



Billions Behind

New York State Continues to Violate Students' Constitutional Rights





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Key Terms

Campaign for Fiscal Equity (CFE): The CFE was a lawsuit brought by parents against the State of New York claiming that children were not being provided an opportunity to an adequate education. In 2006, the NYS Court of Appeals ruled in CFE's favor and found that New York State is violating students constitutional right to a "sound and basic education" by leaving schools without the funding necessary.

Foundation Aid: In 2007, the Governor and legislature enacted the Foundation Aid funding formula in order to comply with the Court of Appeals CFE ruling. In order to fulfill CFE, the state committed \$5.5 billion in Foundation Aid, to be phased in by 2011. Funding was to be distributed based on student need factors including poverty, English language learner status, number of students with disabilities as well as the local level of poverty or wealth, based on income or property values. The formula and the implementation of Foundation Aid has been substantially delayed. Today, the amount of Foundation Aid owed to schools is \$4.9 billion according to the State Education Department data.

Gap Elimination Adjustment (GEA): In 2010 and 2011 Governors Patterson and Cuomo cut \$2.7 billion from state aid to schools with the commitment it would be reinstated at a later date. These cuts were much larger to poor districts than to wealthy ones. To this day \$1.1 billion is still owed to districts across the state. Foundation Aid will do more to address rural, urban and suburban high needs districts, but GEA must be reinstated as well.



Competitive grants: In a public education context, this means funds that are allocated by the state government based on a competition between school districts, not based on the students' "right" to the funding.

Expense Based Aids: These are aid categories where the state reimburses school districts for expenses incurred in the prior school year. Expense based aids include transportation, BOCES, and building aids among others.

Need Resource Categories: The State Education Department categorizes school districts based upon the student need and community wealth. There are four categories of high need districts: New York City, Big 4 Cities (Yonkers, Syracuse, Rochester and Buffalo), High Need Small Cities and Suburban. There are Average Need districts and there are low-need districts (in this report referred to as wealthy to avoid confusion).

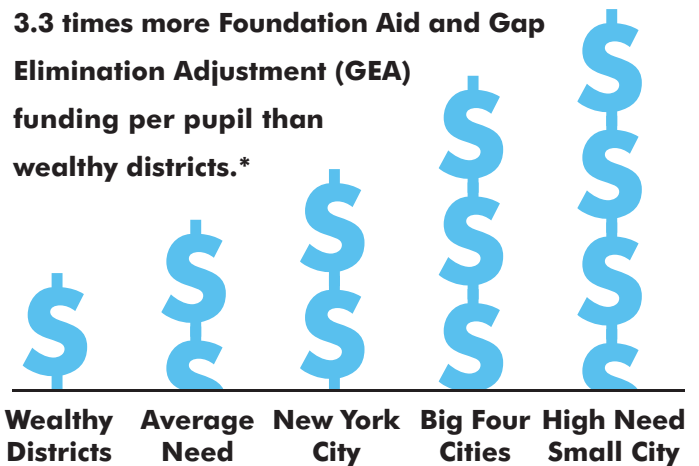
Findings & Recommendations

Findings

1. New York State owes its public schools \$5.9 billion in Foundation Aid and Gap Elimination Adjustment funding. Systemic underfunding is leaving a generation of students in high need schools without access to the “sound basic education” which is their constitutional right.
2. The amount of Foundation Aid and Gap Elimination Adjustment (GEA) funding owed per pupil is 2.3 times greater in high need districts than in wealthy districts. For high need small cities and suburbs, the amount owed is 3.3 times that of wealthy districts. For the “Big Four” cities (Buffalo, Rochester, Syracuse and Yonkers) the amount is 2.8 times larger and it is double for New York City and high need rural districts.
3. At this point, providing Foundation Aid will have a much greater impact on high need schools than restoring the GEA. This is true for all categories of high need districts: large and small cities, suburbs, and rural communities. High need districts are owed 78% of the total amount of Foundation Aid promised to schools, but only 36% of the GEA.
4. Sixty-nine percent (69%) of all New York school districts have less classroom operating aid than they did in 2008.
5. Schools in every geographic region of the state are owed substantial amounts of Foundation Aid and GEA.

