
CFE REPORTS

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MAJOR WIN FOR CFE!

HIGHEST COURT FINDS ALL STUDENTS ENTITLED TO A MEANINGFUL HIGH SCHOOL EDUCATION

On June 26, in an historic victory for every child in the state, the New York Court of Appeals ruled in *Campaign for Fiscal Equity, Inc. (CFE) v. the State of New York* that every New York student is entitled to the opportunity for a "meaningful high school education." In the final judicial ruling in the CFE lawsuit, which began in 1993, the state's highest court ordered the state to implement major school funding and accountability reforms to allow students in New York City schools to meet this constitutional standard.

The court's 4-1 decision overturns a lower appellate court's 2002 ruling that the state is obligated only to ensure that students receive an 8th-grade level of education, a ruling that outraged New Yorkers throughout the state last summer. The current decision reinstates State Supreme Court Justice Leland DeGrasse's 2001 trial court ruling that all children—whatever their "socioeconomic deficits"—are constitutionally entitled to the opportunity for a "sound basic education" that includes the skills and knowledge to "function productively as civic participants" in 21st-century

society, including being capable and knowledgeable voters and jurors able to sustain employment, and that the state's current funding system fails to meet these requirements. The ruling creates one of the strongest adequacy standards in the country to date, setting a positive precedent for students nationwide.

The Court of Appeals also sent the strong message that money matters to children's schooling and that additional resources can provide a better educational opportunity. It held that New York City schools must receive sufficient funding to ensure quality teachers, reasonable class sizes, and adequate school facilities and classrooms, including up-to-date libraries and computers.

Since *CFE v. State* was originally filed on behalf of New York City public school students, the Court's remedial orders technically apply only to New York City schools. All the judges noted, however, that major reforms of the state funding system that affect New York City will inevitably have significant implications for other school districts. CFE's position throughout the case has been that New York State needs a fair funding system for all students statewide. CFE is still strongly committed to this goal and believes that any effective changes to the state funding system must be statewide and will benefit underfunded schools and districts in every part of the state.

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Due to a printer's error, part of the headline was deleted from the first printing of this newsletter. Please accept our apologies.

TWO JUDGES WRITE SEPARATE OPINIONS

Judge Smith wrote a separate concurrence to the CFE finding. He agreed fully with the Court's holding but indicated that he would have gone further. On the standard, he would have specifically ordered that the Regents Learning Standards provide students with the "minimum" skills required by a sound basic education, that the remedy should be statewide in scope, and that it should include a specific order that the present funding system be reformulated. His finding regarding the standard was based on extensive evidence from numerous state education officials and experts that the Regents Learning Standards were specifically developed to set a baseline level of skills that students need to succeed. His holding regarding the funding system relied on considerable evidence demonstrating that the formulas are ineffective and – in part because of political deal making – fail to align funding with need.

Judge Read dissented from the decision. Although she stated that students who attend New York City schools require more than an eighth grade education and that the city's public schools have too often failed to furnish children with the educational opportunities that they deserve, she argued that the "high school" standard adopted by the majority was vague and faulted the majority for failing to provide an objective reference point other than the Regents Learning Standards that are currently required for a high school degree. She further argued that plaintiffs had failed to prove that lack of money caused the proven deficiencies in the city's schools and that ordering the trial court to oversee remedy proceedings overstepped the proper judicial role.

The majority opinion, authored by Chief Judge Judith Kaye, flatly rejected the State's position that poor student performance is caused by socioeconomic conditions rather than the quality of the schools. Justice Kaye writes, "we cannot accept the premise that children come to the New York City schools ineducable, unfit to learn." Judges George Bundy Smith, Carmen B. Ciparick, and Albert M. Rosenblatt joined Chief Judge Judith S. Kaye in the majority on the decision. Judge Smith also wrote a separate concurring opinion. Judge Susan P. Read, a recent appointee of Governor Pataki, was the lone dissenter on the court.

Requiring all the basic elements for a successful remedy, the court gave the governor and legislature until July 30, 2004, take three steps toward reform: They must undertake a study to "ascertain the actual cost of providing a sound basic education in New York City," reform the state's funding formula to ensure necessary resources, and implement a fair accountability system to ensure that students actually receive that opportunity. Although the case has been remanded to Justice DeGrasse, the court does not need to play a major continuing role if the governor and legislature do their jobs to comply.

To implement the decision and take the first steps to reform the school funding system as ordered by the court, CFE has called on the governor and the legislature to act immediately to create a process to receive and consider the statewide costing-out study already underway, and to use this study as the basis for a reformed funding formula. To read the full CFE decision, or a summary, go to www.cfequity.org.

COSTING-OUT PUBLIC ENGAGEMENT REPORT RELEASED

The CFE ruling requires the state to undertake a study to assess the cost of a sound basic education in New York City and to reform the state's school-funding formula. In anticipation of the decision, a statewide costing-out study has already begun. In June, a new report on the first phase of the study entitled "Adequate Funding for

New York Schools: Communities Speak Out About What Students Really Need to Succeed," was released by the study's sponsor, the New York State Council for Costing Out, a coalition of which CFE is a member. The report details the findings of an extensive statewide public-engagement process that gathered input from local communities for the New York Adequacy Study, an independent costing-out study seeking to determine objectively the level of funding needed by each district in order to provide an adequate educational opportunity to all students.

