

No Strings Attached? *Ensuring that "CFE" Funds are Spent Effectively*

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EXECUTIVE SUMMARY

The 2003 New York State Court of Appeals ruling in the *Campaign for Fiscal Equity* case has created a historic opportunity to reform New York City’s troubled schools. This opening was created because the court not only required changing the state aid formula to ensure a “sound basic education” for all New York City pupils, it also ordered that city schools be accountable for actually producing results.

Unfortunately, as the deadline approached for presenting the trial judge with a plan to rectify the situation, state officials seemed focused on increasing funding statewide (estimates for the state’s share alone range from \$2 billion to \$8.5 billion a year over the next four to five years) without mandating change in how the city manages its schools.

Twenty years of evidence shows that increasing school aid without structural reforms will not improve city schools. Between 1982-83 and 2001-02, total revenues for public education in New York nearly tripled – and the state’s share of education funding grew even faster in New York City than elsewhere. Counting all sources of revenue (local, state and federal), total public school funding in New York City rose during this period from \$3.8 billion to \$11.3 billion, while per pupil spending went from \$4,165 to \$10,842.

What did increased funding buy? More staff and higher salaries, mainly. Nonetheless, city schools did not improve, according to key pupil performance measures. Barely half of city high school students graduate on time; the percentage of students receiving a Regents Diploma in 2001-02 (32 percent) is actually lower than it was in 1982-83 (36 percent); the gap on state test scores between city students and the rest of the state stayed the same or increased; and the number of city students attending failing schools increased dramatically.

The data point to the city’s real problem: poor management. The teachers contract prevents administrators and principals from effectively using the increased number of teachers to significantly reduce class size. Contractual restrictions and budget allocation policies in the New York City school system help to ensure that the least experienced, lowest paid teachers are assigned to poorly performing schools.

If the *CFE* Court’s mandate is to be met, the state’s plan should have two components:

1. Create a special Sound Basic Education (SBE) fund in the state budget – targeted initially at schools in New York City, which is all the *CFE* ruling requires.
2. Stipulate that *no* aid will be released from the SBE fund until New York City teachers and administrators agree on more flexible staff assignment and compensation policies, including pay incentives to attract higher quality teachers to the students who need them most.

The Court should refuse to adopt any remedy that does not address these issues now, rather than later — when additional damage has been done.

ABOUT THE AUTHOR

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NO STRINGS ATTACHED?

ENSURING THAT “CFE” FUNDS ARE SPENT EFFECTIVELY

“The state need only ascertain the actual cost of providing a sound basic education in NYC. Reforms to the current system of financing school funding and managing schools should 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. Finally, the new scheme should ensure a system of accountability to measure whether the reforms actually provide the opportunity for a sound basic education.”

—from Chief Judge Judith Kaye's majority opinion in
Campaign for Fiscal Equity, Inc. v. The State of New York¹

INTRODUCTION AND BACKGROUND

The 2003 New York State Court of Appeals ruling in the Campaign for Fiscal Equity case created an historic opportunity to address long-standing problems in public education in New York City. Unfortunately, as the deadline approached for presenting the trial judge with a plan to rectify the situation, state officials seemed ready to squander that opportunity on a massive scale.

Governor Pataki, legislative leaders and the plaintiffs in the case were in full agreement on only one crucial point: although the case brought by Campaign for Fiscal Equity (*CFE*) dealt solely with state financing of education in New York City, the only politically acceptable response is to send more money to all schools. Estimates of the additional state aid required to ensure a "sound basic education" for all pupils ranged from \$2 billion to \$8.5 billion a year over the next four to five years.

All of the proposed *CFE* remedies would target extra money to the city and "high needs" school districts, but none would require fundamental changes in school management practices or contractual provisions as an absolute prerequisite for funding. That should be viewed as a problem by the courts - because traditional approaches to raising achievement in New York's poorest schools have not produced satisfactory results. As documented and explained in this report:

- In the two decades leading up to the *CFE* ruling, there was a vast expansion of school funding, re-

sulting in significant increases in school staffing in New York State and New York City - without commensurate improvements in pupil performance.

- Contractual restrictions and budget allocation policies in the New York City school system help to ensure that the least experienced, lowest paid teachers are assigned to poorly performing schools. Absent any change in these policies, class size reduction mandates in response to *CFE* could actually make the situation worse.

Mindful of the risk that Albany will respond to *CFE* merely by pouring money into the same failed approaches, the Court of Appeals ordered a new system of accountability to measure whether reform for city schools actually produces results. But improved tools for assessing failure after the fact will not serve to comfort youngsters trapped for additional years in schools that fail to teach them.

To be consistent with the court ruling, the overriding goal of any *CFE* remedy should be to provide the highest quality teachers to the students who need them most. This demands a clear and dramatic break with the policies of the past, and the court mandate can be the lever for making it happen. The state's response to *CFE* should have two components:

1. Create a special Sound Basic Education (SBE) fund in the state budget - targeted initially at schools in New York City, which is all the *CFE* ruling requires.
2. Stipulate that no aid will be released from the SBE fund until New York City teachers and adminis-

trators agree on more flexible staff assignment and compensation policies, including pay incentives to attract higher quality teachers to the students who need them most.

The second point requires contractual changes that the teachers' union and its legislative allies are certain to resist. Nonetheless, Governor Pataki could present such a plan to a trial judge or a court-appointed special master in the *CFE* case with confidence that it is, in fact, fully consistent with what the courts have asked for.

The *CFE* ruling will in no way put an end to the ongoing debate about the best way to ensure that all children in New York have access to a good education. But this much should be clear: more of the same simply won't get the job done.

TWENTY YEARS OF PLENTY

Judging from much of the rhetoric surrounding the *CFE* case, one might assume that New York governors and state legislators have not been especially generous to public schools, particularly in New York City, in past years. One might assume, further, that a significant increase in spending - by itself - is all that is needed to yield clear improvements in performance.

In fact, these assumptions are unfounded. During the two decades leading up to the *CFE* ruling, total funding of public education in New York nearly tripled - much faster than either the rate of enrollment growth or the rate of inflation. State aid to local school districts throughout New York skyrocketed, and the state's share of education funding grew even faster in New York City than elsewhere. But there is little evidence that the dramatic increase in funding of educational resources led to dramatically improved results.

Enrollment Steady, Funding Up

The funding increase was not simply the result of rising enrollments. In fact, after fluctuating in the 1980s and '90s, enrollment in the fall of 2001-02 ended up only slightly above where it had been 20 years earlier, as shown in Figure 1 (all figures are in the appendix). Both the city and the rest of the state experienced the same demographic swings, but the city emerged from the "baby bust" cycle earlier. Fueled by foreign immigration, New York City's en-

rollment increased almost 14 percent between 1982-83 and 2001-02, while enrollment in public schools in the rest of the state was essentially flat.

Nonetheless, as shown in Figure 2, total funding of public education in New York State nearly tripled between 1982-83 and 2001-02, rising from \$11.6 billion to \$32.6 billion. On a per-pupil basis, total funding from all sources rose 170 percent during the 20 school years leading up to the *CFE* ruling.

State aid alone rose even faster - by 201 percent per pupil on a statewide basis. State aid rose from \$4.6 billion to \$14.4 billion, raising the state's share of total education funding from 40 percent to 45 percent during this period.

These funding gains for New York schools are impressive even after adjusting for inflation. In real terms, total school funding in 2001-02 was almost one and half times greater than in 1982-83. Inflation adjusted per-pupil funding rose 40 percent, and state aid per pupil rose 56 percent on a statewide basis.

New York State's public schools had the second highest per-pupil spending in the nation as of 1982-83. By 2001-02, New York State was first in per-pupil spending.²

New York City's State Aid Edge

While the issues in the *CFE* case have been couched by the courts in terms of "adequacy," the debate leading up to the case was focused on "equity," specifically, the fairness of the school aid formula. (Hence the name of the plaintiffs' group, Campaign for Fiscal Equity.) Throughout the 1980s and 1990s, New York City claimed it was unfairly getting a much smaller portion of state education aid than its proportion of the state's public school enrollment. However, the data reveal that that situation has largely changed since the inception of the *CFE* case.

From 1982-83 to 2001-02, New York City received a 289 percent increase in annual state education aid, or over \$4 billion a year on a current basis.³ Aid to districts in the rest of the state increased at the slower rate of 201 percent. If New York City's share of state aid had risen at the same rate as aid to education in the rest of the state, the city would have been receiving \$1.2 billion less from Albany as of 2001-02.

The total increase in state aid ultimately caught up with New York City's larger increase in enrollment during the period. For much of the 1980s and 1990s, state aid to New York City schools was lower than the per-pupil average for the rest of the state. But by 2001-02, the city's per-pupil state aid of \$5,270 had grown to roughly three percent above the \$5,106 average for districts elsewhere, as shown in Figure 3.

