

 The **Campaign** for **Educational Equity**

---

**TEACHERS COLLEGE** COLUMBIA UNIVERSITY

**STUDENTS' CONSTITUTIONAL RIGHT TO A  
SOUND BASIC EDUCATION:  
NEW YORK STATE'S UNFINISHED AGENDA**

**Part 1.**

**A Roadmap to Constitutional Compliance  
Ten Years after *CFE v. State***

November 2016

## **STUDENTS' CONSTITUTIONAL RIGHT TO A SOUND BASIC EDUCATION: NEW YORK STATE'S UNFINISHED AGENDA**

- Part 1. A Roadmap to Constitutional Compliance Ten Years after *CFE v. State*
- Part 2. Filling the Regulatory Gaps
- Part 3. Utilizing a Constitutional Cost Methodology
- Part. 4. Ensuring Resource Accountability

### **ABOUT THE CAMPAIGN FOR EDUCATIONAL EQUITY**

The Campaign for Educational Equity is a nonprofit research and policy center at Teachers College, Columbia University that champions the right of all children to meaningful educational opportunity and works to define and secure the full range of resources, supports, and services necessary to provide this opportunity to all children. CEE pursues systems change through a dynamic, interrelated program of research, legal analysis, policy development, coalition building, curriculum development, and advocacy dedicated to developing the evidence, policy models, curricula, leadership, and collaborations necessary to advance this agenda at the federal, state, and local levels.

This report was prepared by Michael A. Rebell and Jessica R. Wolff.

#### **Campaign for Educational Equity**

Teachers College, Columbia University

525 W. 120th Street, Box 219

New York, NY 10027

[646-745-8282](tel:646-745-8282)

[www.equitycampaign.org](http://www.equitycampaign.org)

**Follow the Campaign for Educational Equity!**



**STUDENTS' CONSTITUTIONAL RIGHT TO A SOUND BASIC EDUCATION:  
NEW YORK STATE'S UNFINISHED AGENDA**

***Part 1. A Roadmap to Constitutional Compliance Ten Years after CFE v. State<sup>1</sup>***

**TABLE OF CONTENTS**

EXECUTIVE SUMMARY .....	4
INTRODUCTION .....	5
LEGAL BACKGROUND AND CONTEXT.....	6
WHY HAS THE <i>CFE</i> DECISION NOT BEEN FULLY IMPLEMENTED?.....	8
STATE POLICY CHANGES NEEDED TO GUARANTEE STUDENTS’ EDUCATIONAL RIGHTS .....	10
1. Define the essential elements of “the opportunity for a sound basic education.” .....	11
2. Conduct regular cost studies using a fair, up-to-date methodology that is based on constitutional resource requirements. ....	14
3. Reduce barriers to effective spending for essential educational resources to maximize cost effectiveness while safeguarding students’ constitutional rights. ....	16
4. Revise New York State school-funding formulas and district-funding-distribution rules to guarantee all schools sufficient resources. ....	16
5. Create state and local accountability mechanisms to monitor the provision of the essential resources of a sound basic education. ....	17
CONCLUSION.....	19
APPENDIX. Safeguarding Sound Basic Education Task Force .....	20

---

<sup>1</sup> This is the first in a series of reports that are the culmination of two years of research by the Campaign for Educational Equity, a policy and research center at Teachers College, Columbia University, and significant input from the Safeguarding Sound Basic Education Task Force, a statewide group made up of representatives from New York’s leading statewide education associations, parent organizations, school business officials, and advocacy groups (see appendix for membership). The series includes this overview and three specific proposals: *Filling the Regulatory Gaps*, the revisions to education regulations needed for constitutional compliance; *Utilizing a Constitutional Cost Methodology*, an innovative new method for calculating education costs; and *Ensuring Resource Accountability*, the mechanisms needed to monitor and enforce the provision of constitutionally required educational resources. The Campaign for Educational Equity is grateful to the Booth Ferris and Robert Sterling Clark Foundations for its support of this research. Although this report was prepared with guidance from the Safeguarding Sound Basic Education Task Force, the views and conclusions expressed here do not necessarily reflect those of task force participants or of Teachers College.

