

ALTERNATIVE FACTS & HISTORICAL FICTION:

Fact Checking Governor Cuomo on School Aid



**PUBLIC POLICY AND
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“The most dangerous untruths are the truths moderately distorted.”

— *Georg Christoph Lichtenberg,*
18th Century German Satirist

"Alternative facts are not facts. They are falsehoods."

— *Chuck Todd, Meet the Press*

Alternative Facts & Historical Fiction: Fact Checking Governor Cuomo on School Aid

Alliance for Quality Education
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REPORT HIGHLIGHTS

- Since becoming governor in 2011, Andrew Cuomo has shown repeatedly that he will not comply with the landmark State Court of Appeals decision in Campaign for Fiscal Equity v. The State of New York and provide the funding necessary to make systemic and lasting improvements in schools in economically disadvantaged communities across the state.
- The Governor and members of his administration have aggressively and consistently misrepresented his actions on education funding.
- A recent assertion by the Cuomo administration that the court decision in had no bearing on Gov. Eliot Spitzer's action in 2007 to create Foundation Aid is **not true**.
 - » Budget materials from 2007 from the Executive, Senate and Assembly all link Foundation Aid directly to the court decision.
- The Cuomo administration's assertion that the Governor is not proposing to eliminate the Foundation Aid formula for 2017-2018 is **not true**.
 - » The State Assembly's Review and Analysis of the 2017-18 Executive Budget states: "The Executive eliminates the Foundation Aid formula and the future obligation of \$4.3 billion."
- Foundation Aid formula is not simply a method for dividing funding between school districts. It is a formula that, according to the State Education Department, "distributes funds to school districts based on the cost of providing an adequate education."
 - » Foundation Aid for school districts is based on factors including the prevalence of student poverty, disability and English language learners, regional costs and other economic conditions in a given community. If it is fully funded, it will provide high-need school districts with the resources needed to meet their students' needs.
- The 2017-18 Executive Budget repeals and does not replace the Foundation Aid formula, and would return New York State to the pre-CFE era when political machinations and arbitrary formulas guided the distribution of school aid — without regard for student need.
- Gov. Cuomo's assertion that the State has fulfilled its CFE obligations is **not true**.
 - » In fact, the state has failed to properly use the Foundation Aid formula since 2009, and there is extensive evidence in our schools that hundreds of thousands of children are not receiving the opportunity for the education that is their constitutional right.
 - » These cuts in the quality of education — including larger class sizes, reductions in services for English language learners, curtailment of curriculum offerings, elimination of teachers positions, cutbacks in guidance counselors and social workers and reductions in tutoring for students who are not meeting state standards — have hit students in the poorest districts the hardest.
- The Cuomo Administration's assertion that the Governor has been able to increase education funding to historic levels – a \$6.1 billion, or 31%, increase over six years – and that his current budget proposes an additional \$1 billion in school funding is **not accurate**.
 - » In the last six years, school aid under Gov. Cuomo has increased from \$20.1 billion to \$24.2 billion, an increase of \$4.1 billion or 20.7%.
- Gov. Cuomo's assertion that he has put more funding in education than the previous four governors is technically accurate, but a distortion of the facts.
 - » On an annual basis, Gov. Spitzer's increases were three times as large as those under Cuomo and that is not even counting inflation. Factoring in inflation, Cuomo would have to propose a \$2.1 billion increase this year to be comparable to the increase enacted under Spitzer, but Cuomo is proposing less than half of that.
- New York State has the second largest spending gap in the nation between rich and poor schools. The spending gap between rich and poor schools, at \$9,796 per pupil, has grown to record levels under Gov. Cuomo.

INTRODUCTION

Governor Andrew Cuomo has been a leader on many progressive social issues, but when it comes to funding of public education in New York State, his actions in recent years – and especially in his 2017-18 budget proposal – have made it clear that he is simply not willing to provide the funding necessary to make systemic and lasting improvements in schools in economically disadvantaged communities across the state.

Furthermore, the Governor and members of his administration have aggressively and consistently misrepresented his actions on education funding. They have woven a web of inaccuracies and spin to convince the public that the way the state distributes school funding is fair, and that we already spend generously on our schools.

The Governor's unwillingness to provide adequate school funding within the framework of the landmark 2004 Court of Appeals decision in *Campaign for Fiscal Equity v. The State of New York* essentially guarantees that poorer school districts across the state will continue to struggle to provide the basic skills and other educational opportunities that New York's students will need to succeed in our competitive global 21st-century economy.

This purpose of this report is to examine the accuracy and veracity of the assertions of the Cuomo Administration in 2017 regarding school funding and the Campaign for Fiscal Equity, in order to advance efforts to ensure that hundreds of thousands of New York's children are no longer denied the sound basic education that is their constitutional right.