The Funding Gap

High-need small cities and suburbs are owed 3.3 times more Foundation Aid and Gap Elimination Adjustment (GEA) funding per pupil than wealthy districts.*



* Projected 2014-15

Recommendations

1. New York State should allocate the \$5.9 billion owed in Foundation Aid and GEA over the next four years, in order to improve the quality of public education and comply with every students’ constitutional right to a sound basic education.
2. State education funding must do more to prioritize high need school districts in order to ensure all students have access to a high quality education. The foundation formula remains the best vehicle for achieving this goal, but should be adjusted in order to further prioritize the students and school districts with the highest need.

The Public Education Context

The past few years have been incredibly difficult for our public schools. Devastating cuts and inadequate state budgets have taken vital programs and services away from our students. These cuts have come in spite of the 2007 Campaign for Fiscal Equity decision in the state's highest court, which found that all students have the constitutional right to a sound and basic education and that New York State is not providing the funding necessary to fulfill this obligation. The state's failure to meet the needs of every child means students are in schools that have cut programs, teachers and student services that are needed to prepare every child for college, careers and life.

Prior to the 2014 state budget, there were a variety of school funding recommendations from multiple education organizations regarding the amount of school aid necessary to maintain current levels of services, prevent a sixth consecutive year of classroom cuts and improve the quality of education. The NYS Board of Regents, in its State Aid Proposal, recommended a \$1.3 billion school aid increase.ⁱ The Educational Conference Board, comprised of the New York State United Teachers, the NYS Council of School Superintendents, the NYS School Boards Association, the NYS Association of School Business Officials, the Conference of the Big Five School Districts, and the NYS Parent Teacher Association, published a report identifying the need for \$1.5 billion in new education funding, just to prevent cuts and maintain existing programming and services.ⁱⁱ

The NYS Association of School Business Officials published their own report identifying \$2.6 billion in new school aid as the amount needed to prevent cuts and get back on the road to improvement, in keeping with the Campaign for Fiscal Equity.ⁱⁱⁱ The Alliance for Quality Education published a roadmap for college and career readiness that reported

\$1.9 billion was needed to stop cuts and start making improvements. In early January, 83 members of the NYS Assembly and Senate sent a letter to the Governor asking for the same amount: \$1.9 billion in new school aid in order to "overcome the cuts of prior years and prepare our students for the global economy."^{iv}

"We've cut writing classes, science, athletics, arts, everywhere. We have a rich history in the arts and it's extremely difficult pitting those things against other programming. The challenge is cutting away at these things without eliminating the heart of (public education)."
Laurence Spring, Schenectady Superintendent

The final amount of school aid in the 2014-15 budget, \$1.1 billion, fell far short of the amount needed to pay for the Gap Elimination Adjustment (GEA) and even further from fulfilling the Court of Appeals ruling in the Campaign for Fiscal Equity lawsuit (CFE). In CFE the court found that "all the children of New York are constitutionally entitled to the opportunity of a high school education - up to the 12th grade - that imparts the skills necessary to sustain competitive employment within the market of high school graduates, acquire higher education, and serve capably on a jury and vote."^v

Despite the CFE mandate, since Governor Cuomo took office in 2011, schools have had to make painful classroom cuts every single year. These cuts have left schools starved of the resources necessary to provide "a sound basic education." Following \$1.4 billion in cuts by Governor Patterson in 2010, Governor Cuomo enacted a \$1.3 billion school cut. These two years of cuts comprise the Gap Elimination Adjustment (GEA).

