York Education" involving 650 leaders of education, business and community groups. In a call to action subsequently published on the New York State Education Department website, Commissioner Mills called for continued collaboration between the educational system and "libraries, museums, community organizations, higher education institutions, parents, and businesses." The University of the State of N.Y., A Call to Action: Follow-Up to the New York Education Summit (Nov. 2005).²¹

²¹ This document is available at <http://usny.nysed.gov/summit/summit/summitcall05.htm>.

Commissioner Mills urged the school system, “using expert help, [to] engage the public in these school communities to build a willingness to change the school for higher achievement. First, find out what people think about high school. Then discuss with them what they will endorse so we can achieve our goals.” Id. He also noted that “students also need to be included when we talk to the public.” Id.

Amici urge this Court to recognize the consensus that exists around the importance of an accountability system and to reinstate this key element of the Supreme Court’s remedial order.

A. All Stakeholders Must Be Enlisted in Developing the Comprehensive Plan

The accountability system is relevant to the stakeholders in the educational system in two respects. First, the educational system is accountable to its stakeholders for the content of educational policy, and thus, there should be a system that permits their input into the process of creating policy. Second, stakeholders need an accountability system that lets them monitor the effectiveness with which the education system executes the chosen policies.

Effectiveness in school administration requires extensive managerial authority and administrative discretion. However, the public education

system operates in a political environment where many valid considerations other than pure bottom-line economic efficiency come into play. These considerations include job security, professional integrity, parents' needs for information about and input into their children's educational welfare and the public's perception of the efficacy of the public education system.

All relevant stakeholders, including parents, teachers, administrators and the public, must be committed to the basic direction being taken by education policy if it is to be effectively implemented to provide the opportunity for a sound basic education. Thus, the accountability system that is put in place must involve all such stakeholders in the development and monitoring of the Comprehensive Plan, in order to ensure their commitment to its execution. (R. 228).

The public must see a transparent process for prioritizing the expenditure of education funding. Community sentiment should be gauged both before a Comprehensive Plan is developed, and at the drafting and revision stage. If the Comprehensive Plan does not address the concerns of parents, teachers and the community, it will not gain their understanding or support. The experiences of Charlotte-Mecklenburg, North Carolina and other cities that have held education summit meetings demonstrate that the

follow-up commitment of business and civic leaders who are involved in such meetings is an important component of educational success in those cities. (R. 243).

School-based planning also requires the input of the local community in establishing standards with respect to non-academic elements of a sound basic education that are fitted to the educational values and priorities of the community in areas such as citizenship, social responsibility, organizational and communication skills and civic participation. (R. 245-46). Parental involvement in particular has been shown to greatly improve student achievement, as measured by grade point averages and test scores in math, science, reading, and social studies. See The Parent Institute, Selected Parent Involvement Research (Aug. 27, 2004).²²

Test scores also increase faster in schools with high levels of outreach to parents. Id. A pilot program developed by the Demonstration School Project also has demonstrated the effectiveness of the involvement of parents, teachers, administrators and key community members in school-based planning and adequacy assessment. Schools participating in the

²² This document is available at www.parent-institute.com/educator/resources/research/research.php.

project reported a new school-wide commitment to meeting all students' needs, as well as more meaningful participation and accountability commitments from parents and teachers. (R. 246-48 nn.128-129).

The involvement of stakeholders in school-based planning also can circumvent barriers to constitutional compliance that derive from the political and contractual context in which this Court's order is to be implemented. For example, in New York City, education officials and local union chapters have negotiated staffing approaches that recognize job protection needs while facilitating the restructuring of low-performing schools. (R. 249).

**B. Comprehensive Planning and Accountability
Will Enhance the Fulfillment of the Court's Order**

The State's current accountability system focuses almost exclusively on testing and consequences. (R. 221-70). Yet calls for educational improvement and accountability without adequate levels of funding or any mechanism to direct and apply that funding effectively ring hollow.