Spinning a Narrative Based on Falsehoods and Distortions

When Andrew Cuomo first ran for Governor in 2010, he said, "The way we fund education through the property tax system, by definition is going to be unfair. And it is. The state is supposed to equalize or come close to equalizing with its funding. That's the CFE lawsuit that the state is yet to fully fund."

Yet ever since he took office, he has woven a web of false information, spin and empty rhetoric to convince the public that the state has no obligation to support the Foundation Aid formula nor to fully fund public schools, and that we already spend enough. The effort by the Governor and his administration to change the narrative on school funding has been wide-ranging, unrelenting and ever morphing.

Cuomo has set out to brand himself nationally as a social progressive and a fiscal conservative — a "fiscally responsible" Democrat. He has sought to curry favor with heavy-hitter political donors who support tax breaks for the very rich and have an ideological agenda on public education that promotes market forces over public investment. As a result, the Governor simply has not wanted to spend the money or the political capital needed to systemically improve our schools in poor communities across the state.

While the Governor now says he raised taxes on the wealthy through the millionaires' tax, in truth the wealthiest New Yorkers today pay \$1.8 billion less in taxes than they did when Governor Cuomo first took office. One of his objectives has been to brand himself as a tax cutter, and in 2011 this tax cutting greatly benefited the very rich. He revised the tax code to lower the income tax surcharge on the very wealthy after initially planning to allow it to expire entirely. At the same time, he was cutting \$1.3 billion in operating aid for public schools.

This report details a pattern of inaccuracies from the Cuomo Administration in the ongoing 2017 budget debate regarding Foundation Aid, the Campaign for Fiscal Equity and school aid in general. However, this is not a new pattern.

On January 31, 2011, the day before releasing his first Executive Budget, Governor Cuomo released an opinion piece headlined *The Real Albany Sham*¹ which was widely covered in the news media. Regrettably, most of that coverage failed to examine the honesty and integrity of the piece.

The Governor used this piece to shape media coverage of his record setting proposal to cut \$1.5 billion in school operating aid. In his article, the Governor contended that legislative formulas which provided for substantial increases in school aid exemplified "Albany dysfunction." The piece was replete with deceptive statements

¹ <http://www.businessinsider.com/the-real-albany-sham-the-budget-2011-2>; full text page 15.

designed to mislead the public. The Governor railed against any budgetary formulas in state law that generate annual funding increases, including the Foundation Aid, which was enacted in 2007 to ensure all schools have the level of funding necessary to provide every student with the “sound basic education” that is their right under the New York State Constitution.

The Governor’s contention that these formulas were established with “little transparency” could not have been further from the truth regarding the Foundation Aid formula. In fact, Foundation Aid was enacted after 14 years of high profile lawsuits, extensive public debate and considerable engagement from the widest possible range of stakeholders.

In referring to the school funding formula as a “special interest protection program” and contending that “no one” is “responsible for setting the growth in the state’s budget” he purposely omitted the fact that the Foundation Aid formula was enacted by a Governor and Legislature in order to provide a multi-year phase-in that would ensure that underserved students receive a “sound basic education” as required under the state’s constitution.

At no point in 2011 did Governor Cuomo honestly or transparently attempt to explain in a truthful, transparent way how or why the Foundation Aid formula was established, nor did he argue against the formula on its merits. He did not say then — as he is attempting to now — that he thought that CFE and the Foundation Aid formula were wrong. In a statement that strains credulity, Cuomo claimed he was ignorant about these formulas prior to his election and that he was “shocked to learn” about them “in the past 30 days, as I have prepared the state’s budget.”

Andrew Cuomo served as a high level advisor and confidante to his father, Governor Mario Cuomo. As Attorney General, he was responsible for knowing the laws of the state. Given this background and the extensive public discussion of the school aid issue, it is extremely difficult to believe that, prior to becoming Governor, he did not understand that the Foundation Aid formula was built around a multi-year phase-in to dramatically increase funding to high need schools. Notably, his assertion was made only three-and-a-half months after he proclaimed in a campaign debate that the state had “yet to fully fund” CFE.

In arguing to make cuts, disable Foundation Aid, grossly underfund the formula, and now to repeal it, Governor Cuomo has never sought to have an open and transparent debate about the merits of school funding.

The 2011 opinion article began a pattern of deception by Governor Cuomo relating to education policy, similar to his recent false assertions that Start-Up New York has created 4000 jobs and that he is proposing a middle-class tax cut in the 2017 budget.

In his 2013 State of the State address, Cuomo promised after school and extended learning time to “every school district in the state” saying “if they want to opt in . . . the state would pay 100% of the additional costs.” But in his budget he proposed only \$20 million—enough to fund such programs for only one-half of one percent of the students in the state.