Table 1: Percentage of School Districts Affected By the Following Issues Over the Past Three Years

Instruction	2013-14	2012-13	2011-12	At least once in the past three years
Increased class size	42%	45%	39%	61%
Reduced non-mandated art classes	15%	14%	18%	33%
Reduced non-mandated music classes	14%	14%	16%	33%
Reduced advanced or honors classes	12%	14%	12%	22%
Reduced summer school	26%	25%	25%	38%
Reduced extra help for students during the regular school day or year	20%	24%	20%	32%
Reduced student enrollment in career and technical education programs	13%	13%	13%	24%
Reduced availability of second language instruction at the middle or high school level	19%	15%	14%	31%
Reduced/deferred purchase of instructional technology	27%	31%	26%	40%
Reduced/deferred purchase of textbooks	16%	16%	12%	21%
Reduced/deferred purchase of library materials	18%	18%	16%	23%
Eliminated prekindergarden	0%	1%	0%	1%
Reduced prekindergarden	3%	3%	3%	6%
Eliminated kindergarden	0%	0%	0%	0%
Moved from full-day to half-day kindergarden	0%	0%	1%	1%
Other reduction in kindergarden	2%	1%	1%	2%
Combined two grade levels in a single classroom	3%	3%	3%	6%
Other reduction in instruction	21%	19%	20%	30%

From NYS Council of School Superintendents' Annual Survey

The years following 2011 included school aid increases which were inadequate to prevent further program and staff cuts. In 2012, there was an \$805 million increase in school aid and a \$962 million increase in 2013. In both years, school districts had to make further cuts because the amount of school aid they received did not meet rising costs or fully address past deficits. In 2014, the Governor's proposed budget included \$603 million in new school aid. The legislature added an additional \$500 million to that amount, for a total increase of \$1.1 billion. For some school districts this translated into still more cuts. For others it meant maintaining the previous year's

level of services, and for a few it allowed for minor restorations of programs and staffing.

The NYS Council of School Superintendents' annual survey - looking at the impact of state budgets on districts- illustrates that the cuts school districts have had to make in recent years have been detrimental to student learning. From 2011-2013, two thirds of school districts increased class sizes, one third reduced access to music and art, more than a third reduced summer school and a third reduced foreign language classes and extra help for at risk students (Table 1).^{vi}

The Campaign for Fiscal Equity

The Campaign for Fiscal Equity (CFE) lawsuit was brought against the state of New York by New York City parents claiming the state underfunded the city's public schools and therefore denied its students their constitutional right to a "sound basic education." The case made it through all levels of the judicial system. In this landmark case, *CFE v. State of New York*, the court made explicit the state's constitutional obligation to provide essential resources to all public school children.^{vii} The Court of Appeals delivered the final ruling ordering the state to ensure that New York City schools received the resources needed to fulfill the state's constitutional obligation and leaving the state with the option to create a statewide solution for all school districts.

"All the programs we had to reduce in the past are still reduced today."
Kathy Davis, Holland Patent Superintendent

In 2007, the governor and the legislature settled the case on a statewide basis by committing to provide \$5.5 billion in new Foundation Aid, a form of classroom operating aid, over a four year phase-in, in addition to other expense based aids. The new classroom operating aid was to be distributed through a needs based formula called Foundation Aid.

The Foundation Aid formula replaced more than thirty existing categorical aids, in order to create an equalizing and transparent funding stream. The Foundation Aid takes into consideration the level of poverty in a district, the number of students that are not proficient in English, the number of students with disabilities, the regional cost, and the income and property wealth in a district. The four-year phase-in was essential to providing enough resources to outpace inflationary costs and fund improvements.

The New York Funding Story

Tracking school aid and the Empire State funding opportunity gap from 2007-2015

2007-08: \$1.767 billion increase

With the Education Budget and Reform Act of 2007, the state provided \$1.1 billion in new classroom operating aid through the Foundation Aid formula to all state school districts. The Foundation Aid was tied to the Contract for Excellence a program to guarantee that schools invested the funding in proven effective programs.

2008-09: \$1.716 billion increase

The state provided \$1.2 billion in new Foundation Aid. Programs funded through the Contract for Excellence continued and were expanded. The opportunity gap began to shrink.