It is critical to "align funding with need" in order to meet the constitutional mandate. 187 Misc. 2d at 83, 719 N.Y.S.2d at 530. District- and school-level planning should be comprehensive and streamlined. Comprehensive planning permits transparency for the public regarding the

adequacy and coordinated application of improvements in teaching quality, class size reduction, facilities improvement, services for special students and technology, and how the district plans coordinate their implementation. (R. 238-39). Once the level of resources for each area is set, an efficient system of school-based budgeting and reporting will permit monitoring and improvement each year. (R. 239). Detailed, school-based sound basic educational plans must be developed that will take into account local conditions and student needs in applying resources toward student success. Such school-based plans will provide feedback and input for the purposes of district-wide comprehensive planning.

A strong accountability system would enhance the chances of complete fulfillment of this Court's eventual order in this proceeding. The Zarb Commission recognized that taxpayers need an understandable, predictable, and "totally transparent" system. (R. 972-73, 990). Amici agree with the Zarb Commission's concern that taxpayer dollars not be wasted, but instead devoted to programs designed to improve student achievement.

Taxpayer concern with accountability is demonstrated, for example, in a prominent report by the Citizens Budget Commission, a business-

supported organization in New York City focusing on finance. In its report, the Citizens Budget Commission calls for comprehensive planning, clear reporting on student and school achievement and improvement, efficiency measures and sanctions. See Citizens Budget Commission, [Can New York Get an A in School Finance Reform?](#) (Nov. 2004).²³

Amici believe that a comprehensive planning process with a strong public participation component will significantly increase the likelihood of a predictable and transparent system of educational finance, and thus enhance the likelihood of taxpayer support for full compliance with this Court's order.

²³ This document is available at www.cbcny.org/CBC_School_Finance_Reform_11-04.pdf.

CONCLUSION

For all of the foregoing reasons, amici curiae support CFE's request that this Court modify the order of the Appellate Division to reinstate the Supreme Court's remedial order requiring the State to increase operating funds to New York City by between \$4.7 billion and \$5.6 billion above the amounts expended in the 2004-2005 school year, and further requiring the State to implement adequate accountability measures.

New York, New York
August 28, 2006

Respectfully submitted,

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ADDENDUM

Statements of Interest of Additional Amici Curiae

The After-School Corporation. The mission of The After-School Corporation (“TASC”) is to enhance the quality, availability and sustainability of after-school programming in New York State with the goal of building publicly supported systems of after-school programs. TASC began in 1998 with 25 programs in New York City. The organization now supports more than 250 programs, reaching over 40,000 children and their families. TASC supports resolution of the CFE case as a necessary first step in developing an education financing formula that addresses disparities in funding and educational outcomes throughout the State.

The American Association of University Women (“AAUW”), founded in 1881, is the nation's leading voice promoting education and equity for women and girls. Throughout its 125 year history, AAUW has been involved in improving education, with a particular emphasis on positive societal change and lifelong learning. In the past 15 years, AAUW’s Educational Foundation has commissioned and published several research studies relating to education that have had an impact on students. AAUW’s NYS convention has adopted a policy stating the following: “To support a strong system of public education in New York State that promotes gender

fairness, equity, and diversity, AAUW NYS advocates adequate and equitable funding for quality public education for all students. We strongly feel that the legislature should uphold its Constitutional requirement to provide a sound basic education for every child in New York State.”

Asian-American Communications, Inc. is the oldest and the strongest educational advocacy grass-roots organization for the Asian-American community. It was founded in 1985 to respond to the needs of the ever-increasing numbers of immigrant students of Asian descent into the New York City school system. From its inception, due to the lack of significant research and empirical data, it embodied the dual roles of direct services and advocacy work. Its programs encompass three components: developing teachers, students and parents. Since the office moved to Chinatown in 2000 from Teachers College, Columbia University, 4,000 parents have attended its workshops around the City. Its major voice is for students’ sound basic education, safety, smaller classes, accountability in teacher quality and recruitment, and, last but not least, a fair funding formula that addresses the needs of immigrant parents and their right to accessible information as to their children’s progress over the major barriers of language and culture.