In 2014, in an effort to derail New York City Mayor Bill deBlasio’s pre-K proposal, he promised universal full-day pre-K for every four-year-old in the state. He now claims to have delivered on this promise, despite the fact that full-day pre-K has only been offered to 19% of four-year olds outside New York City.²

In arguing to make cuts, disable Foundation Aid, grossly underfund the formula, and now to repeal it, Cuomo has never sought to have an open and transparent debate about the merits of school funding. But he has asserted that we spend too much money on our schools that school aid fuels “fraud, waste and abuse,” that the goal of school funding advocates is “growing the bureaucracy,” and that public education is a “monopoly.”

All of these assertions obscure the Governor’s real motivations and create a narrative that he is the good guy on school funding, and that all those who oppose him have bad motives. And it is all part of his consistent effort to undermine any justification for adequately funding high needs schools—an effort that reached its most aggressive level as the 2017-18 budget cycle got underway in January.

2 <http://www.aqeny.org/wp-content/uploads/2012/03/TooManyChildrenStillWaiting-FIN3.pdf>

EXAMINATION OF THE CUOMO ADMINISTRATION'S 2017 ASSERTIONS ON SCHOOL AID

1. Cuomo Assertion: “The Campaign for Fiscal Equity decision had no bearing on Spitzer’s decision in 2007 to create a formula for operating aid for education called foundation aid.” – *Quotation from Op-Ed by Cuomo Aide Paul Francis. THIS IS HISTORICAL FICTION*

FACT: “The Four Year Educational Investment Plan addresses the Governor’s commitment to provide a statewide solution to the school funding needs highlighted by the Campaign for Fiscal Equity Lawsuit.”

SOURCE: 2007 NYS Executive Budget Briefing Book, Director of Budget Paul Francis. Briefing Book goes on to explain that the “Four-Year Educational Investment Plan” includes “creation of a new Foundation Aid program.”

FACT: In 2007, the Republican New York State Senate Majority said regarding Foundation Aid that the “infusion of school aid dollars will both meet the mandate of the Court of Appeals decision in CFE v The State of New York, and will provide school districts with a fair, transparent and predictable aid program that properly reflects the needs of students and taxpayers across the entire state.”³

FACT: The Democratic Majority in the State Assembly agreed, asserting that “the Governor’s plan addresses the court-ordered requirements of the Campaign for Fiscal Equity lawsuit.”⁴

FACT: In 2007, the New York State Comptroller also found that through the school funding increases contained in the Executive Budget “Governor Spitzer has declared the Court of Appeals decision final.”⁵

FACT: The State Education Department and the NYS State Board of Regents is on the record regarding the purpose of the Foundation Aid formula as well: “The Foundation Aid formula, enacted in 2007, had several goals including adequate funding for a sound basic education in response to the Campaign for Fiscal Equity decision.”⁶

FACT: In 2010, when Attorney General Andrew Cuomo was running for Governor, he said, “The way we fund education through the property tax system, by definition is going to be unfair. And it is. The state is supposed to equalize or come close to equalizing with its funding. That’s the CFE lawsuit that the state is yet to fully fund.”

2. Cuomo Assertion: The Cuomo administration has categorically asserted that the Governor is not proposing to eliminate the Foundation Aid formula. **THIS IS AN ALTERNATIVE FACT (ALSO KNOWN AS A FALSEHOOD)**

FACT: In Albany politicians can say whatever they like in a press release, but legislative language does not lie. The exact language that clearly repeals the Foundation Aid formula is: “*For the 2018-19 school year and thereafter, districts shall be eligible for foundation aid equal to the amount of foundation aid such districts received in the 2017-18 school year.*” This language is accompanied by the deletion of ten pages of bill text. The State Assembly’s *Review and Analysis of the 2017-18 Executive Budget* puts it quite simply: “The Executive eliminates the Foundation Aid formula and the future obligation of \$4.3 billion.”

Among other components of the Foundation Aid formula, the deletions would eliminate the formula phase-in which determines how much funding is owed to school districts. The State Assembly’s analysis shows that, “*The Executive removes the majority of the Foundation Aid formula in law, completely eliminating the portion that determines how much districts should ultimately receive, and instead distributes this year’s increase (\$428 million) based on an alternate formula.*”

3 <https://www.nysenate.gov/newsroom/in-the-news/james-l-seward/senate-budget-increases-school-aid-514-million>

4 <http://assembly.state.ny.us/Reports/WAM/2007Yellow/> p. 1 of 2 in Education Programmatic Overview

5 <https://www.osc.state.ny.us/reports/budget/2007/execbudgetfinal030607.pdf> p. 119

6 <http://www.regents.nysed.gov/common/regents/files/documents/meetings/2012Meetings/November2012/1112sad1.pdf>

