

In 1978, a group of property-poor Long Island school districts, joined by New York City and the other four large urban New York districts, filed *Levittown v. Nyquist*, a lawsuit challenging the state's education finance system. In its 1982 decision, the Court of Appeals ruled that while substantial inequities in funding did exist, the New York State constitution does not require equal funding for education. The court did note, however, that the state constitution entitles students to a "sound basic education," even though no one in the Levittown case had alleged that students were being denied this right.

This right to a sound basic education is at the center of *CFE v. State of New York*. While this lawsuit again seeks to reform the state funding system, it is based on different legal arguments than those used in Levittown. In this new case, CFE asserts that New York State is failing in its constitutional obligation to provide a sound basic education to thousands of its schoolchildren.

In a landmark June 1995 decision, the Court of Appeals -- New York State's highest court -- distinguished its Levittown ruling and upheld CFE's right to pursue a constitutional challenge to the state's education finance system. Writing for a four-person majority, Judge Carmen B. Ciparick concluded that CFE had grounds for a legal claim under Article XI, the Education Article of the New York State Constitution. Judge Howard Levine concurred with the majority but wrote a separate opinion, arguing for a narrow definition of a sound basic education. Judge Richard Simons dissented, and Chief Judge Judith Kaye took no part in the decision.

The Court indicated that if CFE were able to prove that a substantial number of New York City students are being denied the opportunity to obtain a sound basic education, it would act to remedy the situation. Together with Simpson Thacher & Bartlett, the law firm serving as co-counsel in the case on a pro-bono basis, CFE engaged in the extensive research, analysis and other legal "discovery" necessary to prepare this case for the trial.

The trial of *CFE v. State of New York* began on October 12, 1999 in New York Supreme Court, New York County, and concluded on July 27, 2000. On January 10, 2001, Judge Leland DeGrasse, the presiding judge, rendered a ruling favoring CFE on both of its Adequacy and Title VI claims. The judge also gave a remedial order, setting guiding parameters to help the state reform the current school funding system by September 15, 2001. The State of New York appealed the decision. The case reached the Court of Appeals on May 8, 2003, where the court ruled in favor of CFE.

The Court of Appeals gave the State of New York until July 30, 2004 to comply with its order. The state failed to meet this deadline. Judge Leland DeGrasse then assigned the case to 3 court-appointed referees. The referees presented their compliance plan on November 30, 2004, recommending that \$5.63 billion for operating expenses and \$9.2 billion for facilities be phased in over four years. The Judge upheld the special masters' plan in February of 2005 and gave the state 90 days to comply, but denied the motion for contempt and sanctions.

The State appealed the 2005 DeGrasse decision to the Appellate Division, 1st Department. On March 23, 2006, the court ruled in favor of CFE denying the Governor's appeal and directed the State to provide the city's schools with \$4.7 billion to \$5.63 billion in operating aid and \$9.2 billion in capital funding by the budget deadline of April 1, 2006. The Legislature included the \$9.2 billion in capital funding in its 2006-07 budget, but New York City Public Schools has yet to receive an increase in operating aid from State or City government.

In response to lack of compliance with the 2006 ruling, CFE filed a brief to the Court of Appeals in June 2006 asking the court to issue a clear and enforceable order that would bring the long-running *CFE* school-funding case to a close. In its brief, CFE urged the court to enforce the previous appellate court ruling to provide New York City schools with \$4.7 billion to \$5.63 billion in operating aid. The court is expected to set down oral arguments for September 2006.

Reprinted with the permission of the [Campaign For Fiscal Equity, Inc.](#)