As a result, one of New York's oldest "equity" arguments began to lose force even before *CFE* was decided. In 1982-83, the city had 34 percent of pupils but received 30 percent of state aid. By 2001-02, its share of enrollment was 37 percent and its share of aid had risen to 36 percent.⁴

Where New York City's schools lost ground to the rest of the state was in the funding they received from the city government itself. The city's own contribution to its schools grew 127 percent during this period, compared to locally funded spending growth of 160 percent outside of the city. On a per-pupil basis, the city's funding increase of \$2,339 per pupil was far behind the \$3,919 increase in the rest of the state.

In real terms, the city's local funding per pupil increased by \$83, or 3.4 percent in 20 years, while state aid to the city increased by 78 percent. Outside of the city, inflation-adjusted local funding per pupil increased by 36 percent and state aid per pupil increased by 57 percent.

More Spending = More Staff

Where did all that money go? The answer, mainly, is staff.

As shown in Figure 4, the state's public schools hired almost 75,000 additional professional staff members between 1982-83 and 2001-02, a 39 percent increase during a period when enrollment was essentially stagnant.

The number of teachers increased by 34 percent. The number of non-teaching "other professionals," such as guidance counselors, psychologists, curriculum coordinators and administrators, rose a startling 66 percent.

This increase in professional employment yielded significant reductions in the pupil-teacher ratio and the

ratio of students to other professionals, as shown in Figure 5. The state's teacher-pupil ratio in 2001-02 was 12.6 to 1, compared to 16.2 to 1 in 1982-83. Similarly, whereas there was only one "other professional" for every 103 students in 1982-83, by 2001-02, that ratio had dropped to one for every 65 students.

Overall, by 2001-02, New York State's public schools employed one teacher or other professional staff member for every 10.5 students.

There is not a separate New York City breakout of the same professional staffing data, but the city's own data show a similar trend during the period. The reported total of "pedagogical employees" - a category that includes teachers and other professional staff - rose by 46 percent, from 64,313 to 94,162. The number of pupils per pedagogical employee dropped from 14.3 in 1982-83 to 11.6 in 2001-02.

But while the student-teacher ratio in the state's public schools decreased by 22 percent from 1982-83 to 2001-02, the average class size in the state decreased by less than 10 percent during that period.⁵ For example, whereas the state had one teacher for every 12.6 students as of 2001-02, the average class in Grades 1 through 6 had 21.8 students for every teacher.

This difference suggests that, on average, for every ten teachers in a classroom at any point in time, an additional seven are occupied outside the classroom.⁶ Given that the average class size decreased at about one-third the rate of the decrease in the pupil-teacher ratio, it seems clear that one outcome of the state's extra investment in public education over the last 20 years has been to employ a larger numbers of teachers who spend less time actually teaching.

The financial data also reflect the size of the staff build-up. From 1983-84 (the earliest year for which a detailed, categorical breakdown of school spending is available) to 2001-02, total public school funding from federal, state and local sources rose \$20 billion. A full 70 percent of this increase - \$14 billion - was spent on staff salaries and benefits.⁷ This reflects pay hikes for existing staff, as well as the cost of hiring new staff.

As shown in Table 1 (all tables are in the appendix), although the number of pupils per pedagogical employee in the city was only one student higher than the

analogous pupil-to-staff ratio for the entire state, the city's average class size in 2001-02 was almost four students higher. Class sizes all over New York got smaller in the 20 years leading up to the definitive *CFE* ruling, but there was no change in the difference between city class sizes and those in the rest of the state.

More Money = New Programs

The 1980s and 1990s also witnessed a surge in the numbers of students placed in publicly funded special education programs in New York State.⁸ Special education can be a part-time assignment, as in the case of speech therapy or specialized reading assistance, or it can be a full time assignment, as is the case for students with more extensive disabilities. Special education services are typically delivered either in very small classes, or on a one-to-one basis, at a cost that can be up to three times as much as regular education.⁹

As further detailed in Table 2, enrollment in special education grew by 62 percent in New York State between 1982-83 and 2001-02. Where 7.5 percent of the school population was deemed to be in need of special education in 1982, some 12 percent were so classified in 2001. But the growth in special education was greater outside New York City than within it. As a result, by 2001-02, the city had a lower incidence of special education placement than did the rest of the state.

Along with the special education increase, the number of students enrolled in publicly funded pre-kindergarten programs in New York State almost tripled. By 2001-02, more than half of all four-year-olds were enrolled in pre-K programs, up from 21 percent in 1982-83.

The growth in pre-kindergarten programs was more pronounced in New York City than in the rest of the state, particularly in the years between 1997-98 and 2001-02.¹⁰ By the end of that period, almost two-thirds of all New York City four-year-olds were enrolled in pre-K classes.

At the same time the expansion of programs for four-year-olds was taking place, kindergarten programs for five-year-olds were also being expanded.

Traditionally, kindergarten programs met for a half-day, so a kindergarten teacher would have one group of students in the morning, and then another group after lunch. However, this practice was modified

greatly in the 1980s.¹¹ In 1983, the New York City public school system introduced full-day kindergarten, thereby doubling the amount of time that five year olds were spending in schools, and doubling the number of teachers needed to teach kindergarten in the city. Many suburban districts also adopted this practice in the ensuing years.

The history of these funding and staffing trends is interesting, but it is important only if they had an impact on education. The *CFE* decision is based on the premise that the state owes its students a sound and basic education, not merely an effort to provide one. The political responses to the court seem to assume that more money, more staff and more programs - the very things that were tried over the past 20 years - will meet the state's burden. Does the evidence suggest this assumption is correct?

Did More Staff + More Programs = Better Education?

A precise answer is difficult. New York State changed its testing and graduation requirements during the last 20 years, making a simple analysis impossible. Nevertheless, enough student performance data exist to point to some general conclusions. More spending, staff, and programs seem to have produced marginal improvements outside of New York City, although nowhere near commensurate with the level of expenditure increase. New York City, however, has seen little sustained improvement; indeed, the number of students attending failing schools has increased dramatically. This dismal track record should give state leaders and the Court pause, and suggests that something other than more of the same is needed.

There are five separate measures of student performance: state administered test score data; scores on National Assessment of Education Progress (NAEP) tests; high school graduation rates; Regents diploma attainment rates; and enrollment in "Schools Under Registration Review" (SURR), schools with abysmally low test scores. This report examines the trends for each measure for New York City and the rest of the state to arrive at its assessment.

State Test Score Data

As detailed in Table 3, pupil performance on the state's old third grade reading tests improved only

modestly between 1983-84 (the earliest year for which published data are available) and 1997-98. Much of that improvement could be attributed to a change in the tested population.¹² More recently, performance has improved on the state's new fourth grade English Language Arts test. The pass rate on that test rose from 49 percent in 1998-99 to 62 percent in 2001-02.

New York City's scores have always lagged behind those in the rest of the state. In 2001-02, only 47 percent of the city's fourth graders were able to pass the ELA test. That was an increase over the 1998-99 level of 34 percent, but still 24 percentage points lower than the pass rate in the rest of the state. Over nearly 20 years, the performance gap on this measure did not change much.

The statewide trends in elementary level math achievement are the opposite of those for reading and English Language Arts, as shown in Table 4. Scores on the old, less challenging third grade math test rose dramatically between 1983-84 and 1997-98, but there has been virtually no improvement since a new, more difficult fourth grade test was introduced. Only 67 percent were able to pass this test in 1998-99, and only 68 percent passed in 2001-2002.

New York City again lags significantly behind the rest of the state. By 1997-98, 89 percent of the city's students were passing the earlier test, lagging behind the rest of the state by only 10 percentage points. But the new fourth grade test shows a much higher gap: Only 52 percent of the city's public school students passed the 2001-2002 test, 24 percentage points below the results for the rest of the state.

Middle-school test results are even less positive, as shown in Table 5. On the old sixth grade reading test, the statewide pass rate only moved from 78 percent to 83 percent in the years between 1982-83 and 1997-98.¹³ The pass rate on the new eighth grade English test was initially 49 percent in 1998, and had declined to 44 percent by 2001-2002. These data suggest that middle school achievement in the state showed no improvement, and may have even declined, in the years since 1982-83.

New York City's middle school reading/ELA scores are even more disturbing, as shown in Table 6. By 1997-98, the pass rate of 63 percent was only 3 points higher than the 1983-84 level of 60 percent. The gap between the city and the rest of the state grew in those

years, and by 1997-98, the city scores were 30 points below those in the rest of the state.

The new eighth grade test has highlighted the shortcomings of the city's middle schools. In 2001-02, only 30 percent of the city's students passed this test, a decline of 6 points since 1998-99. Those years also saw a widening of the gap between the city and the rest of the state.

Mathematics tests in middle schools indicate a statewide 18-point increase in achievement from 1983-84 to 1997-98. The statewide pass rate on the new eighth grade test initially plummeted to 38 percent, but that figure had risen to 48 percent by 2001-02.