Understanding the Core of the Foundation Aid Formula

The Governor’s contention is that because they replaced the Foundation Aid formula with another operating aid formula they have not repealed it. However, this is fallacious for two reasons:

- **The Foundation Aid formula is more than a method for dividing an arbitrary amount of funding between school districts, it is a formula that, according to the State Education Department, “distributes funds to school districts based on the cost of providing an adequate education.”**⁷ In fact under New York State law the Foundation Formula is built around a “Foundation Amount” which, per the 2007 state law, is “*the cost of providing general education services.*”⁸ To determine how much Foundation Aid is owed to individual school districts the Foundation Amount is multiplied by a Pupil Need Index (based on student poverty, disability and English language learners) and a Regional Cost Index and then the Expected Local Contribution (based upon local income and property wealth) is subtracted. Every year the Foundation Amount, consistent with the court order in CFE, is increased to account for inflation based upon the Consumer Price Index.⁹
- The word Foundation within the Foundation Aid formula thus specifically refers not to a calculation of how to divide funds between schools, rather it is a calculation of how much the state must provide to schools in order to provide an “adequate” education.” The phrase “adequate education” has specific meaning within the context of education policy in the United States: it refers to a baseline level of education that is necessary for all students. New York State’s constitutional requirement to provide a “sound basic education” is an example of an adequacy standard and the CFE lawsuit was an adequacy lawsuit. The Governor’s proposal repeals and does not replace the calculations of what it costs to educate students and offers no calculation whatsoever of student need. Without this there is no Foundation Aid formula.
- **Under current state law the Foundation Aid formula is to be used every year. The Governor is repealing and not replacing the Foundation Aid formula. This would return us to the pre-CFE days when the state used political machinations and arbitrary formulas to distribute school aid without regard for student need.**

The Governor’s proposal repeals and does not replace the calculations of what it costs to educate students and offers no calculation whatsoever of student need. Without this there is no Foundation Aid formula.

As Michael Rebell, the lead attorney in the Campaign for Fiscal Equity lawsuit and the Executive Director of Columbia University’s Campaign for Educational Equity finds, the Governor’s Foundation Aid repeal proposal would “return the state to the ad hoc budget decision-making process that the Court of Appeals specifically held to be unconstitutional in its 2003 CFE opinion.”

The Court of Appeals described the school funding system as a “political process” that allocates funds to schools in a way that “does not bear a perceptible relation to the needs of” public school children. This is exactly the type of system Governor Cuomo’s repeal of Foundation Aid would return us to.

Despite these facts the Cuomo Administration contends, “Any suggestion that the foundation aid formula has or will be eliminated is a direct attempt to mislead the public and factually untrue.” This statement could most accurately be described as factually untrue and a direct attempt to mislead the public.

7 NYS Education Department State Aid to Schools Primer, 2016.

8 Ibid.

9 Ibid.

3. Cuomo Assertion: CFE only applies to New York City. **False**

NYS Constitution applies to the whole. While the plaintiffs in CFE were all from New York City, when the Court of Appeals interprets the state constitution, its ruling applies to the whole state. The Court specifically held three times in CFE that the obligation to provide the opportunity for a sound basic education applies to all children in New York State.

Article IX, Section 1 of the New York State Constitution says: “The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.”

The state’s highest court, the Court of Appeals, has interpreted that to mean that the State must “offer all children the opportunity of a sound basic education.”¹⁰ The Court of Appeals has further defined this constitutional standard as the “opportunity for a meaningful high school education, one which prepares [children] to function productively as civic participants”¹¹ and the court has said that New York’s public schools must be equipped to teach “the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury.”¹²

4. Cuomo Assertion: The State has fulfilled its CFE obligations. **False**

Facts: The Foundation Aid formula was how Governor Spitzer and the Legislature agreed to meet the State’s constitutional obligations and satisfy the court order in CFE.

The figure of \$1.93 billion, which is regularly cited by the Cuomo Administration, is referenced by the Court of Appeals in its 2006 ruling. This is the figure that Governor Pataki recommended for New York City in 2004 dollars. The Court of Appeals found that the methodology used to establish this number was “reasonable” but deferred to the Governor and Legislature to arrive at the final amount. The Court of Appeals order modified the prior order from the Appellate Division from earlier in 2006 to include the \$1.93 billion plus inflation within the range of reasonable solutions.

The Appellate Division order stated, “in enacting a budget for the fiscal year commencing April 1, 2006, the Governor and the Legislature, consider, as within the range of constitutionally required funding for the New York City School District, the proposed funding plan of at least \$4.7 billion in additional annual operating funds, and the Referees’ recommended annual expenditure of \$5.63 billion, or an amount in between, phased in over four years, and that they appropriate such amount, in order to remedy constitutional deprivations.”¹³ By modifying this order the Court of Appeals had the effect of modifying the range to between \$1.93 billion and \$5.63 billion plus inflation, but the Court gives discretion to the executive and legislative branches to enact a specific amount.