## EXECUTIVE SUMMARY

Ten years have passed since New York’s highest court ruled in the landmark school-funding and educational-rights case, *Campaign for Fiscal Equity (CFE) v. State of New York*, that the state was violating students’ constitutional right to the “opportunity for a sound basic education” and ordered significant reforms of the state’s education financing and accountability systems. Yet, today, hundreds of thousands of New York students, mostly children living in poverty and children of color, still lack full access to the fundamental learning opportunities to which they are entitled under the law. As a result, students leave high school without knowledge and skills that would ready them for competitive employment and help them, as citizens of a democracy, to engage effectively with the civic issues in their communities and in the broader society.

New York State needs stronger policies both to remedy present-day violations of students’ rights and to safeguard those rights in the future. Implementation of the *CFE* decision is critical to realizing the state’s core equal-opportunity values. This report lays out a roadmap to guide state policymakers, the Regents, and the state education department in undertaking the policy reforms needed to guarantee all students the opportunity for a sound basic education. We call on the state to take the following actions.

1. Define the essential elements of “the opportunity for a sound basic education.”
2. Conduct regular cost studies using a fair, up-to-date methodology that is based on constitutional resource requirements.
3. Reduce barriers to effective spending for essential educational resources to maximize cost effectiveness while safeguarding students’ constitutional rights.
4. Revise New York State school-funding formulas and district-funding-distribution rules to guarantee all schools sufficient resources.
5. Create state and local accountability mechanisms to monitor the provision of the essential resources of a sound basic education.

This report is the first of a four-part series that, in addition to this overview report, includes:

- *Filling the Regulatory Gaps*, the revisions to education regulations needed for constitutional compliance;
- *Utilizing a Constitutional Cost Methodology*, an innovative new method for calculating education costs; and
- *Ensuring Resource Accountability*, the mechanisms needed to monitor and enforce the provision of constitutionally required educational resources.

## INTRODUCTION

Ten years have passed since the final ruling in the landmark school-funding and educational-rights case, *Campaign for Fiscal Equity (CFE) v. State of New York*. The state’s highest court concluded that New York was violating students’ constitutional right to the “opportunity for a sound basic education” and ordered significant reforms of the state’s education financing and accountability systems. Less than a year later, in 2007, the state enacted legislation to comply with the court’s ruling. Yet, today, hundreds of thousands of New York students still lack full access to meaningful educational opportunities.

New leadership in the New York Board of Regents and at the New York State Education Department (NYSED), and growing activism among students, parents, and educators, have sparked renewed interest in addressing many of the shortcomings of the state’s public education system. With the goal of providing a “highly effective education to students [that] enables them to become prepared for college, career, and civic responsibility,” the Regents and NYSED have launched initiatives to improve the school funding formula, state standards, family engagement, and supports for boys and young men of color, among other objectives. In addition, the new federal education law, the Every Student Succeeds Act (ESSA), requires the state to rethink and retool its education accountability system.

Each of these initiatives could potentially help move the state toward constitutional compliance with the *CFE* decision and its promise of a meaningful educational opportunity for all New York children, a promise that takes on additional significance with Governor Andrew Cuomo’s strong affirmation, after the 2016 presidential election, that New York State will be a beacon of the progressive values of opportunity and respect for all people. However, these efforts

must be undertaken with careful attention to the court’s rulings and the requirements of the constitution. The present paper provides a roadmap for how this should be done. Future reports will provide more detailed analysis and recommendations for each component of the plan.

The Campaign for Educational Equity at Teachers College developed these recommendations based on our research and legal analysis. We vetted this work and its conclusions with the Safeguarding Sound Basic Education Task Force, which includes many of the stakeholders on the front lines of New York’s public schools, as well as with academics and other experts; however, the conclusions expressed are our own.

We first review the legal requirements of the *CFE* decision, then describe the extent to which the State of New York has failed to implement students’ right to the opportunity for a sound basic education, and finally recommend a set of additional policy reforms that would move New York State toward full constitutional compliance. We hope that this work will help New York State’s new educational leadership to reboot and refocus the state’s efforts to fulfill the promise of *CFE*.