The performance of the city's students on the old sixth grade math test increased over the 1980s and 1990s, and the gap between the city and the state closed dramatically. However, the new eighth grade math test reveals the city to be far behind the rest of the state and losing ground. Only 30 percent of the city's students passed this test in 2001-02, a figure that was 27 points lower than that of the rest of the state.

NAEP Test Scores

The National Assessment of Educational Progress (NAEP) measures pupil achievement in public schools across the country. The program tests a sample of representative students in most states every few years and reports data that is representative of individual states and for the nation as a whole. Data for New York State is available from this test for much of the 1990s, as displayed in Table 7.

The NAEP data present a somewhat different picture than New York State's own testing program. In fourth and eighth grade math, New York now scores slightly above the national average. In fourth grade reading, NAEP indicates that New York State improved dramatically from 1992 to 2003, while the nation as a whole improved by only one point. In eighth grade reading, the NAEP data show no improvement in either New York State or the nation as a whole since 1998.

NAEP tests are not administered regularly at the sub-state level. However, New York City was one of ten big city school districts to voluntarily participate in NAEP in 2003. Generally, the city's scores were 10 to 14 points lower than those of New York State, and all were below the national average.¹⁴

High School Graduation Rates

The most basic indicator of the health of the state's education system is the percentage of students who successfully complete high school and earn a high school diploma. However, New York provides state-wide data only on the opposite outcome - the percentage of students who drop out of high school without earning that diploma. The graduation rate can be estimated by multiplying the dropout rate by four,¹⁵ and subtracting that result from 100.

Statewide, the annual dropout rate has varied between 6.5 percent and 3.4 percent from 1982 through 2001, as shown in Table 8. The dropout rate for the state as a whole was 5.7 percent in 2001, less than one percentage point lower than 1982's level.

New York City largely drives the state dropout figures. In the rest of New York State, the dropout rate declined slowly but continuously, from 3.3 percent in 1982-83 to 2.5 percent in 2001-02.

The city's figures are harder to interpret, but they certainly do not paint a picture of improvement. The city's reported annual dropout rate declined from 12.5 percent in 1982-83 to 5.3 percent in 1996-97 then began to rise steadily. By 2001-02, it was just over 11 percent - almost as high as the early 1980s levels.¹⁶

These figures are confirmed by other data. The city itself actually tracks students from year to year, and its reports indicate no improvement in either the dropout rate or graduation rate from 1982-83 to 2001-02.¹⁷

Outside New York City, about 90 percent of students graduate high school, a slight improvement from the 87 percent or so level of 1982. In the city, only half graduated within four years of entering high school as of 2001-02, virtually no higher than 20 years ago.

Regents Diploma Attainment Rates

The criteria for earning a local high school diploma in New York State have changed over the past 20 years.¹⁸ However, one statistic has been reported consistently over the last 20 years which gets at the question of the quality of high school education in the state: the percentage of students earning a Regents Diploma.

Outside of the state's five major cities, the attainment of Regents Diplomas has grown from 47 percent of all graduates in 1982-83 to 65 percent of all graduates in 2001-02.¹⁹ While there were some changes in the testing program during the period, this increase appears to represent significant growth in student achievement.

In the four major cities other than New York City, there has been slight improvement on the Regents diploma measure, from 24 percent of all graduates in 1982-83 to 28 percent in 2001-02.

In New York City, however, the trend has been negative. While 36 percent of all city graduates earned a Regents diploma in 1982, that figure dropped to 19 percent by 1995-96. While the percentage increased to 32 percent between 1995-96 and 2001-02, it is still lower than the rate seen in 1982-83. What was once an 11 percentage-point difference between New York City and the non-urban portion of the state has tripled to a 33 percentage-point difference over the last 20 years.

New York City did not increase its high school graduation rate in the 20 years preceding the *CFE* decision; nor did it increase the portion of its graduates receiving Regents diplomas. The rest of the state pulled away from the city on these important outcome measures.

Number of Students Enrolled in SURR Schools

Since the late 1980s, the State Education Department has been identifying schools with performance so low that they are placed "under registration review." The state then attempts to improve these so-called SURR schools through a series of interventions. In rare cases, the schools are actually shut down after failing to improve.

While the rules used to place schools in this category have changed somewhat from year to year, the overall trend is negative, as shown by Table 9. In 1990, there were 48 such schools in the state (40 in New York City alone) and by 2001, the number had grown to 120 (96 in New York City). About 94,000 students were enrolled in these failing schools in 2001, up from 52,600 in 1990. In New York City alone, over 77,000 students were trapped in these failing schools in 2001, up from roughly 45,400 in 1990.

What These Data Mean

The data show that more staff, money and programs had greatly different effects in New York City and the rest of the state. The rest of the state showed slight or moderate improvements in three of our measures - state test scores, NAEP scores, and Regents Diploma attainment rates. New York City, in contrast, at best was stagnant in all measures, and arguably saw declines (from already low levels of achievement) in three measures - state test scores, Regents Diploma attainment scores, and enrollment in SURR schools.

This is crucial to the proper resolution of *CFE*. The *CFE* decision held that a significant proportion of New York City's students are receiving an unconstitutionally deficient education. It does not hold or presume that the same can be said for the rest of the state; indeed, the implicit presumption is that the rest of the state is the model for the new New York City school district. But if what worked in the rest of the state has demonstrably failed in New York City, the Court must think outside the box. It must embrace new ways of spending the new money it is ordering be spent if it wants to actually provide the level of education guaranteed by the State Constitution.

THE TEACHER ALLOCATION "MISMATCH"

New York City's divergent results are the result of teacher allocation and assignment policies that, if not unique to the City, clearly have baleful effects.

The first of these policies is the time teachers spend in the classroom. Through 2001-02, the school day for New York City teachers was contractually set at 6 hours and 20 minutes. An extra 100 minutes per week of work time for teachers, negotiated in exchange for added salary increases in the latest United Federation of Teachers (UFT) contract, has ended up adding 10 minutes to the length of the day.²⁰ However, the city school day remains relatively short; for example, the statewide average workday for high school teachers is seven hours and eight minutes.²¹

The teaching week for most city teachers also includes duty-free lunch periods, at least five "preparation" periods, and additional "professional development" periods. The result is that many of New York City's teachers are not in the classroom at any given moment.

This helps explain why average class sizes in New York City as of 2001-02 were four students larger than elsewhere in New York State, even compared to districts that spend the same or less per pupil. Surprisingly, as shown in Table 10, the city's average class size was larger than those in poorer districts that spent less in the most recent year for which a breakdown of such data is available by district type.

New York City also had a much higher teacher turnover percentage than richer and poorer districts in the rest of the state, as is also detailed in Table 10. As a result, the city's teachers were also less experienced, on average. This factor helps explain why the median teacher salary in the city was actually lower than a group of districts that are slightly less wealthy and spend slightly less per pupil than the city.

Finally, the most experienced teachers in New York City are not generally assigned to teach low performing students. As shown in Table 11, teachers in New York City schools with large minority enrollments are, on average, less experienced and paid lower median salaries than teachers in schools with low minority enrollments. This is not the case elsewhere in New York. In both the city and the rest of the state, there is a higher turnover of teachers in high minority schools (indeed, the turnover in high-minority schools was somewhat higher in the city than in high-minority schools in the rest of the state).

As Chief Judge Kaye observed in the *CFE* opinion, data such as these point to "a mismatch between student need in New York City and the quality of teaching directed to that need."²²

This mismatch is no accident.

The Source of the Problem: the Teachers' Contract

New York City's contractually imposed personnel policies and its chosen means of allocating funds to community school districts have ensured that the most highly experienced (and therefore most highly paid) teachers were concentrated in middle and upper income community school districts.

As explained by the author in a 2003 report for the Industrial Areas Foundation,²³ the allocation of teachers to particular schools has been left solely to the desires of senior teachers; there is no manage-

ment prerogative to align talented teachers with the more needy students.

Under the terms of the teacher's contract, vacant positions must be filled by the most senior qualified applicant. As teachers have sorted themselves out over the years, the most senior teachers have tended to gravitate to the more middle class and higher achieving districts. There are clearly some exceptions to this general trend, but the overall impact has been that there is a huge gap in the average teacher salary in a middle class district such as Flushing or Bayside (around \$62,000) and poorer districts like Brownsville or the South Bronx (around \$51,000). Table 12 displays the average teacher salary and test scores for each of the 32 community school districts.

The impact is that the districts identified by the school system as "High Needs" spend an average of \$71,000 in salaries and benefits on each teacher, while the districts identified as "Low Needs" spend an average of \$77,000.

The city school system makes matters worse with its formula for allocating staff funding, which holds districts harmless for these differences in teacher salaries. Community school districts are allocated "teacher positions" rather than dollars. After teachers have sorted themselves out into jobs, the formula compensates each district based upon the true cost of their teachers. If one district hires a senior teacher at say, \$70,000, the system allocates \$70,000 to that district. If another district hires a junior teacher at \$40,000, the system allocates \$40,000 to that district.