The \$1.93 billion figure was never enacted by any legislature. In 2007 Governor Spitzer and the Legislature enacted the Foundation Aid formula as the “statewide solution to the school funding needs highlighted by the Campaign for Fiscal Equity Lawsuit.” In so doing they utilized the same type of methodology, called a Successful Schools Model, which the 2006 Court of Appeals order had affirmed. In 2007, the Foundation Aid formula calculated to a \$5.5 billion statewide increase in Foundation Aid over four years. In accordance with the Court of Appeals order the formula incorporated an inflation factor.

“CFE was not a one-time ruling issued solely to remedy the inadequate funding levels the court had found in the New York public schools at the time of the trial,” as Michael Rebell, CFE plaintiffs co-counsel explains.¹⁴ The constitutional violations proved in CFE had been occurring for decades. They continue to occur as a result of

10 Campaign for Fiscal Equity v State of New York, 86 NY2d 307, 316 [1995] [CFE I]

11 100 NY2d at 908.

12 86 NY2d at 316

13 Campaign for Fiscal Equity, Inc. v. State, 29 A.D.3d 175 (2006) 814 N.Y.S.2d 1, 209 Ed. Law Rep. 340, 2006 N.Y. Slip Op. 02284

14 <http://www.nydailynews.com/opinion/state-failure-school-funding-article-1.2957728>

the State's ongoing failure to do what the Court of Appeals required: "align funding with need," based upon the "actual costs" of providing all students the opportunity for a sound basic education and ensure that every school has the resources necessary to meet this standard.

Due to the State's failure to properly use the Foundation Aid formula since 2009, schools in poor districts have seen class sizes spike, services for English language learners reduced, curriculum offerings curtailed, teachers positions eliminated, cutbacks in guidance counsellors and social workers, and reductions in tutoring for students who are not meeting state standards. These cuts in the quality of education have hit students in the poorest districts the hardest.

There is extensive evidence in our schools that hundreds of thousands of children are not receiving the opportunity for the education that is their constitutional right. This evidence has been publicly presented numerous times by parents, teachers, principals, school superintendents and many advocacy groups. The educational opportunities available to our children should be driving the debate over school funding, but Governor Cuomo has not once addressed the reality of what is going in our classrooms. Instead he loudly declares that school funding advocates only wish to "grow the education bureaucracy."

Governor Cuomo has never once asserted that every school district in the state is equipped to provide all its students with the opportunity for a "sound basic education." Rather than honestly examine the inadequate educational opportunities in many of our schools, his arguments against Foundation Aid have been that the state cannot afford to make the payment or that state spends too much.

As David Sciarra, the Executive Director of the national Education Law Center points out, "Governor Cuomo is following the playbook of Governors in Mississippi and Georgia, states where the existing funding formulas are, like New York, chronically and substantially underfunded. Rather than fully funding the Formula, the Governor wants to wipe it off the books, and with it the current \$4.3 billion shortfall in state foundation aid. By dumping the formula, the Governor is attempting to avoid accountability for meeting the needs of New York's school children, needs that the Governor, no matter how hard he tries, cannot pretend don't exist." ¹⁵

Governor Cuomo has not once addressed the reality of what is going in our classrooms. Instead he loudly declares that school funding advocates only wish to "grow the education bureaucracy."

The rulings in CFE require the state to provide the educational opportunities students need to be prepared to be productive adults.

As Michael Rebell, the plaintiffs co-counsel asserts, "Like other major pronouncements of constitutional rights, the opinions were definitive, enduring and highly significant legal proclamations that elucidated precisely the state's continuing constitutional obligations to all of its school children."

"The Court of Appeals in its 2006 opinion made clear that the governor and the Legislature, and not the court, had the responsibility to determine the actual cost level. What the court did at that time was to order the governor and the Legislature to overcome promptly an impasse they had reached in their attempts to comply with the court's orders," as Rebell explains. "Gov. Spitzer and the Legislature did overcome the impasse; in doing so, they adopted the Foundation Aid formula."

Due to a hold harmless provision that was inserted in the Foundation Aid formula a small portion of these funds are owed to wealthy school districts. While providing these funds to wealthy districts would be beneficial to the education of their students, particularly in light of the local property tax cap, we would not contend that the Foundation Aid owed to wealthy districts is a constitutional obligation. However, the amount owed to other school districts is consistent with the Court of Appeals order and as such is necessary to providing a sound basic education.