In 13 community forums around the state and a culminating statewide meeting in Albany, parents, teachers, administrators, school board members, business people, policymakers, and other community members came together to define an adequate educational opportunity and to discuss what specific programs and services are necessary to prepare all New York State students to meet the Regents Learning Standards and the requirements of the No Child Left Behind Act (NCLB). It was the first public engagement project ever to consider in detail the funding implications of the new law.

Statewide, public engagement participants strongly agreed that under current state and federal education requirements, *all* students must be offered a *full* opportunity to meet Regents Learning Standards. They candidly acknowledged that at the present time students not meeting standards or at risk of not meeting standards are not receiving all of the academic intervention services to which they are entitled by law; similarly they said that special education students are not being supplied with the necessary supplementary aids and services to which they are entitled to succeed in inclusion settings.

To meet state and federal requirements, all students must have qualified teachers, adequate school facilities, and sufficient and up-to-date materials and equipment. In addition, the public engagement process produced, by clear consensus, a list of programs and practices that must be included in an educational program in order to offer all students a full opportunity to meet state and federal requirements.

While educators agree that these programs are important, in the context of Regents Learning Standards and NCLB, public engagement participants determined the following are *essential*.

- Access to early childhood education, including, but not limited to, Head Start, full-day pre-kindergarten, and full-day kindergarten, for all young children.
- Intensive early-intervention literacy programs to ensure that all students are reading and writing by the third grade.
- Sufficient and appropriate Academic Intervention Services (AIS), including after-school and summer school programs, for all students at each grade level who qualify for them.
- Small class sizes for all students, especially those not meeting or at risk of not meeting standards.
- Sufficient and appropriate pupil personnel services to ensure that all middle and high school students have adequate access to counselors, social workers, and school psychologists.
- Access to high-quality, ongoing, collaborative, professional development for all teachers and administrators that is school based and relevant to students' instructional needs.
- Sufficient programs and personnel to foster quality parent involvement both in school and at home.
- Sufficient supplementary aids and services to permit special education students to succeed in inclusion settings, and training in special education for general education teachers.

The report also details the findings about the specific needs of students of various types of districts in New York State—rural, suburban, urban, and New York City—that emerged from the public engagement forums.

The New York Adequacy Study is being led by an independent panel of national experts who have successfully undertaken large-scale costing-out studies in Wyoming, Maryland, Illinois, and a number of other states. It seeks to determine objectively the level of funding each district needs for its operations by first utilizing professional judgment panels to identify the specific resources and conditions necessary for students to meet the Regents Learning Standards and then systematically calculating the amounts needed to fund each of those prerequisites. The study's findings will be presented to the governor and the state legislature early in 2004.

CFE LAUNCHES FAITH INITIATIVE

June 11 marked the first planning meeting of CFE's new faith-based initiative, called the Education Coalition of Conscience. This initiative is the latest in CFE's ongoing efforts to build a broad network of statewide partners to support school-funding reform. At the initial meeting, a group of faith leaders and advocates from across New York State were addressed by David Hornbeck, a cofounder of the nationally recognized grassroots school reform coalition, Good Schools Pennsylvania.

Good Schools Pennsylvania is a strong lobbying group comprised largely of the leadership and membership of the state's faith communities. Mr. Hornbeck shared the core elements of and lessons learned from his work with the organization. Its success has resulted from a focus on building "troops" of Pennsylvanians to carry a moral message to state legislators about the need for adequate school funding, a strong accountability system, and the implementation of proven educational practices. With this strategy, Mr. Hornbeck and his organization have been able to form over 400 groups of church and synagogue members who are knowledgeable and committed to the Good Schools Pennsylvania model and reform platform. These "Groups of Ten" meet monthly to learn more about the issues and to take action by writing their elected officials urging

them to support these reform principles as a matter of moral correctness.

Recognizing that faith communities have been key leaders in most of the world's social movements, Mr. Hornbeck said he was convinced that they needed to play a central role in the Pennsylvania effort, as well. As a minister himself, he understood the potential power of faith leaders to "bring out troops," or contribute manpower to the cause, which Good Schools Pennsylvania deems essential to the success of its campaign. In addition, the organization's founders knew that faith leaders and their constituents were in a unique position to make a moral claim on behalf of the state's public schools and students that would not be perceived by legislators as partisan or self-serving.

Good Schools Pennsylvania has been working for nearly three years to improve public education in their state. They have mobilized religious communities in all corners of Pennsylvania and have encouraged many people to take action, including high school and college students. Their model and their creation of a moral message in support of education reform provide CFE and representatives from New York's own faith communities with valuable insight and inspiration as we work to ensure the opportunity for a sound basic education for our students.

To join or learn more about CFE's faith-based initiatives, please call Jessica Garcia at CFE, (212) 867-8455, ext. 218.

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