If districts were allocated a flat, uniform amount - say, the average teacher's salary - administrators would be more conscious of the trade-off between higher salaries and class size. It is likely that if the districts had to bear the true cost of their teachers, schools serving less needy populations would give less emphasis to reducing class size, which opens more spaces in low need schools into which senior teachers can transfer, and there would thus be a more even spread of senior and junior teachers across the city.

The importance of the seniority-based assignment system has been disputed by UFT, which argues that transfers account for less than 10 percent of the vacancies filled in a typical year. But even that rate

equates into thousands of seniority-based transfers over the course of a decade - a crucial factor in a system like New York's that makes it nearly impossible to dislodge a tenured teacher once he or she is settled in. The cumulative effect of this shift is seen in the higher average salary figures for most "low need" community districts within the city.

Many of the transferring teachers were moving from troubled, high-poverty schools to schools serving middle-income or high-income neighborhoods - and getting paid more in the process. Under the terms of the teachers' contract, administrators had no ability to try to retain teachers in high-poverty schools with offers of added salaries or pay bonuses.

Reform of the teachers' contract is key to improving education in New York City. What's more, mandating such reform as a part of the final remedy is consistent with the Court's own expressed goals.

THE CFE RULING: WHAT DO THE COURTS WANT?

The 2003 decision in the *CFE* case marks the second time the state's highest court has ruled in the lawsuit. The first such occasion was in 1995, when the court held as a threshold matter that the state Constitution requires that all children have access to a "sound basic education."²⁴ The case was sent back to a trial court to evaluate the meaning of the constitutional standard, determine whether it was being met and, if not, decide what to do about it. After a lengthy trial, Justice Leland DeGrasse ruled the funding system had unconstitutionally failed to provide a sound, basic education to all students.

In its original 1995 ruling, the Court of Appeals said the state must assure "certain essential inputs" to all students, including "minimally adequate physical facilities and classrooms . . . instrumentalities of learning . . . [and] teaching of reasonably up-to-date curricula . . . by sufficient personnel adequately trained to teach those subject areas."²⁵

The operational costs associated with improving the "instrumentalities of learning," such as equipment and textbooks, pale in comparison to the real cost center in public education - which, of course, is personnel. In its 2003 ruling, the Court of Appeals said teaching was "the first and most essential [educational] input"

and agreed with the Justice DeGrasse that "the teaching [in New York City schools] is inadequate."²⁶

DeGrasse listed "sufficient numbers of qualified teachers, principals and other personnel" and "appropriate class sizes" as the first two of seven specific remedies needed to ensure a sound basic education.²⁷ The Court of Appeals was much less willing to "micromanage education financing,"²⁸ but it was equally sympathetic to the argument that more and better teachers will be a crucial part of the remedy.

"In sum . . . we agree with trial court's holding that teacher certification, test performance, experience and other factors measure quality of teaching; that quality of teaching correlates with student performance; and that New York City's schools provide deficient teaching because of their inability to attract and retain qualified teachers." Chief Judge Kaye wrote.²⁹

The Court also agreed with DeGrasse that "New York City schools have excessive class sizes, and that class size affects learning."³⁰

The clear implication is that the court expects higher-quality teachers and smaller class size to be part of any solution. It is clear from our foregoing analysis that the existing teachers' contract is an impenetrable barrier to achieving those goals.

The Responses to Date

To date, none of the proposed plans tackles this obstacle. *CFE's* call for an \$8.5 billion increase in state spending over five years is based, in part, on a "costing out" study that would entail the hiring of tens of thousands of new teachers throughout the state. *CFE's* expert panel recommended target class sizes for "high poverty" schools of 14 pupils per teacher in elementary grades; 15 pupils per teacher in middle schools; and 14 teachers per pupil in high schools. But nothing is said about how to ensure experienced teachers are retained, or how they can be assigned to these schools.

The State Assembly Democrats' plan, which called for operating aid increase of \$6.1 billion over five years, also gave prominent mention to class-size reduction. Senate Republicans called for a \$4.74 billion state aid increase over five years, including \$1.4 billion in new "sound, basic education grants" for New York City and "high needs" districts, without further specifying how

the money should be spent. Again, neither proposal suggests that aid can or will be used to ensure that competent teachers will be assigned to needy students.

The Governor's smaller aid proposal - totaling about \$2 billion more from the state over five years - was based on the report of the Zarb Commission, which recommended that aid to poorly performing schools be conditioned on "an extensive improvement planning process" subject to the state Education Department oversight.³¹

On the issue of teacher quality, the Zarb Commission said "school districts with poorly performing schools should be encouraged to provide competitive pay scales, develop career ladders, and use a variety of approaches to attract and retain teachers for the poorly performing schools, including the use of incentives for teaching in hard-to-staff schools and teaching in hard-to-staff subjects and pay-for-performance plans based on a variety of different factors such as value-added concerns."³²

However, merely "encouraging" poorly performing schools to adopt financial incentives and pay-for-performance plans for teachers falls short of *mandating* such changes as part of any new funding formula.

CFE's own accountability reforms include a planning process that is supposed to result in "removal of statutory, regulatory and contractual impediments to achieving constitutional compliance."³³ But unless new state funding is linked to the removal of such statutory, regulatory and contractual impediments on an unambiguous, *quid pro quo* basis, this is unlikely to deliver any more reform than existing school planning processes.

CONCLUSION

The plaintiffs in the *CFE* case and their closest political allies have emphasized better teachers and smaller class sizes as a prime objective.³⁴ Putting aside the pros and cons³⁵ of the class size argument, a strong case may be made that reducing class size in New York City might actually have a negative impact on those youngsters who are already being denied a sound basic education.

Absent a fundamental change in the New York City teachers' contract and budget policies described in Section 3 of this report, reducing class size across-

the-board will simply open up more teacher slots in the more successful schools. These schools will tend to attract the most senior teachers from less successful schools, thereby widening the gap between good and bad schools in the city - exactly the opposite of *CFE*'s stated intention in bringing this case.

It can be argued that constant expansion of the number of teachers hired over the last 20 years has put both the state and city in the position of reaching ever more deeply into a finite pool of potential teachers. In fact, the city does face daunting shortages in certain subject areas - teachers of math and science, for example³⁶ - but is contractually prohibited from offering differential pay for hard-to-fill positions. Under these conditions, a proposal to further reduce class sizes across the board will only exacerbate the personnel crisis found in many of the schools that are now the furthest from providing a sound basic education.³⁷

There are simply not enough highly qualified teachers in New York City, or New York State, to allow the discussion on class size reduction to proceed without consideration of the effect this may have on the distribution of teaching talent in city schools.

The challenge is to somehow craft a solution that puts more high quality teachers where they are most needed - an issue that has not received nearly the attention it deserves in the run-up to the next phase of court proceedings in the *CFE* case. Funding for class size reduction needs to be carefully targeted to the schools serving the students that the *CFE* ruling is supposed to help. But this funding will be ineffective unless it is accompanied by changes in contractual provisions and work rules, which now make it impossible to assign teachers where they are most needed or to offer pay incentives for scarce specialties.

The overriding goal of any *CFE* remedy should be to provide higher quality teachers to the students who need them most. This demands a clear and dramatic break with the policies of the past - and money, backed by a court mandate, can be the lever for making it happen. The state's response to *CFE* should have two components:

1. Create a special Sound Basic Education (SBE) fund in the state budget - targeted initially at schools in New York City, which is all the *CFE* ruling requires.

2. Stipulate that no aid will be released from the SBE fund until New York City teachers and administrators agree on more flexible staff assignment and compensation policies, including pay incentives to attract higher quality teachers to the students who need them most.

In normal circumstances, given the strenuous opposition of teachers' unions, such a proposal would be dead on arrival in the Legislature. But the *CFE* case has created a new paradigm for action. Governor Pataki could present such a plan to a trial judge or a court-appointed special master in the *CFE* case with confidence that it is, in fact, fully consistent with what the courts have asked for.

After all, the Court of Appeals didn't reject the state's argument that New York City was largely to blame for its own educational problems. Rather, Chief Judge Kaye wrote, "in every instance where the state has relied in purported political or managerial failing of the city or the Board of Education, closer inspection of the details casts doubt on whether the city could eliminate the failing without the state's help or would have developed the failing without the state's involvement."³⁸

If Albany ultimately shares the blame for school failures stemming from the teachers' contract and school management practices, then it follows that Albany should use its funding leverage to bring about change in those situations.