15 <http://www.edlawcenter.org/news/archives/new-york/governor-cuomo-dump-formula,-let-politics-drive-school-funding.html>

5. Cuomo Assertion: Governor Cuomo “has been able to increase education funding to historic levels — a \$6.1 billion, or 31%, increase over six years. His current budget proposes an additional \$1 billion in school funding.”¹⁶ **THIS IS AN ALTERNATIVE FACT (also known as false)**

FACT: In the last six years school aid under Governor Cuomo has increased from \$20.1 billion to \$24.2 billion, an increase of \$4.1 billion or 20.7%.

Table Comparing the Spitzer & Cuomo School Aid Increases

Governor	Eliot Spitzer	Andrew Cuomo
Years in Office	2	6
Education funding at start of admin.	\$17.5 Billion	\$20.1 Billion
Education Funding after Years of Service	\$21.1 Billion	\$24.2 Billion
Total Increase	\$3.6 Billion	\$4.1 Billion
Total Percent Increase	20.4%	20.7%
Avg. Annual Increase	\$1.8 Billion	\$691 Million
Avg. Annual Pct. Increase	10.2%	3.4%

DATA SOURCE: NYS Education Department; inflation calculation provided by Fiscal Policy Institute based upon NYS DOB composite CPI

How did the Governor come up with the 31% number to describe his increase? By being carefully selective about which numbers to include and which to exclude. The administration left out 2011 when Governor Cuomo forced through massive cuts in school aid. And they included their 2017 proposal which has yet to be enacted and which contains within it language that would allow the Governor to unilaterally make cuts to school aid, as well as other parts of the budget, if revenues do not meet projections.¹⁷ If that language is enacted we will not actually know how much school aid actually increases in 2017 until a year from now.

The most honest appraisal of the Cuomo record on school aid is to look at the six years in which he has actually enacted budgets. Doing so shows that school aid increased by \$4.1 billion or 20.7%.

6. Assertion: “Governor Cuomo put more funding in education than the last four governors.”
TECHNICALLY ACCURATE, BUT DISTORTS THE TRUTH

FACT: On an annual basis Spitzer’s increases were three times as large as those under Cuomo. Spitzer’s average annual increase was 10.2% which is three times as large as Cuomo’s average annual increase of 3.4%. On a year by year basis Spitzer increased education funding by an average of \$1.8 billion compared with only \$691 million under Cuomo.

¹⁶ <http://www.nydailynews.com/opinion/sham-debate-school-spending-article-1.2954819>

¹⁷ Language inserted throughout the Governor’s Appropriations Bills reads: “In the event that receipts, including but not limited to receipts from the federal government, are less than the amounts assumed in the 2017-2018 financial plan, as determined by the director of the budget, the amount available for payment under this appropriation may be reduced by the director of the budget in accordance with a written allocation plan promulgated by the director of the budget to offset that loss in receipts.” It further allows the Cuomo Administration to unilaterally “revise the written allocation plan subsequent to its filing.”

FACT: Factoring in inflation Governor Cuomo would have to propose a \$2.1 billion increase this year to be comparable to the increase enacted under Spitzer—instead he is proposing less than half of that.

When you adjust Governor Spitzer's \$1.8 billion average annual increase for inflation it comes to \$2.1 billion.¹⁸ To equal the real dollar educational impact of Governor Spitzer's increases, Governor Cuomo would need to increase school aid in 2017 by \$2.1 billion, yet he is only proposing an increase of \$961 million.¹⁹

7. Cuomo Assertion: During Governor Cuomo's budget presentation he said his proposed 2017 school aid increase is the result of an "inflation formula."

TRUE: Governor Cuomo's proposed school funding increase is tied to the rise in household income. By design it is intended only to address inflation. The inflationary increase according to Governor Cuomo is \$961 million.²⁰ There is no intention to improve the quality of schools, rather the purpose is to allow schools to tread water. As a result it locks inequities in place shortchanging the educational opportunities for students in poverty, immigrant students and black and brown students. By contrast the Foundation Aid formula would narrow the inequity gap and provide students the opportunity for an adequate education.

8. Cuomo Assertion: "There are two education systems in this state. Not public private. One for the rich and one for the poor and they are both public systems," Governor Cuomo in his 2017 State of the State

TRUE: According to *The Education Trust*, New York State has the second largest spending gap in the nation between rich and poor schools. This spending gap has grown to record setting levels under Governor Cuomo at \$9796 per pupil.²¹ A sustained 10% increase in funding, which the Foundation Aid would provide, is proven to result in increases in graduation rates, family income and adult poverty.

CONCLUSIONS

As American democracy has entered what many refer to as a Post-Fact Era polluted with Fake News and Alternative Facts, New Yorkers hold our state to a higher standard. In fact Governor Cuomo has given several speeches highlighting that New York is a beacon for progressive values in this Time of Trump.

When it comes to school funding, Foundation Aid and CFE there exists a systemic pattern of alternative facts, half-truths and falsehoods in the statements of Governor Cuomo and his Administration. The most immediate damage is to our children in high needs communities: black and brown children, immigrant children and children living in poverty. As a result of Governor Cuomo's policies, hundreds of thousands of these children continue to be denied the sound basic education that is their constitutional right.