## **LEGAL BACKGROUND AND CONTEXT**

In *CFE*, the New York Court of Appeals, the state’s highest court, held that New York City’s 1.1 million public school students were being denied sufficient funding to provide them “the opportunity for a sound basic education,” their right under the education article of the New York State constitution.<sup>2</sup> The court affirmed, in strong terms, that New York’s government had an obligation to guarantee that opportunity to all New York students—not only in New York City, but throughout the state. A sound basic education, the court said, consists of the knowledge

---

<sup>2</sup> N.Y. Const., Art. XI, §1.

and skills students need to be prepared for capable civic participation and competitive employment, and this requires students to have the opportunity to complete a “meaningful high school education.”<sup>3</sup>

The court ordered the state to remedy this violation of students’ rights. Specifically, it ruled that the state must (1) determine the actual cost of providing a sound basic education; (2) reform the current funding and management structures to ensure that all schools have the resources they need to provide a constitutionally adequate education; and (3) develop “a new . . . system of accountability to measure whether the reforms actually provide the opportunity for a sound basic education.”<sup>4</sup>

In other words, according to the court, the state government is constitutionally obligated to ensure that sufficient funding is made available for public education, but the state’s responsibility does not end there. The government must also ensure that funds are properly allocated to all schools, and guarantee that the essential educational resources necessary to provide the opportunity for a sound basic education—such as qualified teachers, appropriate class sizes, instructional materials, and adequate facilities—are actually available in each school in accordance with the needs of students.

Some progress toward educational equity has been made since the *CFE* lawsuit. More qualified teachers have been hired; fueled by converging objectives of advocacy groups and government officials, full-day pre-K has expanded to serve thousands more children; and stronger regulations promise better services for English language learners. However, too many schools are still unable to provide their students with the full range of resources that are constitutionally required and academically necessary to ensure students can meet state standards,

---

<sup>3</sup> *CFE v. State of New York*, 100 N.Y. 2d 893, 908 (NY 2003).

<sup>3</sup> *Id.* at 930.

progress at grade level, and graduate from high school ready for success in college and the workplace and prepared to exercise their civic rights and responsibilities.

With few exceptions, these inadequately resourced schools continue to serve mostly students in poverty and students of color. These young people often must pursue their education in overcrowded classrooms with inexperienced teachers, limited course offerings, inadequate facilities, insufficient books, supplies, labs, libraries, technology, and scarce academic, social, and emotional supports. Many do not graduate from high school, and many who do persist receive a low-quality diploma that does not qualify them for post-secondary education or a living-wage job.

Equally unjust and alarming for our communities and our state, these schools are very often unable to provide their students the learning opportunities necessary to become “capable civic participants,” another requirement of the state constitution and a critical purpose of public education. As a result, students leave high school without knowledge and skills that would help them, as citizens of a democracy, to engage effectively with the civic issues in their communities and in the broader society.

#### **WHY HAS THE *CFE* DECISION NOT BEEN FULLY IMPLEMENTED?**

*CFE* was an historic decision for educational equity in New York State; it had and still has far-reaching implications for school funding and students’ educational rights. How to implement the decision through policy and practice, and to fulfill its guarantee of adequate funding and appropriate school-level resources for all New York’s students, posed a challenge to the court system, to the state government, and to researchers and advocates. It challenges us still.



The court left it to the state's lawmakers and education officials to establish appropriate systems to implement its ruling. In 2007, the state began to take steps in each of court-ordered areas. On April 1, the legislature enacted the Education Budget and Reform Act, which called for a funding increase of approximately \$5.4 billion for New York City and \$4 billion for the rest of the state. It combined about 30 previously separate funding streams into a foundation allocation that would provide about 70% of all state aid to local school districts. And it created a new accountability mechanism known as the "Contract for Excellence" to ensure that the new funding would be spent to rectify deficiencies. These reforms were all to be phased in over a four-year period.

Unfortunately, the initial reforms New York undertook to implement the decision, while significant, were vulnerable to, and undone by, the economic downturn that hit the state shortly after they were put in place. Because the phase-in schedule was "back loaded" to provide the majority of the funding increase in the latter years, only about a third of the new funding was actually appropriated for the schools during this initial period.

When the recession struck, state revenues fell. To close its budget deficit, the state halted the funding phase-in of the four-year target. Schools never received the second two years' allotment (and major share) of the promised school-aid increases. Instead, starting in school year 2009-10, which would have been the third year of the scheduled four-year phase-in, the governor and the legislature first froze Foundation Aid, the mechanism by which state aid is weighted for student need and district wealth, and then, over the next two years, cut state aid for education by over \$2.7 billion dollars. As a result, district and school budgets shrank, and students throughout the state lost essential school personnel, services, and supports.