Bank Street College of Education was founded in 1916 as the Bureau of Educational Experiments with the overarching goal of improving public

education. The College has never wavered in its pursuit of that goal, as vital a concern today as it was in the days of rote learning encouraged by corporal punishment. We have worked with school systems throughout the country but especially in New York City, where we have worked onsite in the public schools for more than sixty years. Our work with schools entails sharing strategies for teaching that are based on an understanding of children and how they learn, and that are designed to nurture the development of well-informed, thoughtful, and responsible citizens of a democracy. While we are focused on improving the quality of education, it is obvious that gross inequities in the resources provided to schools produce inherent disparities in the quality of the education that children in under-resourced schools receive, and it is equally obvious that those inequities in education contribute to persistent inequities in society at large. Longstanding inequities are often difficult to resolve, but the 2003 Court of Appeals ruling on the issue of school funding laid out a clear path for the State to follow, a path that has now been obstructed for three years by delays in reforming the school funding system in accordance with the ruling. Our interest in this litigation is in seeing a ruling that would incorporate both enforcement of the 2003 ruling and accountability for the equitable distribution of resources among the State's public schools.

Central New York Citizens in Action, Inc. (“CNYCIA”), a multi-issue public interest organization affiliated with Citizen Action of New York, was founded in 1997 to address critical social, economic and environmental issues facing residents of Oneida, Herkimer, and Madison counties.

Members of CNYCIA work to empower low and moderate income Central New York residents to participate in shaping the policies that affect their lives, on issues such as economic justice, environment, housing, education, economic development, health care, public benefit programs, consumer issues, and campaign finance reform. CNYCIA projects include research and policy development, public education on a wide range of public policy issues, development of educational materials, community outreach and grassroots organizing, coalition development, training, and lobbying.

CNYCIA, based in Utica, has organized a successful 40 hour fast for the working poor, held news conferences and lobbied in Albany on a wide variety of issues, and organized local coalitions to work on funding for schools, campaign finance reform, and against predatory lending. We have published studies on alternative economic development, affordable housing, the Community Development Block Grant program, and school funding. We have successfully conducted campaigns on neighborhood development,

media accountability, and health care and joined state and national organizations in advocating for progressive policies.

CNYCIA strongly supports this brief because we believe that local schools in our area do not receive their fair share of funding. Lack of adequate funding undermines our community's efforts to ensure economic opportunity for all citizens.

Child Care, Inc., a New York-based nonprofit agency, seeks to expand high-quality early learning opportunities for all children. As co-convenor of the Prek Coalition and Winning Beginning, New York, Child Care, Inc. has worked on both the policy and implementation of the state's Universal Prekindergarten program. Our interest in this litigation springs from the belief, based on the scientific evidence, that prek services should be considered a core part of public education and should be adequately funded, supported and available to all children who wish to enroll.

Citizen Action of New York, Inc. is a membership organization with 20,000 members throughout New York State with the goal of achieving economic, racial, social, economic and environmental justice. Citizen Action has active chapters or affiliates in Long Island, New York City, the Hudson Valley, the Capital District, the Southern Tier (Binghamton), the Finger Lakes (Rochester), and Western New York (Buffalo). Among

Citizen Action's highest priorities is mobilizing the public to achieve a statewide solution to the Campaign for Fiscal Equity litigation that ensures that all children in the state have the opportunity for a sound, basic education.

Citizen Action's research and policy affiliate, the Public Policy and Education Fund, Inc., has written several significant reports on education policy in New York State, including analyses of the state education budget, and a 2006 report demonstrating a correlation between increased graduation rates and increased education spending.

The Council of Supervisors and Administrators ("CSA") represents 5500 school supervisors and administrators and day care directors in New York City. CSA and its members are dedicated to the achievement of the standard of educational excellence that all pupils deserve and the community expects. Its members are school and school district leaders whose expertise is critical to the education community in New York City. Their work and work lives will be directly impacted by the outcome of the appeal. As the collective bargaining representative of school leaders, CSA is in a unique position to articulate the interests of its members. As such it has a vital stake in the outcome of this appeal.