We can have an honest disagreement about how to improve the education of poor children in New York State so that every child gets the quality education required by our state constitution, but without honesty this disagreement appears to the public as a public shouting match and usually the most powerful person wins. In order for honesty to prevail over dishonesty, it is incumbent on all of us in the public and in the media to check the honesty of the public statements of elected officials and to call out dishonesty for what it is. In 2017 we are now seeing a concerted focus on honesty in the public discourse regarding Donald Trump, we need the same in Albany.

18 Inflation calculations provided by Fiscal Policy Institute

19 <http://assembly.state.ny.us/Reports/WAM/2017yellow/files/2017yellowbook.pdf>

20 Ibid.

21 http://www.aqeny.org/wp-content/uploads/2016/02/No-appetite-to-educate_-stacking-the-deck-against-children-in-poverty-final-1.pdf

TIMELINE OF THE CAMPAIGN FOR FISCAL EQUITY, 1982-2017

1982	The New York Court of Appeals rejects a challenge to the constitutionality of the state's public school financing system in <i>Levittown v. Nyquist</i> .
1993	CFE files a lawsuit against the state of New York charging that it is not providing adequate funding for children to receive their constitutional right to a sound basic education.
1995	The Court of Appeals upholds CFE's right to pursue the challenge to the constitutionality of education financing.
1995-1999	CFE prepares for trial and develops proposals for funding and educational reform through a public engagement process. The statewide process involves collaboration with other education and community groups, issuing reports, organizing conferences and community forums, and media outreach.
1999	<i>CFE v. State of New York</i> is tried for seven months.
2000	The Alliance for Quality Education (AQE), a state-wide coalition, is created to coordinate the efforts of organizations representing parents, children's advocates, schools, teachers, community activists and others.
2001	The trial court finds that the current school funding system denies students in New York City the opportunity for a sound basic education.
2002	The Appellate Division overturns the trial court's decision, saying the state is only responsible for providing an 8th grade education, a position advanced by Governor George Pataki.
2003	The Court of Appeals affirms the lower court's ruling, saying that the state must provide a meaningful high school education. The court orders the state to reform its education finance system by July 30, 2004.
2004-2005	The state fails to comply with the court order. The trial court appoints a Panel of Judicial Referees who conduct hearings to make recommendations to the court on what the State must do to comply with the court order. The panel recommends, and the judge orders, that the State increase school operating aid to New York City by \$5.63 billion within four years and a total of \$9.2 billion in capital spending over five years. Governor Pataki appeals the order.
2006	The Appellate Division orders the State of New York to enact a solution to CFE that increases operating funding for New York City schools by \$4.7 to \$5.63 billion to be phased in over four years. The order reads, "in enacting a budget for the fiscal year commencing April 1, 2006, the Governor and the Legislature, consider, as within the range of constitutionally required funding for the New York City School District, the proposed funding plan of at least \$ 4.7 billion in additional annual operating funds, and the Referees' recommended annual expenditure of \$ 5.63 billion, or an amount in between, phased in over four years, and that they appropriate such amount, in order to remedy constitutional deprivations."

Timeline of CFE, continued

2006	The Court of Appeals finds that the Governor Pataki’s recommendation of a \$1.93 billion increase for New York City was arrived at by a reasonable methodology. The court orders that this amount, which was a 2004 number, must be adjusted for inflation. It modifies the Appellate Division order to include this number as part of the range for New York City. As such the new range for New York City was set at \$1.93 to \$5.63 billion plus inflation, but the Court gives discretion to the executive and legislative branches to enact a specific amount.
2007	The Governor and Legislature pass the New York State Education Budget and Reform Act enacting the Foundation Aid formula, as the Governor Spitzer asserted “to provide a statewide solution to the school-funding needs highlighted by the Campaign for Fiscal Equity lawsuit.”
2009	Amidst a state budget crisis, the legislature freezes new CFE funding for two years and stretches out the phase-in from four to seven years.
2010	Governor Patterson cut \$1.4 billion in school aid statewide and established the Gap Elimination Adjustment
2011	Governor Cuomo cut \$1.3 billion in school aid statewide thus expanding the Gap Elimination Adjustment. Governor Cuomo also added a factor in school funding formulas that would set annual school aid increases at an “inflationary” level based upon personal income growth
2012-2016	Small increases in Foundation Aid do not keep pace with Consumer Price Index. Instead of the improvements needed to provide all students access to “sound basic education” educational opportunities move backwards or tread water.
2017	Governor Cuomo proposes only \$428 million in Foundation Aid, 10% of what is owed and proposes to completely repeal the Foundation Aid formula.