2009-10: \$0 increase

Flat funding translated into classroom cuts for school districts across the state.

2010-11: \$1.4 billion cut

The state under Governor Paterson, made massive cuts. School districts in every part of the state made cuts to program and staff.

2011-12: \$1.3 billion cut

The state, under Governor Cuomo, made enormous cuts, bringing the two-year cuts in state aid to \$2.7 billion. School districts continued to make program cuts.

2012-13: \$805 million increase

A modest state aid increase was provided. This increase included only \$400 million in GEA and \$112 million in Foundation Aid (with the rest being expense-based aids and competitive grants). This school aid increase did not keep up with rising costs.

2013-14: \$944 million increase

Another modest state aid increase was provided, of which \$517 was in GEA and \$172 million in Foundation Aid. School districts across the state were forced to make more programmatic cuts.

2014-15: \$1.1 billion increase

The Increase was the largest since Governor Cuomo took office, but was much smaller than the increases in the 2007-08 and 2008-09 budgets. Many districts were forced to make yet more classroom cuts, others were able to prevent cuts and a few were able to restore some programs that had previously been cut. There was \$250 million in Foundation Aid and \$602 million in GEA.

The 2014-15 Enacted Budget

Governor Cuomo proposed \$603 million in new school aid in the 2014-15 budget, which included \$323 million in GEA restoration and the rest was other categorical and expense based aids and grants. The governor's budget proposal did not include any new Foundation Aid. Through the negotiation process, the legislature added \$500 million to the governor's proposal to bring the total amount of new school aid to \$1.12 billion in the 2014 enacted budget. The enacted school aid included \$602 million in GEA Restoration and \$250.6 million in new Foundation Aid.



"It's the same old thing. The whole budget cycle has been extremely regressive. We have to keep cutting, while the legislature and the governor puts a positive spin on something that's negative. We have had to cut programs and supplies. \$850,000 has been reallocated to charter schools. We have lost afterschool and summer programs. We are extremely high needs with extremely high distress and we have to do more with less. If the governor and the legislature want to say that is a good thing, I strongly disagree."
Ken Eastwood, Middletown Superintendent

Out of all school districts, 69% have less classroom operating aid than they did in 2008.

According to the New York State Education Department, school districts are owed funding in two ways: \$1 billion in GEA and \$4.9 billion in foundation aid (which was due to

school districts by 2011).^{viii} High need districts are owed \$3.8 billion in Foundation Aid which represents 78% of the total unpaid Foundation Aid. They are also owed \$376 million in GEA.

When looking at the per pupil amounts (combined Foundation Aid and GEA):

High need districts are owed 2.3 times as much Foundation Aid and GEA per-pupil as the wealthiest school districts.

- High need districts are owed 2.3 times as much as wealthy districts.
- High need small cities and suburbs are owed almost \$4,000 per pupil in Foundation Aid and GEA, this is 3.3 times as much as the wealthy school districts are owed (Figure 1).
- The Big 4 (Yonkers, Buffalo, Syracuse, Rochester) are owed 2.8 times as much as the wealthy school districts.
- New York City and high need rural school districts are owed twice as much as the wealthy school districts.