In the years since, as the economy recovered and state revenues rebounded, the state has increased education funding gradually. However, as of the 2016-17 school year, the state is still providing school districts approximately \$4 billion less than the amounts called for in the Foundation Aid formula, and school aid has not reached levels necessary to remedy the state's ongoing violation of the requirements of the education article of the state constitution and to fulfill the directives of the state's highest court in the *CFE* litigation.<sup>5</sup>

Throughout this time, the state has not analyzed the effect of its noncompliance on schools' ability to provide a sound basic education to all of their students. Studies by the Campaign for Educational Equity at Teachers College and others indicate that substantial violations of students' rights continue.<sup>6</sup> Following an age-old pattern, these inequities and inadequacies in basic educational resources are much more likely to affect students living in poverty and students of color.

### **STATE POLICY CHANGES NEEDED TO GUARANTEE STUDENTS' EDUCATIONAL RIGHTS**

Given that many schools statewide are still unable to provide all of their students the essential resources of a sound basic education, further measures to ensure constitutional compliance must be implemented. New York State needs stronger policies both to remedy present-day violations of students' rights and to safeguard those rights in the future. Over the last few years, the Campaign for Educational Equity, along with many thought partners, including the

---

<sup>5</sup> Though the plaintiffs requested it, the Court of Appeals did not retain jurisdiction of the *CFE* case. For this reason, the court has not been in a position to review the state's implementation of its *CFE* orders since 2006. A new litigation that asks the courts to do so is now pending. See *New Yorkers for Students Educational Rights (NYSER) v. State of New York*, available at [www.nyser.org](http://www.nyser.org).

<sup>6</sup> See, e.g., Johnson, G., Subramanian, S., & Wilks, A. (2013). *Availability and Distribution of Selected Program Resources in New York City High Schools*. New York: New York City Independent Budget Office; New York State Council of School Superintendents. (2014). *Not Out of the Woods: A Survey on School Fiscal Matters*. Albany, NY: NYSCOSS.

Safeguarding Sound Basic Education Task Force, has extensively explored the question of what policy reforms are needed to uphold and safeguard students' educational rights.

To inform our inquiry, CEE has conducted research in public schools around the state; reviewed the relevant social-science literature; analyzed the laws, policies, and practices in New York and other states; and, through the task force, which met regularly over the past two years, and other outreach, solicited input from educators, parents, students, school officials, elected officials, the legal community, researchers, and advocates. Based on this work, we have outlined a set of policy reforms that, if adopted by the New York, would realize the guarantee of the educational opportunities to which all New York students are legally entitled and help the state move toward educational excellence and equity for all children.

To guarantee all students the opportunity for a sound basic education, state policymakers, the Regents, and the state education department must take the following actions.

**1. Define the essential elements of “the opportunity for a sound basic education.”**

Whatever public school they attend, New York students are entitled to the opportunity for a sound basic education, and every school must be provided with adequate funding and resources to fulfill the educational rights of all of its students. A major obstacle to the implementation of this right is that the state has not specified or publicized what this requires at the district and school level. Parents, students, educators, administrators, school officials, school board members, elected officials, and others need to know the essential resources, services, and supports to which students are entitled in their schools.

States like Montana, Tennessee, and Washington have each enacted statutory “basic education programs” that spell out the education essentials required by their state constitutions as per adequacy rulings by their state courts. Other state education departments, like those in

Nebraska and Rhode Island, have developed such programs through state regulations. In New York State, however, neither the governor, the legislature, the Board of Regents, nor the New York State Education Department has taken steps to review and reconsider the state’s statutes and regulations in response to the Court of Appeals’ *CFE* rulings and to specify the essential educational elements that are needed to provide all students the opportunity for a sound basic education.

To move toward constitutional compliance, New York must clearly identify and communicate a set of sound-basic-education implementation standards. These should spell out the essential programs, services, supports, and resources that, at a minimum and as a foundation, must be available in all schools and to all students in order to meet statutory and regulatory requirements and to comply with the state’s constitutional obligation to provide the opportunity for a sound basic education. Where necessary, the state must revise statutes and regulations to conform to constitutional requirements.