The Cooke Center for Learning and Development is a non-profit corporation, serving children with a broad range of serious developmental disabilities. Now in its 19th year, Cooke Center is one of the largest private providers of school-based special education services for children ages 3 to 21 in New York City. It offers a continuum of individualized educational programs and specialized services designed to educate children who have disabilities in the “least restrictive environment” as required by federal and state law, including a high school transition program. Cooke Center is committed to serve children whose educational needs cannot be met in the public schools, irrespective of whether their families have the financial resources to afford Cooke Center’s tuition. Over half of our students come from low-income families, many supporting themselves on public assistance. Cooke Center is a longstanding advocate for equal access to appropriate special education programs and services for children with special education needs.

The Educational Priorities Panel was formed as a coalition in 1976, during the height of New York City’s fiscal crisis, to prevent further cutbacks to student instruction and services. The Panel’s 25 member organizations represent a broad spectrum of civic, racial, ethnic, and religious groups. The goal of the Educational Priorities Panel is to improve

the quality of public education for New York City's children so that there is no longer a performance gap between city schools and those in the rest of the state. EPP pursues this goal by seeking reforms of the federal, state and city budget and administrative practices affecting children. Our objectives are: to bring badly needed resources to New York City and other urban school districts; to ensure that funds are distributed fairly; and to advocate that funds are effectively used for the benefit of students, especially those with the greatest needs for high-quality instruction.

Empire Justice Center is a statewide non profit civil legal services program with offices in Albany, Rochester and White Plains. Empire Justice seeks to make the law work for all New Yorkers through a unique blend of systems change and direct service strategies. As a statewide support center, we undertake research and training, act as an informational clearinghouse, and provide litigation backup to local legal services programs and community based organizations. As an advocacy organization, we engage in legislative and administrative advocacy on behalf of those impacted by poverty and discrimination. As a non-profit law firm, we provide legal assistance to those in need and undertake impact litigation in order to protect and defend the rights of disenfranchised New Yorkers. Empire Justice Center has advocated extensively on issues involving equity in education for

low income students in Rochester. In addition, the legal issue raised in this case about the power of the courts to effectively remedy unconstitutional behavior by other branches of the state government is important to our clients in areas like public assistance and Medicaid.

The Federation of Protestant Welfare Agencies (“FPWA”) promotes the social and economic well being of greater New York’s most vulnerable by strengthening human service organizations and advocating for just public policies. For more than 80 years, FPWA has championed humane social welfare policies and fought for expanded resources for the City’s most disenfranchised communities. We share a special concern for the education of children and have tirelessly worked to ensure that all children in New York State receive a quality education. We strongly believe a substantial investment of resources is required to bring parity to the public education system in New York State.

The League of Women Voters of the City of New York is the New York City branch of the non-partisan, national organization of men and women whose mission is to educate and engage citizens in the democratic process. The League has supported CFE’s lawsuit against the State of New York and participated as an amicus curiae. The New York City League supports the Alliance for Quality Education’s efforts to secure the

operational funding for New York City schools, as ordered by the Court of Appeals in 2003, without further delay.

The League of Women Voters of New York State. The mission of the League of Women Voters of New York State (“LWVNYS”) is to support the active and informed participation of citizens in government. The League is a unique, multi-issue, nonpartisan political organization that influences public policy through advocacy and education.

LWVNYS believes that New York State bears a constitutional responsibility for the education of its children. This duty has been defined by litigation of more than a decade’s duration, during which this Court has held the State must provide all children with a sound basic education, defined as the opportunity for a meaningful high school education, consisting of the basic literacy, calculating, and verbal skills necessary to enable them to eventually function productively as civic participants capable of voting and serving on a jury. This duty extends to all the State’s children, and to the extent that children with special needs (students with disabilities, with limited English proficiency, and in poverty) require a greater input of funds to obtain their constitutional due, the State must support that input.

Legal Services for New York City has provided free civil legal services to poor people in New York City for over 35 years. LSNY offices

have a long history of providing high quality education advocacy services to low income students and their families throughout the City, including representation in special education disputes, school discipline and general education matters, and training to parents, advocates and legal and social service professionals on education matters.