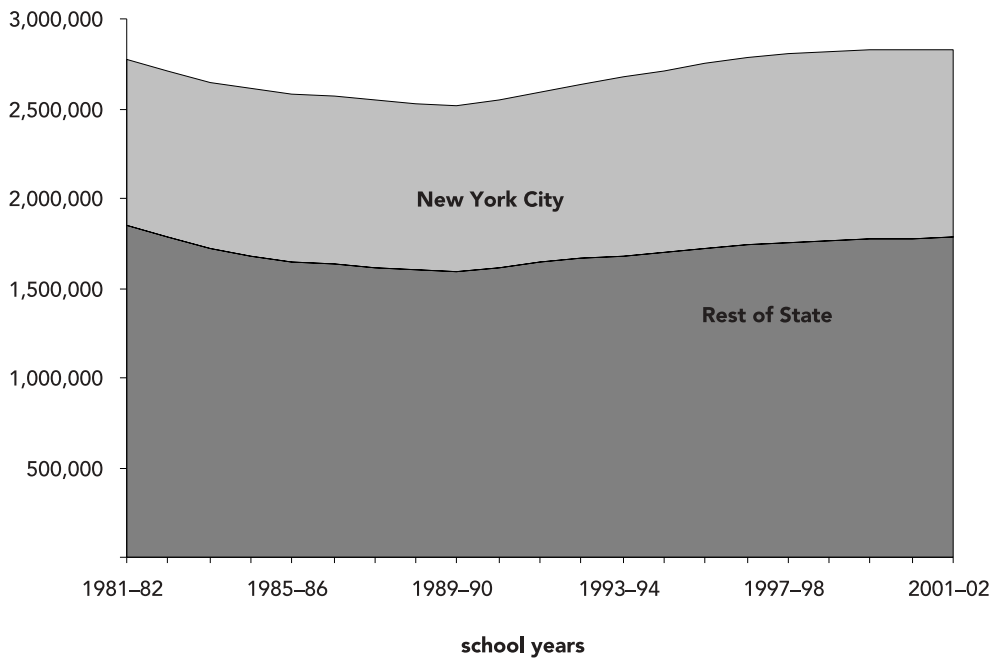
The Bottom Line

The near tripling of state aid over the 20 years leading up to the *CFE* decision did not close the achievement gap between New York City and state. At best, the vast increase in spending led to some improvement in schools outside the city, while doing little or nothing to improve the performance of the city's students.

CFE can be the lever for changing a very flawed and wasteful approach to public school funding in New York State. But if the case simply results in a new cycle of "leveling up" spending across the board, on the same basis as the huge school aid increases since the early 1980s, it will be the latest cruel hoax to be foisted on both the state's most needy students and its taxpayers.

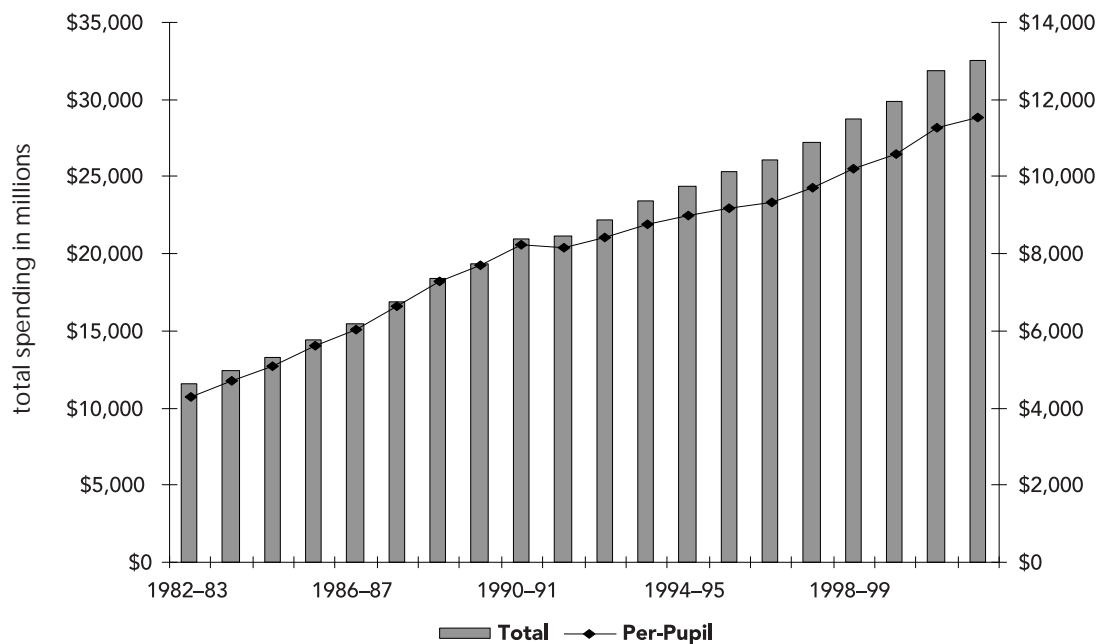
APPENDIX

Figure 1. Public School Enrollment in New York State



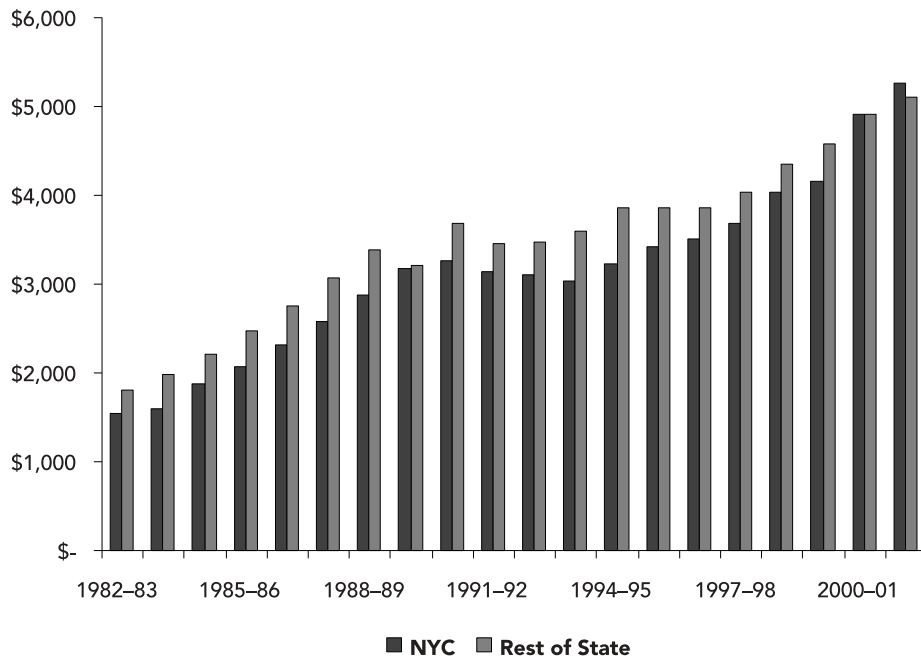
Source: New York State Education Department

Figure 2. Public School Spending in New York State, Total and Per-Pupil



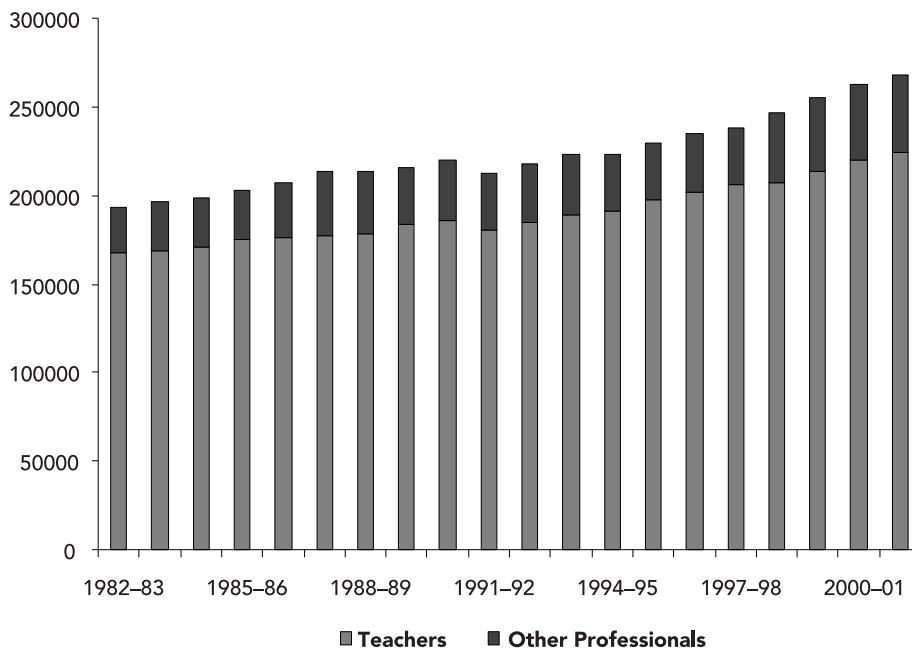
Source: New York State Education Department, state Division of the Budget, author's calculations