The 2014-15 Enacted Budget

Figure 1: Foundation Aid and GEA Owed Per Pupil 2014-15

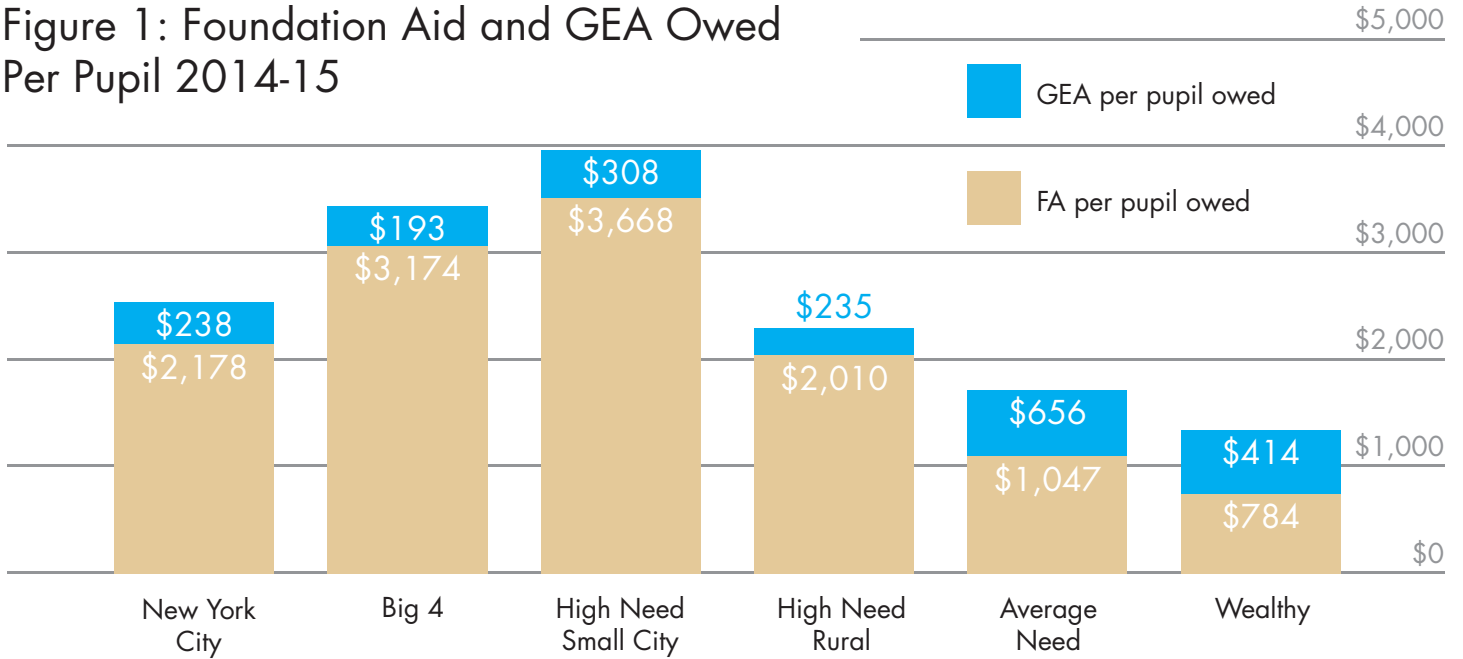
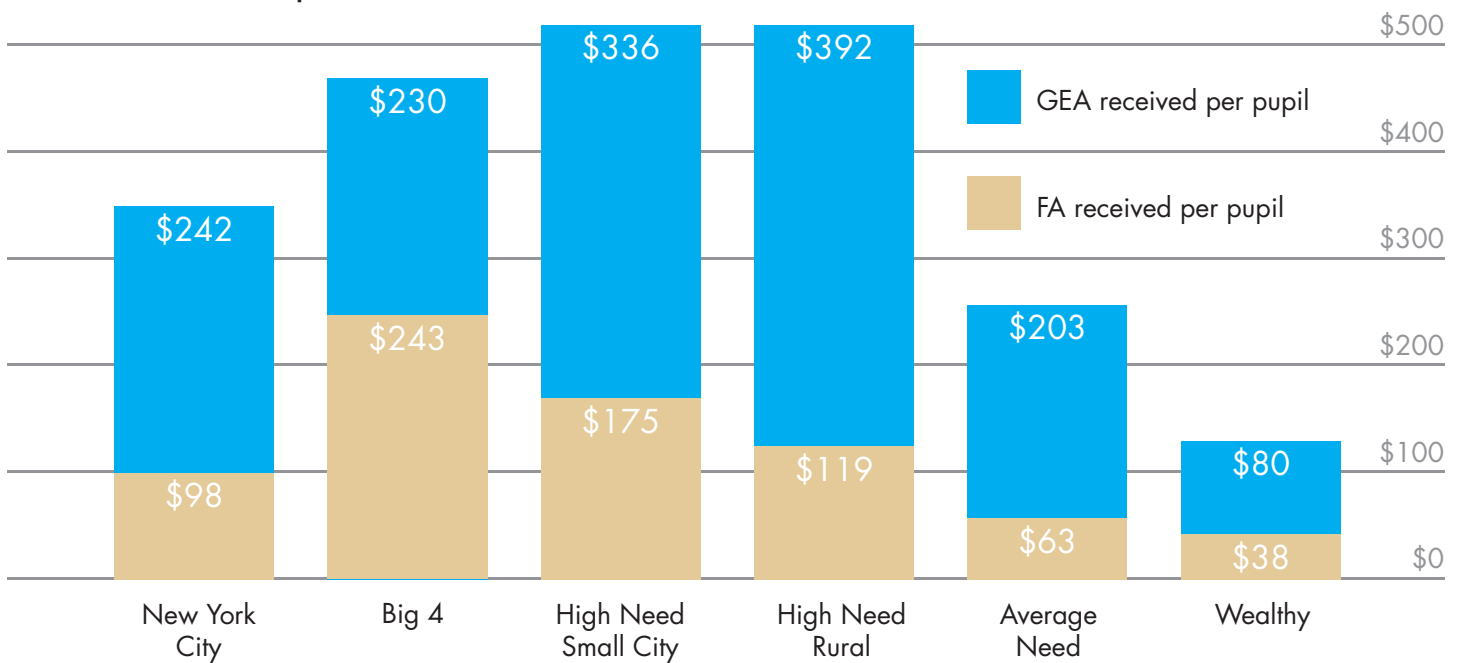