The National Council of Jewish Women, Inc. is a volunteer organization inspired by Jewish values that works through a program of research, education, advocacy, and community service to improve the quality of life for women, children, and families and strives to ensure individual rights and freedoms for all. We endorse and resolve to work for: quality public education for all; utilizing public funds for public school only; comprehensive services and policies that enable all children to succeed in school; quality, comprehensive child care; early childhood programs that are affordable and accessible for all; and comprehensive human sexuality education programs in public schools.

New York City Americans for Democratic Action (“NYC ADA”) is the local affiliate of Americans for Democratic Action, an independent, liberal, political organization, founded in 1947 and dedicated to promoting individual liberty and economic justice through education and political action. We work at the local, state and national levels - both alone and in

coalition with other civil rights, civil liberties, social and economic organizations as well as labor unions - to address issues which promote social progress and economic justice.

NYC ADA knows that an educated citizenry is the best protector of a democracy and the best guarantee of economic security for the individual and his or her family. Campaign for Fiscal Equity has made clear that for far too long, public school students in our city and state have been denied the opportunity for a sound, basic education as guaranteed under New York State law. The time has come for the Legislature to appropriate the \$5.63 billion proposed by the panel of special masters. NYC ADA thus associates itself with this brief in support of Campaign for Fiscal Equity's appeal of the recent decision of the Appellate Division which raised issues about the enforceability of the Order of the Supreme Court.

Parents for Public Schools of Syracuse, Inc. ("PPS of Syracuse") is an all-volunteer, community-based organization of parents and interested community members who share the goal of strengthening public schools in the city of Syracuse. PPS of Syracuse, founded in 1998, is a chapter of a national network of more than 40 chapters in 20 states.

PPS of Syracuse is founded on the principle that providing a quality education for all children is vital to a healthy democratic society. Equity in educational opportunity cannot be achieved without fair funding.

Puerto Rican Youth Development and Resource Center, Inc. (“PRYD”), a tax-exempt charitable organization, has been serving youth in the Greater Rochester community for almost 35 years. Though it serves, primarily, Hispanic youth, it does serve all youth in the area. The youth served by PRYD tend to be at risk youth, youth that are having difficulty in school due to a variety of issues. The need for equity in education is paramount to our agency. The youth we serve are already disadvantaged. Adding to that, schools that do not have the resources to support the needs of our population places an undue burden on our youth. PRYD is committed to assisting all youth it serves to reach and maximize their potential. It cannot do this if the schools are unable to meet their obligation to provide adequate and equitable tools and resources.

The Schuyler Center for Analysis and Advocacy. Founded in 1872, the Schuyler Center for Analysis and Advocacy seeks to improve health and human services in New York State. Our mission is to enhance opportunity for disadvantaged children, especially those living in resource poor communities. Accordingly, that makes it an imperative that we seek a sound

basic education for every child and a different approach to school financing along with greater resources to ensure educational equity. We are, in particular, interested in a good beginning to a sound basic education through universal access to prekindergarten for all three and four-year-olds.

Teachers Network is a non-profit organization – by teachers, for teachers – with a 25-year track record of success, dedicated to improving student learning in public schools. Using the power of our award-winning website, video, and print resources, we leverage the creativity and expertise of a national and international community of outstanding educators.

Teachers Network is unique in its focus on the teacher as key to improving student achievement in public schools. Through its leadership, Teachers Network empowers teachers to transform public schools into creative learning communities so every student will succeed and contribute to the public good. Over the years, we have directly impacted over 1.5 million teachers and nearly 40 million students.

The Women’s City Club of New York is an independent, multi-issue, nonpartisan advocacy and educational organization, which works to foster active citizen participation to shape public policy decisions affecting the quality of life for the New York community. The Women’s City Club

analyzes public policy issues, publishes reports and recommendations and informs the government and the public about the impact of policy decisions.

The Women's City Club has an abiding interest in the New York City public schools. Many members work in or have children and grandchildren in the New York City public school system. The Women's City Club has long called for the equitable distribution of state and city funds for public education, believing it to be urgently needed to assure New York City children of an equal and adequate educational opportunity. For this reason, in 1994 and in 1991, the Women's City Club signed onto amicus briefs supporting the Campaign for Fiscal Equity litigation against the State of New York. Its current participation in this case is a continuation of its support of these efforts.