In 2012, CEE compiled all of the current judicial, legislative, and regulatory provisions that relate to constitutional compliance and published a compendium of these requirements, *Essential Resources: The Constitutional Requirements for Providing All Students in New York State the Opportunity for a Sound Basic Education*.<sup>7</sup> We also analyzed the extent to which essential programs and services were actually being provided in high-need schools throughout New York State. In-depth case studies of 33 high-need schools throughout the state—in New York City, Rochester, and six other rural, suburban, and small-city school districts—found

---

<sup>7</sup> Rebell, M.A., with Wolff, J.R., & Rogers, J.R., Jr. *Essential Resources: The Constitutional Requirements for Providing All Students in New York State the Opportunity for a Sound Basic Education*. New York, NY: Campaign for Educational Equity, Teachers College, Columbia University. Retrieved from <http://equitycampaign.org/publications/essential-and-deficient-resources/>.

widespread violations of constitutional requirements.<sup>8</sup>

These studies also uncovered a number of major gaps where current state laws and regulations were insufficient to guarantee the opportunity for a sound basic education as defined by the court. For example, there is insufficient regulatory guidance about class sizes, basic course offerings for science, foreign languages, and the arts, and guidance and social worker services. In addition, current statutes and commissioner regulations provide no guidance whatsoever on what course offerings, co-curricular activities, and other resources, services, and supports schools must provide to prepare all students for capable civic participation, a concept at the heart of the Court of Appeals' definition of sound basic education. In other areas, the current laws and regulations do not provide sufficient detail to advise school districts and school personnel of programmatic requirements necessary to meet constitutional requirements.

Further, the state does not distinguish in its statutes and regulations between items that are constitutionally required and those that are not. This means that in times of financial constraint, school districts are unclear about what programs and services must be maintained and those that are lower priority and may be eliminated or cut back. To guarantee a constitutional level of resources for all students in all schools, the state needs to spell out with more specificity what level of service is necessary to meet constitutional requirements, both to assist school districts in making budget decisions in difficult times and to ensure that students' rights are upheld at all times.

We believe, therefore, that the New York State Board of Regents must initiate a thorough review of all of the existing commissioner's regulations in order to identify and

---

<sup>8</sup> Rebell, M.A., Wolff, J. R., & Rogers, J.R., Jr. (2012). *Deficient Resources: An Analysis of the Availability of Basic Educational Resources in High Needs Schools in Eight New York State School Districts*. New York, NY: Campaign for Educational Equity, Teachers College, Columbia University. Retrieved from <http://equitycampaign.org/publications/essential-and-deficient-resources/>.

remedy all areas in which the regulations are aligned with constitutional requirements. As part of this review, a process should be established for public input. The review should also eliminate out-of-date or unnecessary provisions in the current regulations that impose overly burdensome mandates on schools and districts. This will allow school districts and the public at large to understand and focus on current obligations and constitutional requirements.

It is important that the regulations emphasize the basic educational opportunities to which all students are entitled, and that requirements are transparent and user friendly. Clear, compact, and comprehensive regulations will substantially aid constitutional compliance and assist school districts in making appropriate education-policy decisions, especially in times of fiscal constraint. They will also help parents and students understand and become stronger advocates for their rights. The second in this series of reports, *Filling the Regulatory Gaps*, identifies a number of examples of the specific kinds of gaps in the current New York State laws and regulations that need to be filled to remedy these constitutional deficiencies. These are illustrative of only a few of the many items that need review and reconsideration. We recommend regulatory revisions and additions to fill the identified gaps.

**2. Conduct regular cost studies using a fair, up-to-date methodology that is based on constitutional resource requirements.**

Another obstacle to fulfilling students' rights is that the state does not regularly or accurately assess the cost of providing a constitutional level of resources at every school, as a means of guiding state and local allocations to education. This analysis should calculate the actual costs of efficiently providing all students with the full set of essential educational resources, and it must properly account for concentration-of-poverty factors and the cost of services for students with extraordinary needs.