Figure 2: Amount of Aid Actually Received Per Pupil in 2014



Foundation Aid is More Beneficial to High Need Schools

After the 2014 Enacted Budget, schools are still owed \$4.9 billion in Foundation Aid and \$1 billion in GEA.

The money added to this year’s budget made a difference, but was not adequate. For example, based on the governor’s proposed budget, the Schenectady City School District would have had to make \$10 million in cuts, resulting in increased class sizes, and cuts to music, electives, guidance counselors and even kindergarten.^{ix} After the legislature’s additions to the budget, they were able to save kindergarten, but had to make other cuts.

While the overwhelming majority of Foundation Aid is owed to high need schools, they are owed a much smaller portion of the GEA. High need school districts – which include New York City, the Big 4 (Yonkers, Buffalo, Rochester and Syracuse), high need small cities and suburbs, and high need rural communities - are owed 78% of the unpaid Foundation Aid. By contrast they are only owed 36% of the remaining GEA. Both Foundation Aid and GEA should be fully funded by the state, but Foundation Aid funding will do much more to prioritize high need schools.

“Our employees have taken pay freezes in the past to assist us in keeping quality programs for children. We moved more services to BOCES, and consolidated. We’re logging our properties and selling our wood [to help meet expenses].”
Kathy Davis, Superintendent Holland Patent

The table below shows the total Foundation Aid and the GEA that is still owed to each category of school district.

Schools in All Geographic Regions of the State are Owed Significant Amounts of State Aid

The state owes significant amounts of both Foundation Aid and GEA to schools in all geographic regions of the state. The table below provides a regional breakdown on how much Foundation Aid and GEA funding the state owes to schools in each region. A more detailed breakdown by county or school district is available upon request.