Members of the Alliance for Quality Education



- ACORN
- Advocates for Children
- African-American Cultural Center
- Agenda for Children Tomorrow
- Albany Citizens for Education
- Albany City Council PTA
- Albany Fund for Education
- Albany Public School Teachers' Association

Amherst Education Association
Americans for Democratic Action: New York City
Amityville Teachers Association
Asbury Shalom Zone
Association for Children for Enforcement of Support
Association of Hispanic Pastors
Art Peace, Inc.

Back to Basics Ministries
Baden Street Settlement
Black Ministers Alliance
Bob Lanier Programs
The Bronx Defenders
Broome County Peace Action
Broome County Urban League
Broome-Tioga Federation of Labor
Buffalo Alternative High School
Buffalo Block Clubs of Buffalo & Erie County
Buffalo Federation of Neighborhood Centers
Buffalo Teachers Federation
Buffalo Urban League
Builders for the Family and Youth

Campfire Council of Western New York
Campaign for Fiscal Equity, Inc.
Capital District Labor Religion Coalition
Central Brooklyn Churches
Central Presbyterian Church
Chancellor's Parent Advisory Council
Chemung County Commission on Human Relations
Child Care Action Campaign
Child Care Council
Child Care Council at City University
Child Care, Inc.
Citizen Action of New York
Citizens' Committee for Children of New York
Class Size Matters Campaign
Coalition for Employment & Block Empowerment
Coalition for Glen Cove

Cohoes City School District
Communications Workers of America - District 1
Community Action Project
Community Advocates for Educational Excellence
Community and School Together
Community One Love One Race
Community School Board District 6, New York City
Community School District 23, New York City
Council of Albany Neighborhood Associations
Cypress Hills Advocates for Education
Cypress Hills Community School

Dare to Believe Ministries, Inc.
Delavan Grider Community Center
District Advisory Council to Title I
Dutchess County School Boards Association

Early Childhood Policy Research
Early Childhood Strategic Group
East Harlem Tutorial Program
Educational Frameworks Inc.
Educational Fund for Greater Buffalo
Educational Priorities Panel
Eleanor Roosevelt Democratic Club
Empire State Pride Agenda
Enlarged City School District of Troy

Fifth Avenue Committee
Fire Survival Center
Fiscal Policy Institute
Frank Chapman Memorial Institute, Inc.
Frank A. Sedita Academy #38
Frederick Douglas Community Development Corporation
Freeport/Roosevelt NAACP
Friends of Night People
Friends To The Elderly Youth & Family Center
Friendship House

Get Involved in Your Community Inc.

Goddard Riverside Community Center
Greater Rochester Area Coalition for Education
Grace Temple COGIC – C.O.C.O.A. House
Grace Urban Ministries
Graham-Windham Serv. to Child. & Families
Grassroots, Inc.
Greater Corning-Elmira Chapter of National Organization for Women
Hackett Middle School (Albany)

Haverstraw-Stony Point CSD
Healthy Schools Network, Inc.
Hempstead Classroom Teachers Association
Herbert G. Birch Services

Ibero-American Action League, Inc.
Institute for Educational & Social Policy, NYU
Institute for Student Achievement
Interfaith Alliance of Nassau
Interfaith Impact of New York State

Jesus Is Our Lord
Jesus the Liberator Seminary
Jewish Community Center (Vestal, NY)
Jews for Racial and Economic Justice
The Junior Museum (Troy)
Justice for All

Latin American Cultural Association, Santiago
League of Women Voters of New York State
League of Women Voters of Schenectady County
League of Women Voters, Rensselaer County
Learning Leaders
Lets Talk Teen Program
Literacy Inc.
Local 169, UNITE!
Long Beach Latino Association
Long Beach Martin Luther King Center
Long Island Advocacy Center, Inc.
Long Island Coalition for Democracy

Long Island Gay and Lesbian Youth
Long Island Progressive Coalition/Citizen Action of New York
Long Island Regional Council of the National Education Association of New York

