



THE CAMPAIGN FOR FISCAL EQUITY, INC.

TESTIMONY OF GERI D. PALAST,
EXECUTIVE DIRECTOR

Public Hearing of the New York City Council
Education Committee
February 13, 2006

Good afternoon. I am Geri Palast, the executive director of the Campaign for Fiscal Equity. I want to thank Speaker Quinn and Chairperson Jackson and the distinguished members of the education committee for inviting me to comment on Governor Pataki's continuing contempt of court in the *CFE v. State* lawsuit.

The Campaign for Fiscal Equity echoes your urgency in the need to resolve this matter: The state of our schools requires an immediate political solution to the *CFE* case in this legislative session. Poor children in New York receive about \$2,000 less per pupil than their wealthier counterparts -- the largest per pupil funding gap between wealthy and poor students in the nation. More than one-third of New York City's public schoolchildren remain functionally illiterate. Four out of ten who enter ninth grade never graduate. Most are minority students. Albany's refusal to remedy the persistent inequities in the state's education funding system is shameful.

This year has presented Pataki with a \$3.3 billion surplus¹ and an historic opportunity to make good on his word to improve education throughout the state. This surplus would more than pay for the first year of the Schools for New York's Future Act. The bill, already in the assembly, calls for \$2.1 billion statewide to fund the first year of reforms.

¹ The governor's forecast of a \$2 billion budget surplus assumes a series of surplus-reducing actions to be enacted this year. The actual surplus is \$3.3 billion. For more details, see the senate's analysis of the governor's proposed budget at <http://www.senate.state.ny.us/SenateReports.nsf/6DD2F2819E02BB6185256EBD004E2D20/9373ECD80AEDB8028525710000761DA8?OpenDocument>.

Instead, in his budget for the coming year, Governor Pataki has proposed a \$259 million statewide increase for traditional state aid. New York City would get just over \$100 million. Though he calls it a record increase, it is not even enough for schools to maintain their current services, let alone to address the dire resource deficiencies identified in the *CFE* case. The State Supreme Court last year ordered an additional \$5.6 billion in operating aid to the city schools over four years.

The governor has also failed to provide any real increases to support New York City's building aid needs. The courts have ordered an additional \$9.2 billion in capital resources for the city to be able to provide its children with adequate facilities. The time is now to meet the city's urgent capital needs and ensure our children the science labs, libraries, and up-to-date classrooms they need and deserve.

The governor's proposed education budget defies the Court of Appeals. For the sake of the integrity of our form of government, and the minds and futures of more than one million schoolchildren, it must be rejected. This case has gone on for far too long.

CFE first brought its case to the courts in 1993. That year, CFE filed a constitutional challenge against the State of New York on behalf of New York City's schoolchildren for failing to uphold Article I of the state constitution. In 1995, the Court of Appeals interpreted Article I to mean that every child in New York State is entitled to the opportunity for a sound basic education.

After CFE presented evidence on the city's schools, it was clear that hundreds of thousands of schoolchildren, especially those from poor and minority backgrounds, were being deprived of this basic right. Their schools were gravely underfunded; they were overcrowded, dilapidated, lacked facilities and supplies essential for learning -- such as up-to-date textbooks, libraries, and labs -- and had the least qualified and most inexperienced



teachers. As Justice DeGrasse of the State Supreme Court concluded, the “education provided to New York City students is so deficient that it falls below the constitutional floor.”

In 2003, after ten years of litigation, the highest court in the state came down firmly on the side of justice and on the side of our children. The Court of Appeals upheld Justice DeGrasse’s 2001 trial court decision, decisively agreeing that the state’s education funding system was unconstitutional.

To remedy the violation, the Court of Appeals called upon the governor and the legislature to determine the cost of providing the opportunity for a sound basic education; to reform the funding mechanism; and to revamp the accountability system. The State was given ample time, 13 months, to implement the reforms.

Instead of abiding by the court order, the governor and the legislature did nothing. Their defiance has made New York the only state out of more than two dozen to so blatantly defy a specific ruling in cases where courts have invalidated state education finance systems.

Just after the 2004 compliance deadline, in the vacuum left by lawmakers, Justice DeGrasse, to whom the case had been remanded by the Court of Appeals, ordered the convening of an independent panel of special masters. They were ordered to study the problem and recommend specific remedies.

In March 2005, the court adopted the recommendations of the special masters and articulated specific dollar amounts and reforms. The judge ordered the State to provide \$5.6 billion in operating aid and \$9.2 billion in building aid to the city schools.



The governor immediately appealed the order on the grounds that the court's compliance order violates the doctrine of separation of powers. Spun by the State as judicial excess, the DeGrasse decision, in truth, is in keeping with a long tradition of judicial involvement in education that dates back to *Brown v. Board of Education*.

The historical record is replete with cases showing that in order to protect the rights of citizens, courts can indeed direct executives to implement detailed mandates. Just last year in a school-funding case in Kansas that resembles *CFE*, the highest court ordered the Kansas State Legislature to more than double the amount of increases it had budgeted for education or face a shutdown of the entire school system. It gave the State one month to act. The threat from the court impelled Kansas lawmakers to act immediately and budget the court-mandated amounts.

The governor's latest appeal is a clear attempt to delay a solution to *CFE* -- to posture and procrastinate at the expense of another generation of students. Whatever the Appellate Division's forthcoming ruling, the current appeal does not absolve the governor from complying with the underlying order of the Court of Appeals, which is now over 560 days past the compliance deadline.

There is a foreseeable conclusion to the *CFE* case. The money owed to the city schools will begin to flow. The courts are with us, and a growing number of key lawmakers are beginning to push the issue. There is momentum on *CFE* and a rising recognition that the children of New York City need a sound basic education, and the city of New York needs a well-educated citizenry.

The state must use the surplus to meet its unresolved constitutional obligation to the Court of Appeals and to New York City's schoolchildren. Only after that debt is paid, should the governor and the legislature consider tax cuts and new programs.



CFE is calling on lawmakers in New York City and across the state to push for passage of the Schools for New York's Future Act this year. With each day that passes with no action on *CFE*, the situation only worsens -- for New York City's children, for the integrity of our entire court system, and for the future of our state.

Thank you for your time and for holding this important hearing.