Figure 3. Per-Pupil State Aid to Public Schools



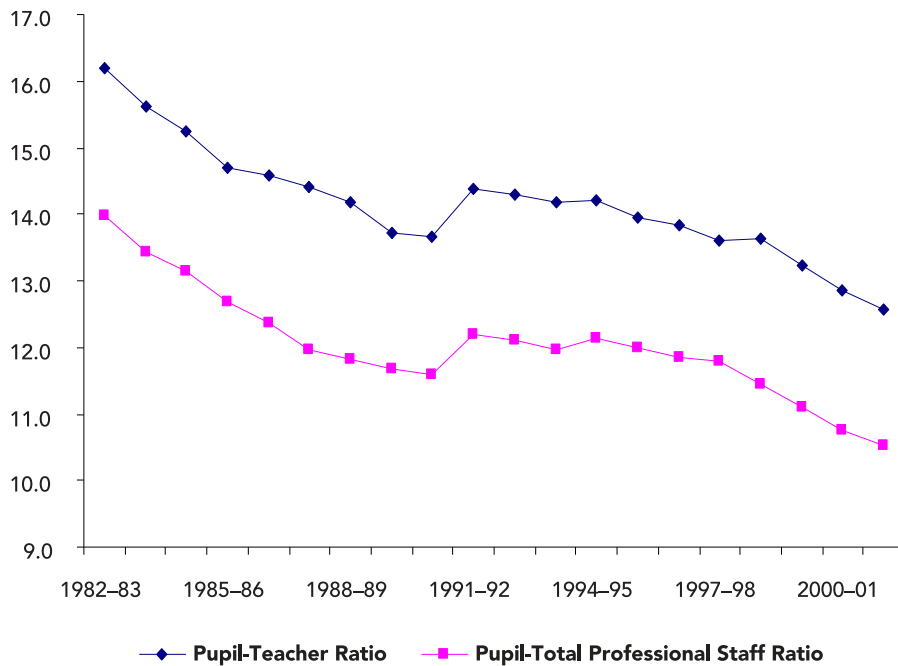
Source: New York State Education Department, state Division of the Budget, author's calculations

Figure 4. Staffing in New York State Public Schools



Source: New York State Education Department

Figure 5. Staffing Ratios in NY Schools



Source: New York State Education Department

Table 1. Average Class Size: Grades 1-6

Year*	AVERAGE CLASS SIZE, GRADES 1-6				DIFFERENCE NYC vs. Rest of NY State
	New York City	Other Cities	Rest of NY State	Total NY State	
1980-81	27.0	24.3	23.3	23.5	3.7
1985-86	27.0	24.7	22.0	23.5	5.0
1987-88	27.3	24.5	22.1	23.7	5.2
1990-91	27.3	24.6	22.0	23.6	5.3
1994-95	28.1	24.7	22.3	24.0	5.8
1995-96	28.3	24.5	22.4	24.2	5.9
1996-97	28.0	24.2	22.2	24.0	5.8
1997-98	27.3	24.0	22.0	23.6	5.3
1998-99	26.5	23.6	21.7	23.2	4.8
1999-2000	25.5	22.5	21.2	22.5	4.3
2000-01	24.8	20.9	20.9	22.0	3.9
2001-02	24.5	20.4	20.7	21.8	3.8
Change					
1981-'02	-2.5	-3.9	-2.6	-1.7	
Pct. Change	-9.3%	-16.0%	-11.2%	-7.2%	

* Annual data were not published prior to 1994-95.

* Annual data were not published prior to 1994-95.

Source: New York State Education Department

Table 2. Enrollment in Special Education: Public and Private Schools

Year	NEW YORK CITY		REST OF STATE		STATE TOTAL	
	#	% of enrollment	#	% of enrollment	#	% of enrollment
1982-83	94,736	7.8%	151,793	7.4%	246,529	7.5%
1983-84	104,239	8.5%	155,700	7.8%	259,939	8.0%
1984-85	107,885	11.6%	150,726	8.8%	258,611	9.8%
1985-86	106,363	8.7%	159,794	8.3%	266,157	8.5%
1986-87	104,483	8.6%	155,570	8.3%	260,053	8.4%
1987-88	103,342	8.5%	155,809	8.4%	259,151	8.4%
1988-89	104,985	8.8%	157,497	8.6%	262,482	8.7%
1989-90	106,034	11.6%	160,757	10.1%	266,791	10.6%
1990-91	107,944	9.0%	169,223	9.2%	277,167	9.1%
1991-92	111,331	9.2%	177,400	9.5%	288,731	9.4%
1992-93	108,183	8.8%	187,986	9.5%	296,169	9.5%
1993-94	110,003	8.8%	183,549	9.6%	293,552	9.3%
1994-95	118,003	11.7%	212,512	12.3%	330,513	12.1%
1995-96	124,209	9.6%	222,917	11.4%	347,126	10.7%
1996-97	137,009	10.4%	239,817	12.2%	376,826	11.5%
1997-98	141,856	10.7%	242,582	12.2%	384,432	11.6%
1998-99	147,674	11.1%	245,338	12.2%	393,012	11.8%
1999-2000	146,949	11.1%	247,920	12.3%	394,869	11.9%
2000-01	149,525	11.3%	250,961	12.4%	400,386	12.0%
2001-02	146,328	11.1%	252,041	12.6%	398,369	12.0%
Change 82-01	51,592		100,248		151,840	
% Change	54.5%		66.0%		61.6%	

Source: New York State Education Department

**Table 3. Student Achievement: Reading/English Language Arts
Elementary School**

Year (Fall)	New York City	PASSING RATE		DIFFERENCE NYC vs. Rest of NY State
		Rest of NY State	Total NY State	
(above SRP* - Grade 3)				
1983	58%	na	77%	na
1984	58%	na	78%	na
1985	60%	na	79%	na
1986	65%	na	81%	na
1987	68%	91%	83%	-23.0%
1988	68%	91%	83%	-23.0%
1989	66%	89%	81%	-23.0%
1990	64%	90%	81%	-26.0%
1991	60%	89%	79%	-29.0%
1992	65%	90%	82%	-25.0%
1993	64%	91%	82%	-27.0%
1994	61%	90%	80%	-29.0%
1995	59%	90%	79%	-31.0%
1996	69%	94%	86%	-25.0%
1997	65%	94%	84%	-29.0%
(above Level 2 - Grade 4)				
1998	34%	57%	49%	-23.0%
1999	42%	68%	59%	-26.0%
2000	44%	69%	60%	-25.0%
2001	47%	71%	62%	-24.0%

* State Reference Point = Minimal Standard

Source: New York State Education Department

**Table 4. Student Achievement: Mathematics
Elementary School**

Year (Fall)	PASSING RATE			DIFFERENCE NYC vs. Rest of NY State
	New York City	Rest of NY State	Total NY State	
	(above SRP - Grade 3)			
1983	62%		80%	na
1984	63%		82%	na
1985	68%		86%	na
1986	77%		89%	na
1987	80%	97%	91%	-17.0%
1988	85%	98%	93%	-13.0%
1989	87%	98%	94%	-11.0%
1990	83%	97%	92%	-14.0%
1991	81%	98%	92%	-17.0%
1992	82%	98%	92%	-16.0%
1993	85%	99%	94%	-14.0%
1994	89%	99%	95%	-10.0%
1995	88%	99%	95%	-11.0%
1996	92%	100%	97%	-8.0%
1997	89%	99%	96%	-10.0%
	(above Level 2 - Grade 8)			
1998	50%	76%	67%	-26.0%
1999	47%	76%	65%	-29.0%
2000	52%	79%	69%	-27.0%
2001	52%	76%	68%	-24.0%

* State Reference Point = Minimal Standard

Source: New York State Education Department

**Table 5. Student Achievement: Reading/English Language Arts
Middle School**

Year (Fall)	New York City	PASSING RATE		DIFFERENCE NYC vs. Rest of NY State
		Rest of NY State	Total NY State	
(above SRP - Grade 6)				
1983	60%		78%	na
1984	59%		78%	na
1985	63%		79%	na
1986	65%		79%	na
1987	65%	88%	80%	-23.0%
1988	71%	90%	84%	-19.0%
1989	71%	91%	84%	-20.0%
1990	74%	92%	85%	-18.0%
1991	69%	91%	84%	-22.0%
1992	65%	91%	83%	-26.0%
1993	66%	92%	83%	-26.0%
1994	69%	92%	84%	-23.0%
1995	64%	91%	82%	-27.0%
1996	69%	95%	86%	-26.0%
1997	63%	93%	83%	-30.0%
(above Level 2 - Grade 8)				
1998	36%	55%	49%	-19.0%
1999	33%	51%	45%	-18.0%
2000	34%	51%	45%	-17.0%
2001	30%	52%	44%	-22.0%