MCC&DC West Side Community Services
Mad Science
Mason Tenders District Council P.A.C.
Mechanicville Area Community Services Center, Inc.
Men of Color Health Awareness Project
Metropolitan Buffalo Alliance of Black Educators
Mid-Hudson Retiree Council (NYSUT RC #13)
Metro Council for Teen Potential
Mission Commission, Geneseo Presbyterian Church
Mothers of Those in Crisis (M.O.T.I.C.)
Mothers on the Move
MUST (Mobile Unit Support Teachers)

Nana's Grow and Learn Day Care Center
National Association for the Advancement of Colored People (NAACP),
Buffalo Branch
National Center for Schools and Communities/Fordham
National Council of Jewish Women
National Education Association of New York
National Teacher Policy Institute
Neighbors Building Neighborhoods Sector-9
Neighbors in Highbridge
Network of Religios Communities
New Settlement Parent Action Committee
New Visions for Public Schools
New York Association of School Psychologists
New York City Parent Organizing Consortium
New York Civil Liberties Union
New York Civil Liberties Union, Nassau
New York Immigration Coalition
New York State Association for the Education of Young Children
New York State Head Start Association
New York State PreK Administrators Association
New York State Reading Association

New York State Tenants & Neighbors
New York State United Teachers
New York Urban League (Staten Island)
Niagara Frontier City Ministries
Northeast Community Center
Northwest Bronx Community and Clergy Coalition
Nurses United Local 1168

Odessa-Montour Teachers' Association
Office of Urban Initiative
Olmsted #67, Network of Partnership Schools
One Hundred Black Men, Capital District
Operation Dignity of Buffalo

Parent to Parent
Parents, Families and Friends of Lesbians and Gays - Binghamton (PFLAG-Binghamton)
Parents for Public Schools, Buffalo Chapter
Parents for Public Schools of Syracuse
Parents for Quality Education
Partnership for After School Education
PENCIL
People Programs
Pratt Institute Center for Community and Environmental Development
"Precious Moments" Before & After School Program
Public Affairs Committee, Ethical Humanist Society
Public Interest Law Office of Rochester
Public Policy and Education Fund of New York
Public School 2 (Troy, New York)
Public Schools Program

Queensbridge Community in Action

Rainbow School
Research and Education Project of Long Island
Rich Printing
Rochester Preschool – Parent Program
Rural Schools Program

Safe Schools Coalition of Broome County
St. Martha Social Ministry
Salamanca City Schools
Schuyler Center for Analysis and Advocacy
SENSES
Set Buffalo Free
78 Restoration Corp.
Sewanhaka Federation of Teachers
Soul Ventures
Southern Tier AIDS Program
Southwest Area Neighborhood Assoc.
Spanish Action Coalition
Statewide Youth Advocacy
Strong Voice Parents for the Amityville School District
Suffolk Community Council
Suffolk Welfare Warriors
Susan Wagner Day Care Center
Syracuse Teachers Association

Teachers Network
The Children's Aid Society
The New Testament Revival Cathedral
The Village (at Ithaca)
Through the Eyes of a Child
Tompkins County Living Wage Coalition
Trinity Baptist Church
True Bethel Baptist Church
Try Jesus Ministries
21st Century Club

United Federation of Teachers
United Neighborhood Houses
United Parents Association
United People for Economic, Social, and Racial Justice (UPSERJ)
United Way of New York City
Unitarian Universalist Congregation of Binghamton
United Auto Workers Region 9A
United Church of Christ Justice and Witness Ministries
United North Amityville Youth Organization

United University Professions
Utica/Central New York Citizens In Action
Utica Monday NITE

Veterans for Peace, Thomas Paine Chapter
VIVE: La Casa

We Care Block Club
Westcott Community Center
Western New York Coalition on Occupational Safety & Health
Western New York Peace Center
Western New York United Against Drug & Alcohol Abuse, Inc.
Western New York Working Families Party
Working Families Party – Tompkins County
Working Families Party (Rochester)
WMCA – St. Paul Missionary Baptist Church
Women Ministries Christian Association
WORDS
Wyandanch Youth Services Inc.

YMCA of Greater New York
YWCA Kids' Korner (Binghamton, New York)
Youth Empowerment Project
Youth Planning Council