In the *CFE* case, the findings of a cost study undertaken by the state education department formed the basis for the foundation formula adopted by the legislature for the implementation of the decision. Fiscal policy experts recommend that such studies need to be reconsidered every 3-4 years because of changes in education mandates and instructional strategies and increasing costs. New York State has not reconsidered its cost methodology since the original *CFE* study in 2006.

State statutes have codified the “successful schools” methodology that the state education department implemented following the *CFE* decision. This approach determines the core foundation-funding amount on the basis of what school districts whose students have done well on certain state examinations are currently spending. The existing funding formulas are based on results of state examinations that the state itself abandoned years ago. Moreover, this methodology does not attempt to identify or understand the specific resources and services these districts use to achieve these results, whether these resources and services can yield similar results with other student populations, and whether these services are being provided in a cost-effective and cost-efficient manner. The state needs to consider a new cost methodology that takes all of these factors into account.

CEE has developed a “constitutional cost methodology” that improves on “successful schools” and other existing methodologies in a number of important ways. As is described in the third report in this series, utilizing this methodology will more accurately determine the amount of funds that schools and school districts need in order to provide all of their students a meaningful opportunity for a sound basic education. This methodology systematically applies constitutional standards and other relevant legal requirements to the cost-analysis process and

incorporates research in constitutionally relevant areas into identifying effective educational resources and practices.

**3. Reduce barriers to effective spending for essential educational resources to maximize cost effectiveness while safeguarding students' constitutional rights.**

Public funds must be spent effectively to maximize students' access to the essential resources of a sound basic education. The state should seek out and eliminate unnecessary mandates, revamp ineffective requirements, and provide schools and school districts with clear guidance on how to improve cost effectiveness and efficiency without violating children's right to access to sufficient, high-quality core educational resources, services, and supports.

**4. Revise New York State school-funding formulas and district-funding-distribution rules to guarantee all schools sufficient resources.**

The Court of Appeals definitively held in *CFE v. State of New York* that the state must allocate sufficient funding, and the state and school districts must distribute funding appropriately. Every school must receive sufficient funding, *based on students' needs*, to provide all students a sound basic education. The 2007 Foundation Aid formula made substantial progress in this regard, but, even as written, it did not fully allocate funding in accordance with student need. Since 2009, state funding has largely ignored the foundation formula and has implemented counterproductive "temporary" funding rules. It has, for example, suspended adjustments for changes in student enrollment, detrimentally affecting New York City and other districts that have had enrollment growth in recent years. These problems must be remedied promptly, and state funding formulas need to keep current with changes in demographics and in student need. Moreover, the state needs to put into place effective mechanisms to ensure that, at



the district level, funds are distributed among the schools on the basis of constitutional requirements and student need.

If the state maintains its current cap on property taxes, which constrains the ability of all school districts other than New York City to raise funds for their public schools, it also needs to adjust the foundation formula to ensure that all schools, in fact, have sufficient funds to provide their students the opportunity for a sound basic education. If the property tax cap impedes the ability of a local school district to raise the full “expected local share” that the formula assumes each locality will contribute to the foundation amount to which school districts are entitled, the state’s share must automatically be raised to compensate for the shortfall. The Court of Appeals made clear in *CFE II* that the state is the ultimate guarantor of constitutional funding levels; therefore, if the state chooses to limit the ability of local school districts to contribute their expected local shares, the state is constitutionally required to make up the difference. To be fair to the 304 school districts with extremely low tax bases, the artificially imposed floor to the Income Wealth Index used to calculate the expected local shares should be eliminated, as should the alternative method that exempts many other districts from contributing their actual minimum expected local shares.

**5. Create state and local accountability mechanisms to monitor the provision of the essential resources of a sound basic education.**

Developing accountability for sufficient and appropriate resources in every school is necessary for two critical different but related purposes: *oversight* and *improvement*. In New York State, resource-accountability mechanisms are needed to enable the ongoing assessment and enforcement of the availability of sufficient and appropriate resources, services, and supports in all schools and school districts, and to verify the extent to which all students are, in fact,

receiving the opportunity for a sound basic education. In addition, resource-accountability mechanisms provide information that is vital to developing an understanding of the relationship between inputs and outcomes. Understanding the complexities of this relationship is necessary for the continuous improvement of schooling, as well as for expanding our collective knowledge about how best to provide a sound basic education for all children and, as needed, recalibrating the state's sound-basic-education resource standards.