Region	Foundation Aid Increase Owed	Share of Total Amount Owed	2014-15	
			Gap Elimination Adjustment	Share of Total Amount Owed
New York City	\$2,279,577,648	47%	\$249,354,648	24%
Big 4	\$383,829,481	8%	\$23,323,019	2%
High Need Small Cities and Suburbs	\$812,682,041	17%	\$68,249,293	7%
High Need Rural	\$298,795,288	6%	\$34,920,713	3%
Average Need	\$802,737,109	16%	\$502,982,404	49%
Wealthy	\$297,904,271	6%	\$157,307,748	15%
Total	\$4,875,525,838	100%	\$1,036,137,825	100%

From New York State Education Department published Preliminary Estimates 2013-14 and 2014-15 State Aids

Time for Action

The numbers tell the story of cuts and insufficient restorations. The cuts to school aid that were made in 2010 and 2011 were deep and resulted in major cuts in schools across the board. The inadequate increases in subsequent budgets combined with rising costs, and the property tax cap (which limits the ability of school districts to raise local revenue) forced schools to make further cuts to vital programs and staff.

The Campaign for Fiscal Equity has been abandoned by the state. The Foundation Aid formula has not been adequately funded since 2008. Massive cuts made in 2010 and 2011 wiped out any progress made on CFE funding. CFE was designed to secure significant improvements in the quality of education in order to ensure every student receives the “sound, basic education” that is his or her constitutional right. Instead of investing in improvement, most schools continue to make cuts and struggle to hold on to what they have.

After two years the state abandoned their promise to our children and stopped fulfilling their constitutional mandate to provide a “sound, basic education.”

Currently, the state is \$5.9 billion behind the amount that was supposed to be fully phased in by 2011 - combining Foundation Aid and GEA. In 2007, the state recognized that schools had been so severely underfunded, that it needed to increase Foundation Aid by an average of \$1.375 billion each year for four years to comply with the state constitution. After two years the state abandoned their promise to our children and stopped fulfilling their constitutional mandate to provide a “sound, basic education.”

Regional Distribution of CFE Funding Owed to New York’s Schools

Region	Foundation Aid Owed	GEA Owed	Total
Southern Tier	\$136,436,152.00	\$44,743,375.00	\$181,179,527.00
Western NY	\$344,186,553.00	\$93,254,235.00	\$437,440,788.00
Central	\$204,781,297.00	\$59,187,204.00	\$263,968,501.00
Capital Region	\$201,378,697.00	\$78,793,172.00	\$280,171,869.00
North Country	\$84,616,519.00	\$23,010,117.00	\$107,626,636.00
Mid-Hudson Valley	\$246,237,390.00	\$70,524,013.00	\$316,761,403.00
Lower Hudson Valley	\$252,110,836.00	\$72,378,123.00	\$324,488,959.00
Mohawk Valley	\$103,945,175.00	\$29,110,632.00	\$133,055,807.00
Finger Lakes	\$332,485,884.00	\$95,755,552.00	\$428,241,436.00
Long Island	\$698,670,545.00	\$218,462,269.00	\$917,132,814.00
New York	\$2,279,577,648.00	\$249,354,648.00	\$2,528,932,296.00
Statewide Total	\$4,884,426,696.00	\$1,034,573,340.00	\$5,919,000,036.00

The Foundation Aid formula, although not perfect, is the most equitable tool New York State has to administer school finance laws. It was created in 2007, replacing 30 different funding formulas that were often manipulated for political reasons. The Foundation Aid formula was created to prioritize high need schools and students. It does this by taking into account the number of students in poverty, the number of students with limited proficiency in English, the number of students with disabilities, and a school district's ability to raise local revenue based on income and property wealth of its residents.



Another generation of students is graduating without having had access to the resources the state committed to provide in order to fulfill its constitutional obligation.

It's time that the state renews its commitment to the Campaign for Fiscal Equity. Another generation of students is graduating without having had access to the resources the state committed to providing in order to

fulfill its constitutional obligation. Now classroom resources are diminishing with each successive class. The bar has been raised in New York State with regards to higher standards and greater demands on our schools and students, and yet they are not being provided the tools necessary to meet them. It is the state's constitutional obligation to educate every student.

The state is not providing the necessary resources for schools to prepare every student for college, careers and life. New York's children can't wait!