Timeline content primarily sourced from [“Education Finance Equity For New York City Schools: The Long Haul,”](#) by John Casey and Apurva Mehrotra of the Center for Nonprofit Strategy and Management in the School of Public Affairs, Baruch College, January 2011; updated by the Alliance for Quality Education, January 2017.

THE REAL ALBANY SHAM: THE BUDGET

Op-ed by Andrew Cuomo, New York Governor's Office, February 1, 2011

This is an editorial circulated by the governor's office on the night before he announces massive state budget cuts.

As attorney General, I uncovered schemes by lenders to exploit students, plots by insurance companies to defraud patients and attempts by Wall Street to deceive homebuyers.

In the past 30 days, as I have prepared the state's budget, I was shocked to learn that the state's budget process is a sham that mirrors the deceptive practices I fought to change in the private sector.

The budget process is a metaphor of Albany dysfunction: special interests dominate the process with little transparency; programs continue with no accountability and the taxpayers get the exorbitant bills. The greatest challenge -- and opportunity -- in this year's difficult budget is to expose this chronic problem and reform it once and for all.

Here's how it works. This year it is widely accepted and often reported that the state has a \$10 billion "deficit" (I myself have often repeated this number). What does that mean? It is the difference between state revenues and the state's growth in spending in next year's budget.

The next question is: who is responsible for setting the growth in the state's budget? The answer is shockingly, no one. It is dictated by hundreds of rates and formulas that are marbled throughout New York State laws that govern different programs -- formulas that have been built into the law over decades, without regard to fiscal realities, performance or accountability.

The formulas operate year after year, generating liabilities that when totaled define the state's budget growth. The one thing the rates do well is increase year after year. These formulas (predominantly in education and Medicaid funding) are often inserted into the law by pressure from well-connected special interests and lobbyists.

When a governor takes office, in many ways the die has already been cast. Unbelievably, this year these rates and formulas in total call for a 13 percent increase in Medicaid and a 13 percent increase in education funding next year.

A 13 percent increase, in this economic climate, is wholly unrealistic.

Wouldn't you like your salary or savings account to be based on a formula that gave you a 13 percent increase even though inflation was under 2 percent? The world doesn't work that way -- except in Albany.

Besides dictating numbers, this process frames the dialogue around the budget and biases the political discourse.

First, the rate of increase is rarely discussed. The 13 percent increase this year is close to a state secret. I spoke with numerous experienced Albany hands who had no idea the programs increased 13 percent.

In Albany speak, "deficit" means the amount needed to fund the 13 percent increase (as opposed to a normal rate of increase). For example, if one assumed these programs would increase at the rate of inflation (instead of 13 percent) the \$10 billion deficit is really a \$1 billion deficit.

A "cut" is then defined as anything less than a 13 percent increase. By forcing the debate to start with such a large hike, the final budget ends up spending much more than the year before -- even after the Governor attempts "cuts."

For example, what is called a 7 percent cut in spending is actually a 6 percent increase over the prior year. The expression used to explain this budget process is that the rates are in "permanent law," and thus, cannot be changed.

"Permanent law" is a term to suggest differentiation from the state's annual budget bills which are "temporary" as they only exist for one year.

This “permanent law” is really the way the “permanent government” of lobbyists, special interests and political friends manipulates the entire system and misleads the public in the process.

This is the system that has brought New York to the brink, and it is why we are the highest “spending-and-taxing” state in the nation with programs that fail to perform for the people.

This all must end.

We need fundamental reform in the budget system that allows us to recalibrate spending this year to a sustainable level and replace “the special interest protection program” of automatic, unrealistic increases.

There is no such thing as “permanent” laws and they must all be reviewed and replaced or modified when necessary.

The state budget should increase based on objective, fair criteria such as the rate of inflation, enrollment, the Consumer Price Index (CPI) or personal income growth. Programs should be reviewed for effectiveness and terminated if they are not working well.

Reimbursement rates should be negotiated to get the best bargain. Performance should be measured. Albany must give up its insistence on pleasing the special interests rather than serving the people.

This is the real budget battle that I will wage this year. We must balance this year’s budget but we must also reform the process so that the cycle finally stops.

This year’s budget is not merely about the numbers. It’s about our values and our future.

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METHODOLOGY

The methodology in conducting this analysis was to draw from the electronic databases published by the State Education Department to identify the total school aid for each year in question. In so doing we used the numbers from the DBSAB1 file as those are the most accurate. We included all forms of school aid including building aid. These numbers were the basis for determining the increases under two years of Spitzer and six years of Cuomo and for determining both the average annual increase and the total and average annual percentage increase. The Fiscal Policy Institute calculated the real dollar value of the Spitzer increases in 2017 dollars. To do so they utilized the composite CPI for New York State created by the New York State Division of Budget.