* State Reference Point = Minimal Standard

Source: New York State Education Department

**Table 6. Student Achievement: Mathematics
Middle School**

Year (Fall)	PASSING RATE			DIFFERENCE NYC vs. Rest of NY State
	New York City	Rest of NY State	Total NY State	
		(above SRP - Grade 6)		
1983	59%		78%	na
1984	60%		80%	na
1985	64%		82%	na
1986	65%		83%	na
1987	66%	93%	84%	-27.0%
1988	75%	95%	88%	-20.0%
1989	80%	97%	91%	-17.0%
1990	79%	96%	90%	-17.0%
1991	80%	97%	91%	-17.0%
1992	78%	97%	90%	-19.0%
1993	78%	97%	91%	-19.0%
1994	80%	98%	92%	-18.0%
1995	84%	98%	93%	-14.0%
1996	88%	98%	95%	-10.0%
1997	91%	99%	96%	-8.0%
		(above SRP - Grade 8)		
1998	23%	46%	38%	-23.0%
1999	22%	50%	41%	-28.0%
2000	23%	48%	39%	-25.0%
2001	30%	57%	48%	-27.0%

* State Reference Point = Minimal Standard

Source: New York State Education Department

**Table 7. National Assessment of Educational Progress
New York State Vs. National Average**

Subject	Grade	Year	NY State Average	National Average
Mathematics	4	1992	218	219
		1996	223	222
		2000	225	224
		2003	236	234
		change '92-'03		18
	8	1990	261	262
		1994	266	267
		1998	270	271
		2002	271	272
		2003	280	276
change '90-'03		19	14	
Reading	4	1992	215	215
		1994	212	212
		1998	215	213
		2002	222	217
		2003	222	216
	change '92-'03		7	1
	8	1998	265	261
		2002	264	263
		2003	265	261
	change '98-'03		0	0

Source: New York State Education Department

**Table 8. Annual Dropout Rate
(Percent of High School Population)**

Year	DROPOUT RATE				DIFFERENCE NYC vs. Rest of NY State
	New York City	Other Cities	Rest of NY State	Total NY State	
1982-83	12.5%	7.0%	3.3%	6.5%	9.2%
1983-84	11.0%	7.8%	3.3%	6.1%	7.7%
1984-85	9.5%	7.0%	3.3%	5.6%	6.2%
1985-86	8.3%	7.1%	3.2%	5.1%	5.1%
1986-87	8.2%	6.7%	3.1%	5.0%	5.1%
1987-88	8.4%	7.5%	3.1%	5.2%	5.3%
1988-89	8.7%	7.7%	3.0%	5.3%	5.7%
1989-90	7.8%	7.7%	2.8%	4.9%	5.0%
1990-91	7.1%	6.5%	2.5%	4.4%	4.6%
1991-92	7.2%	6.2%	2.3%	4.0%	4.9%
1992-93	6.0%	5.8%	2.3%	3.9%	3.7%
1993-94	6.3%	6.0%	2.4%	4.1%	3.9%
1994-95	6.7%	5.2%	2.4%	4.1%	4.3%
1995-96	5.8%	4.3%	2.1%	3.6%	3.7%
1996-97	5.3%	4.6%	2.1%	3.4%	3.2%
1997-98	5.5%		2.2%	3.5%	3.3%
1998-99	7.1%		2.3%	4.1%	4.8%
1999-2000	7.0%		2.3%	4.0%	4.7%
2000-01	6.5%		2.2%	3.8%	4.3%
2001-02	11.2%		2.5%	5.7%	8.7%
Change					
1982-2001	-1.3%		-0.8%	-0.8%	
Pct. Change	-10.4%		-24.2%	-12.3%	

Source: New York State Education Department

Table 9. Number of Schools and Students Under Registration Review

Year (Fall)*	NEW YORK CITY		REST OF STATE		TOTAL STATE	
	Schools	Students	Schools	Students	Schools	Students
1990	40	45,418	8	7,245	48	52,663
1992	56	62,353	6	6,038	62	68,391
1993	55	61,117	6	6,077	61	67,194
1994	72	75,066	7	8,092	79	83,158
1995	78	79,027	8	8,714	86	87,741
1996	92	88,762	7	9,281	99	98,043
1997	94	87,201	4	6,304	98	93,505
1998	98	84,918	5	6,628	103	91,546
1999	94	71,611	8	7,462	102	79,073
2000	98	78,063	16	11,787	114	89,850
2001	96	77,288	24	16,850	120	94,138
Change						
1990-'01	56	31,870	16	9605	72	41,475

* No data are available for 1991.

Source: New York State Education Department

**Table 10. Comparison of School Districts of Various Wealth Levels
2000–01 School Year**

	Group	Enrollment	Total Spending Per Pupil	State Aid Per Pupil	Local & Fed Per Pupil	Average Class Size	Turn over Percentage	Median Salary	Median Experience
Wealthiest	1	60,272	\$17,523	\$2,033	\$15,490	20.3	11.6%	\$75,038	14.6
	2	238,262	\$14,494	\$3,073	\$11,421	21.1	11.1%	\$64,800	12.8
	3	409,644	\$12,381	\$4,606	\$7,775	20.4	11.5%	\$56,105	12.1
Average	NYC	1,057,682	\$11,474	\$5,485	\$5,989	25.0	21.8%	\$48,152	11.0
	4	374,377	\$11,219	\$5,497	\$5,722	21.5	10.6%	\$53,995	13.9
Poorest	5	438,587	\$11,050	\$6,785	\$4,265	20.2	10.8%	\$47,471	14.0
	6	274,974	\$11,481	\$8,025	\$3,456	19.8	12.0%	\$47,237	13.3

Source: New York State Education Department

**Table 11. Selected Teacher Characteristics In Schools With Different Populations
2001-02 School Year**

	New York City	Rest of State
Pct of uncertified teachers in schools:		
0-20% Minority	16.9%	5.8%
21-40%	19.8%	6.2%
41-60%	21.4%	6.3%
61-80%	23.7%	7.5%
81-100%	31.8%	8.2%
Pct of Teachers With Masters plus 30 or Doctorate in schools:		
0-20% Minority	59.4%	21.8%
21-40%	46.7%	33.1%
41-60%	51.5%	36.2%
61-80%	49.1%	35.5%
81-100%	37.2%	33.2%
Avg Years Teaching Experience in schools:		
0-20% Minority	16	14
21-40%	11	13
41-60%	13	13
61-80%	12	13
81-100%	10	11
Median Teacher Salary in Schools:		
0-20% Minority	\$56,425	\$50,233
21-40%	\$52,287	\$58,088
41-60%	\$52,287	\$60,211
61-80%	\$52,287	\$60,569
81-100%	\$48,142	\$60,618
Teacher Turnover Rate		
0-20% Minority	17%	15%
21-40%	18%	16%
41-60%	20%	17%
61-80%	20%	19%
81-100%	24%	23%

Source: New York State Education Department

Table 12. Teacher Salaries and Student "Needs" in New York City Schools Districts Ranked in Descending Order of Average Teacher Salary

Community	School District	Avg. Teacher Salary	% Passing Reading 2002	DOE Needs Category
Flushing	25	\$62,840	59	Low
Bayside Douglaston	26	\$62,130	75	Low
Staten Island	31	\$60,910	53	Low
Bensonhurst/Coney	21	\$58,210	54	Moderate
Lower East Side	1	\$57,810	37	High
Forest Hills Jamaica	28	\$56,480	51	Low
St Albans/Laurelton	29	\$56,100	39	Low
Bay Ridge	20	\$55,900	50	Low
Astoria LIC	30	\$55,870	47	Moderate
Upper West Side	3	\$55,840	47	Moderate
Park Slope/Sunset Pk.	15	\$55,430	47	Moderate
Sheepshead Bay	22	\$54,880	51	Low
Flatbush Avenue	17	\$54,660	34	Moderate
Midtown / East Side	2	\$54,620	68	Low
Ozone/Richmond/Rckwy	27	\$54,460	36	Moderate
Middle Village	24	\$54,320	43	Low
Pelham Park	11	\$54,310	35	Moderate
East New York	19	\$53,680	27	High
Canarsie	18	\$53,630	38	Moderate
Greenpoint/Wmsburgh.	14	\$53,560	36	High
East Bronx	8	\$53,100	30	Moderate
Wash Heights	6	\$53,040	30	High
Bushwick	32	\$52,860	34	High
Riverdale/Fordham	10	\$52,570	28	High
Bed Stuy	13	\$52,570	32	Moderate
West Bronx	9	\$52,340	23	High
Harlem	5	\$52,120	21	Moderate
Central Bronx	12	\$51,550	25	High
East Harlem	4	\$51,410	31	High
Ocean Hill	16	\$51,370	33	High
South Bronx	7	\$51,230	22	High
Brownsville	23	\$50,810	28	High
<i>Average Salary</i>		\$54,950		

Source: New York State Education Department

ENDNOTES

1. The official Law Reporting Bureau citation for the Court of Appeals decision in the CFE case is 100 NY2d893. Subsequent references in this report are to the opinion as issued by the court on June 26, 2003.