Methodology

The data used for this report come from the 2014-15 State Aid Projections published by the NYS Education Department as well as their State Aid Projections from prior years.

To calculate the Foundation Aid increase amount owed to school districts: We first calculated the amount of Foundation Aid increases received by each school district since 2007-08.

To do this, we subtracted the base Foundation Aid amount (2006-07) from the current amount of Foundation Aid. We then calculated how much Foundation Aid each district is due. To do this, first we subtracted the 2006-07 base amount from the Foundation Aid amount Due Before Phase In (the total amount of Foundation Aid that each school district was scheduled to receive). From this amount we subtracted the Foundation Aid increase that has been received in order to arrive at the amount that school districts are still due.

For districts who have received more Foundation Aid than is due to them according to the NYS Education Department we counted the amount due as \$0.

The amount of GEA due is reflected in the 2014-15 State Aid Projections published by the NYS Education Department.

To calculate the per pupil amount for both Foundation Aid owed and GEA owed, we divided each number by the enrollment for each school district.

We used the Need Resource Capacity categories that the NYS Education Department uses, published in the 2014-15 State Aid Projections (1= NYC, 2= Big 4, 3= High Need Urban/Suburban, 4=High Need Rural, 5=Average Need, 6= Low Need).

For the regional data we used the US Department of Labor Market Regions except that the Hudson Valley was divided into Mid-Hudson (Dutchess, Ulster, Orange and Sullivan Counties) and Lower Hudson (Westchester, Putnam and Rockland).

- i NYS Board of Regents 2014-15 State Aid Proposal
<http://www.p12.nysed.gov/stateaidworkgroup/2014-15RSAP/RSAP1415final.pdf>
- ii Educational Conference Board, (2014) Financing Public in New York State: Restoring a Function State Aid System:
http://www.nycoss.org/img/news/advocacy_6fxfk01y6m.pdf
- iii New York State Association of School Business Officials, (2014). 2014 NYS School District Factbook
<file:///C:/Users/Marina/Downloads/NYS%20School%20District%20Factbook%202014%20-%20Web.pdf>
- iv <http://www.aqeny.org/wp-content/uploads/2014/01/Cuomo-CFE-Funding-Support-Letter-Final-1.pdf>
- v 2003 CFE decision by the Court of Appeals, Judge Smith Concurring Opinion.
- vi New York State Council of School Superintendents, (2014). Not Out of the Woods: A Survey on Fiscal Matters,
http://www.nycoss.org/img/news/news_yfhffqj6y.pdf
- vii Campaign for Fiscal Equity, A Project of the Education Law Center
<http://www.edlawcenter.org/initiatives/campaign-for-fiscal-equity.html>
- viii New York State Education Department published Preliminary Estimates 2013-14 and 2014-15 State Aids
- ix http://www.schenectady.k12.ny.us/2014-2015_Budget/Budget_Hearing_Presentation_050714.pdf
- x New York State Education Department published Preliminary Estimates 2013-14 and 2014-15 State Aids

About Us

Alliance for Quality Education

AQE is a coalition mobilizing communities across the state to keep New York true to its promise of ensuring a high quality public education to all students regardless of zip code. Combining its legislative and policy expertise with grassroots organizing, AQE advances proven-to-work strategies that lead to student success and echoes a powerful public demand for a high quality education for all of New York's students.



The Public Policy and Education Fund of New York

PPEF was founded in 1986 to address critical social, economic, racial and environmental issues facing low and moderate income New York State residents. Its areas of work have included health care, education, after-school programs, voter participation, economic development and consumer issues. PPEF uses many tools in its work, including grassroots organizing, research and policy development, public education on a wide range of policy issues, and community outreach.



Opportunity Action

OA believes the American dream begins with every child having an opportunity to learn - from Pre-K to college - regardless of their zip code. Its mission is to ensure this through an expanding base of voters, policymakers and advocates who work to enact and adopt evidence-based solutions.