New York State collects and publishes a wealth of information about student performance, largely as measured by standardized test scores. It provides very little public information about educational opportunities—that is, what funding and specific resources schools and students have at their disposal to meet constitutional requirements and improve their outcomes. As a result, educators, researchers, school officials, and policymakers have little evidence through which to connect resources to results. In addition, the courts, lawmakers, school officials, and the public lack access to the information required for monitoring and enforcing educational-resource adequacy.

Constitutional compliance and long-lasting school finance reform necessitate a system of accountability for the provision of the adequate and appropriate educational resources required by the state constitution. The *CFE* decision requires the state to ensure that *every school* has adequate resources to meet the needs of its students.<sup>9</sup> Because the composition of school populations differ from school to school, the amount of funding and set of resources required for meeting students' needs in any given school can vary widely. For this reason, sound-basic-

---

<sup>9</sup> The Appellate Division, First Department, recently emphasized the importance of the adequacy of the State's education-funding accountability mechanisms in dismissing the state's objections to the Supreme Court examining in detail the constitutional adequacy of the state's current accountability mechanisms. *New Yorkers for Students' Educational Rights v. State of New York*, N.Y.S. 3d -- 2016 WL 4699191 (1<sup>st</sup> Dep't, Sept 8, 2016).

education accountability must entail the assessment, monitoring, and enforcement of school-level resource adequacy. Several states, including New Hampshire, California, and Arkansas, have created mechanisms that furnish helpful precedents for developing a system that meets the sound-basic-education accountability needs of New York State. Based on the legal requirements, our research, and an analysis of precedents from other states, the fourth report in this series, *Ensuring Resource Accountability*, outlines our recommendations.

Finally, the new federal education law, the Every Student Succeeds Act (ESSA) requires all states to revisit their education-accountability mechanisms and provides the opportunity for states to use an expanded set of measures to understand and evaluate student and school success. Resource accountability is a critical piece of the next-generation education-accountability system that New York State needs to adopt in order to provide educators, policymakers, and the public the information needed to enforce students' educational rights *and* support continuous improvement.

## CONCLUSION

As described above, each of these recommended policy changes would improve compliance with the *CFE* rulings and provide additional safeguards for New York students' rights. All of these policy changes are interrelated, interdependent, and necessary—none is sufficient on its own. We hope that the new state education leaders will make use of this roadmap and our detailed analysis and recommendations to ensure that their efforts to improve the public schools work to bring the system into compliance with the state constitution; fulfill the promise of *CFE*; and ensure all New York students the opportunity to meet state standards.

## **APPENDIX. Safeguarding Sound Basic Education Task Force**

In September 2014, the Campaign for Educational Equity (CEE) established the Safeguarding Sound Basic Education (SSBE) Task Force with the goal of developing a set of concrete concepts and policy proposals to promote long-lasting school finance reform that could ensure fair and adequate funding for New York City and for other underfunded districts throughout New York State. From September 2014 through October 2016, CEE held nine task-force meetings that convened a broad range of educational stakeholders from around the state to work through a set of complex education policy and finance questions. Participants in the SSBE Task Force included representatives of the entities listed below.

- Alliance for Quality Education
- Advocates for Children of New York
- Center for Arts Education
- Center for Children’s Initiatives
- Center for New York City Affairs
- Chancellor’s Parent Advisory Council of New York City
- Citywide Council on Special Education of New York City
- Class Size Matters
- Expanded Schools (formerly The After School Corporation)
- League of Women Voters of New York State
- Mid-Hudson School Study Council
- New York City Citywide Council on Special Education
- New York City Chancellor’s Parents Advisory Council
- New York Immigration Coalition
- New York Lawyers in the Public Interest
- New York State Association of School Business Administrators
- New York State Council of School Superintendents
- New York State Network for Youth Success
- New York State PTA
- New York State Rural Schools Association
- New York State School Boards Association
- New York State United Teachers

- New Yorkers for Students' Educational Rights
- Reform Education Funding Inequities Today (REFIT)

We are grateful to all who attended SSBE Task Force meetings and provided invaluable feedback on our analysis and recommendations. Task force members were not asked to endorse these findings, and the views and conclusions expressed in our reports do not necessarily reflect those of task-force participants.