2. The 1982-83 ranking, in which New York State's per-pupil spending was exceeded only by Alaska's, is derived from data published in the U.S. Department of Education's Digest of Education Statistics 2002. The 2001-02 ranking is based on estimates derived from federal data and published in Education Vital Signs: An American School Board Journal Special Report, February 2003. Preliminary data from the same source indicate New York State per-pupil expenditures were also the highest in the nation as of 2002-03.

3. Counting all sources of revenue (local, state and federal), total public school funding in New York City rose during this period from \$3.8 billion to \$11.3 billion, while per pupil spending went from \$4,165 to \$10,842. In the rest of the state, total funding rose from \$7.7 billion to \$21.3 billion, and per-pupil spending increased from \$4,329 to \$11,937.

4. By 2003-04, the city's share of state school aid (37.1 percent) actually exceeded its share of statewide enrollment (36.1 percent), according to Governor Pataki.

5. The class size ratio used here is for Grades 1 through 6. Class sizes and trends in class size reduction were very similar for higher-grade levels throughout the period, however. Prior to 1994-95, the State Education Department publicly reported class size averages only once every five years, rather than annually. As shown in Table 1 in the Appendix, the available data indicate the statewide average Grade 1-6 class size hovered just under 24 students during the 1980s.

6. A class size of 21.8 pupils per teacher translates into 218 pupils per 10 teachers. But the total, statewide total pupil-teacher ratio of 12.6 pupils per teacher would translate into just over 17 teachers for 218 pupils.

7. These data are taken from school district fiscal profiles by the State Education department and include reported expenditures for teacher salaries, pupil personnel service salaries, curriculum development salaries and other instructional salaries, health benefits and other employee benefits.

8. This was largely in response to changes in federal law governing special education in the 1970s. As public school districts came into compliance with this law and subsequent legal challenges to old practice in this area, many more students were designated as entitled to special education. This designation indicates that the student has been discovered to have a handicapping condition requiring either special services or modifications to his educational program.

9. In New York City as of 2001-02, the school system allocated \$9,059 per pupil for general education and \$30,464 for special education, according to the Education Department's School-Based Budget Reports.

10. This period coincides with the Legislature's approval of a new category of funding - the LADDER program, which set aside money for both pre-kindergarten and early grade class size reduction.

11. Specific data breaking down full- and half-day kindergarten enrollments in the state are not available, however.

12. In 1996-97, the state began to exempt many more students from testing due to their limited proficiency in English. (These were students who came from non-English speaking homes.) The state estimated that at least half of the increase in test scores from 1995-96 to 1996-97 was due to this change in the tested population.

13. Some of that five-point increase was caused by the change in the testing population in 1996-97, so achievement on this test was essentially stagnant during the 1980s and 90s.

14. The respective New York City to statewide NAEP scores in 2003 were as follows: On the Grade 4 NAEP reading test, 226 in the city and 236 for the state; on grade 8 reading, 266 for the city and 280 for the state; on grade 4 math, 210 compared to 222; and, grade 8 math, 252 compared to 265.

15. The dropout rate calculated by the state reports the percentage of all high school students in a given year. Since there are traditionally four years of high school, the annual dropout rate reported by the state can be thought of as indicating slightly less than one-fourth of the "cohort" dropout; i.e., that percentage of a class that does not graduate. If five percent of all high school students drop out in a single year, then a class would

lose slightly less than 20 percent of its students over a four-year period.

16. What is going on? It is known that there is some slippage in the reporting of dropout statistics. Schools have some flexibility in deciding when they formally count a student as a dropout. That flexibility can affect year-to-year comparisons. Also, schools can record discharged students in many different ways, some of which don't count the student as a dropout. Audits in the city in recent years uncovered abuses of this system, and a tightening of the procedures may account for the spike in the dropout rate in recent years. Of course, if that is the case, it would indicate that the reported decline in the dropout rate between 1982 and 1997 was nothing more than an accounting illusion.

17. The most recent report indicates a small uptick in the city's graduation rate, to 53 percent as of 2003, as reported in Class of 2003 Four-Year Longitudinal Report and 2002-03 Event Drop Out Rates, issued by the Department of Education. It is too early to say whether this indicates any definitive trend, however.

18. In the past, students could earn a local diploma by demonstrating basic competency on a series of tests known as the Regents Competency Tests. These tests are no longer in use. In the past, more advanced students could earn a "Regents-endorsed" diploma by passing a sequence of state-developed Regents exams in a variety of subject areas. (1 English test, 2 math tests, 2 science and 2 history/global studies tests and 1 foreign language test.) Since the late 1990s, all students must pass a sequence of five Regents exams (1 English, 1 Math, 1 Science, American History and Global Studies) to earn a diploma of any type. In order to obtain a "Regents Diploma" students must pass additional exams in science, history and math. A student earning a local high school diploma in New York State today is being asked to demonstrate a higher level of achievement than local diploma recipients of ten or twenty years ago. Data do indicate that more students in the state are taking and passing a minimal number of Regents level classes (albeit at a lowered "transitional" passing grade of 55.) Changes in reporting over the years, as these new policies have been adopted, render any long-term comparison of the results of the Regents exams meaningless, so they are not presented in this report.

19. New York State Education Department, A Report to the Governor and the Legislature on the Educational Status of the State's Schools: The Chapter 655 Report, various years.

20. The UFT and the city Department of Education recently agreed to devote the remaining extra time to 100-minute blocks of additional professional development time, to be spread over 18 specified Mondays during the school year.

21. The statewide figures are compiled by the New York State School Boards Association.

22. Campaign for Fiscal Equity v. State of New York, <http://www.nycourts.gov/ctapps/decisions/Jun03/74opn03.pdf>, New York State Court of Appeals, No. 74, June 26, 2003, p. 15.

23. Metro Industrial Areas Foundation (IAF), "Analysis of the Allocation of Teachers in the New York City Public School System," March 2003.

24. Campaign for Fiscal Equity v. State of New York, 86 NY2d 307.

25. Ibid.

26. Campaign for Fiscal Equity v. State of New York, <http://www.nycourts.gov/ctapps/decisions/Jun03/74opn03.pdf>, New York State Court of Appeals, No. 74, June 26, 2003, pp. 13-14.

27. 719 N.Y.S. 2d 475

28. Campaign for Fiscal Equity v. State of New York, <http://www.nycourts.gov/ctapps/decisions/Jun03/74opn03.pdf>, New York State Court of Appeals, No. 74, June 26, 2003, p. 42.

29. Ibid. p. 17.

30. Ibid., p. 18.

31. The Zarb Commission did not recommend a specific funding figure, but said \$2.5 billion to \$5.6 billion from state, local and federal sources over five years would be "a reasonable place to start."

32. The New York State Commission on Education Reform, Final Report, March 29, 2004, p. 20.

33. CFE Sound Basic Education Task Force report, Part III, posted at www.cfequity.org.

34. An "adequacy study" conducted for CFE by the American Institutes for Research and Management Analysis and Planning, Inc., recommended a class size of 16 pupils for "average poverty" schools (those with about one-third eligible for free lunch), and 14 for "very high poverty" schools (those with 90 percent eligible for free lunch). The study also recommended universal all-day kindergarten (see The New York Adequacy

Study: "Adequate" Education Cost in New York State, which can be downloaded from <http://www.cfequity.org/costingoutsummary.pdf>). In releasing the Assembly Democrats' CFE compliance plan, Speaker Sheldon Silver stressed support for class-size reduction, without citing a specific target (see Silver's June 2 press conference remarks, posted at <http://www.assembly.state.ny.us/Press/20040602/>).

35. While the trial court in the CFE case embraced the claim that smaller class sizes will produce better results, the issue remains highly contested among educators and education researchers. For example, noting that more than half of the state's eighth grade classes with below-average English Language Arts test scores also had below-average class sizes as of 2003, The Standard & Poor's study conducted for the Zarb Commission concluded that smaller class sizes "are neither a guarantee nor a prerequisite of above-average achievement in all school districts."

36. A recruitment website run by the city Department of Education (www.nyurbanteachers.org) lists shortages of teachers in Math, Science, Special Education, Bilingual Education, English, Spanish and Physical Education.

37. For example, \$2 billion could presumably "purchase" 20,000 new teachers at an average salary and benefit cost of \$100,000 per teacher. What would do more to assure a sound-basic education for all students -- spreading those 20,000 teachers across the city and/or state, or assigning them to a more limited number of schools with the 200,000 most needy students, thereby reducing class size in those schools to single digits? But are 20,000 truly qualified teachers looking for work at this moment? What if there are not? Does class size reduction make as much sense if quality teachers cannot be found?

38. Campaign for Fiscal Equity v. State of New York, <http://www.nycourts.gov/ctapps/decisions/Jun03/74opn03.pdf>, New York State Court of Appeals, No. 74, June 26, 2003, p. 38

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