



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER
Attorney General

RICHARD RIFKIN
Deputy Attorney General
State Counsel Division

JAMES B. HENLY
Assistant Attorney General in Charge
Litigation Bureau

Writer's Direct Dial:
(212) 416-6363

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By Hand Delivery

John D. Feerick
c/o Fordham University School of Law
33 West 60th Street
2nd Floor New York, New York 10023

E. Leo Milonas
c/o Pillsbury Winthrop LLP
1540 Broadway
New York, NY 10036-4039

William C. Thompson
c/o Ross & Hill
16 Court Street Suite 2403
Brooklyn, NY 11241-1024

Re: CFE v. State of New York
Index No. 111070 / 93

To The Special Referees:

Pursuant to the schedule established by this panel on August 5, 2004, enclosed please find the education plan prepared by Governor Pataki setting forth his proposal for complying with the June 23, 2003 decision of the Court of Appeals in this action.

As you are aware, Governor Pataki is a named defendant in this action, and this office therefore is presenting the plan prepared by the Governor, as his counsel, and a description of that plan as prepared by the Governor's office. We also note, however, that the decision of the Court of

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Appeals requires the enactment of legislation by the State of New York, and this office is the institutional counsel for the State.

Unfortunately the two houses of the Legislature and the Governor have not been able to agree upon a single unified plan for submission to this panel. Earlier this week agreement was reached on funding for the 2004-05 school year, but there is not yet enacted legislation setting forth a multi-year funding plan or specifying what accountability measures should be implemented. As the panel may be aware submissions were made to Justice DeGrasse by the Senate and the Assembly earlier this month, setting forth their respective proposals. We will advise this panel immediately if the Legislature and the Governor reach agreement on a multi-year funding plan and/or accountability measures that are enacted into law.

In accordance with the panel's directions, we also enclose Defendants' Memorandum of Law to Referees Regarding Burden of Proof, Hearings and New York City Participation.

Respectfully submitted,



Bruce B. McHale
Assistant Attorney General

Copies (By hand delivery)

Kenneth W. Taber, Esq.
Joseph F. Wayland, Esq.
Michael A. Rebell, Esq.
Alan H. Kleinman, Esq.