

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

NEW YORKERS FOR STUDENTS' EDUCATIONAL RIGHTS  
("NYSER"), by its President, JAY WORONA, RUBNELIA  
AGOSTINO, MIRIAM ARISTY-FARER, KATHRYN  
BARNETT, AVA CAPOTE, MILAGROS ARCIA. G.  
CHANGLERTH, MONA DAVIDS, JANET DURAN, ROLANDO  
GARITA, SARA HARRINGTON, SONJA JONES, NICOLE  
IORIO, HEIDI MOUILLESSEAU-KUNZMAN, GRETCHEN  
MULLINS-KIM, ANNETTE RENAUD, ELLEN  
TRACHTENBERG, HEIDI TESKA-PRINCE, ANDY WILLARD,  
NATASHA CAPERS, JACQUELINE COLSON, NICOLE JOB,  
CHRIS OWENS, SAM PRIOZZOLO, PATRICIA PADILLA,  
LYNN SANCHEZ, and ROBERT JACKSON,

Plaintiffs,

-and-

THE CITY OF YONKERS,

Intervenor-Plaintiff,

vs.

THE STATE OF NEW YORK, ANDREW M. CUOMO, as  
Governor of the State of New York, NEW YORK STATE BOARD  
OF REGENTS, and JOHN B. KING, Jr. as President of the  
University of the State of New York, and Commissioner of  
Education,

Defendants

AFFIDAVIT IN  
SUPPORT OF  
MOTION FOR  
PARTIAL  
SUMMARY  
JUDGMENT

Consolidated Index No.  
100274/2013 (formerly  
650450/2014)



4. Since the Court of Appeals issued its *CFE II* and *CFE III* decisions in 2003 and 2006, the State not provided school districts a compilation of all requirements affecting educational programs and operations that are contained in state statutes and in the regulations of the commissioner of education. Nor has the State provided a list of those requirements which must be met at all times in order to comply with constitutional sound basic education requirements. In the aftermath of the recession of 2008, NYSCOSS received multiple requests from superintendents for a listing of items which could not legally be reduced or eliminated under local school budgets; lacking an official listing compiled by the state, NYSCOSS was not able to assist districts.
5. At no time since the issuance of the *CFE II* decision in 2003 has the State monitored the manner in which school districts distribute available funds to particular schools in order to ensure that “every school” has the resources necessary to provide the opportunity for a sound basic education to all of its students.
6. Since the recession of 2008, the State Education Department has not monitored the actual delivery of educational services at the school level, except in the approximately 10 percent lowest performing schools designated as Priority, Focus, or Local Assistance Plan schools or districts; nor has the Department published any studies evaluating the impact of budget cuts on the schools’ capability to provide their students the opportunity for a sound basic education.
7. Since the recession of 2008, neither governor, the legislature, the Regents nor the State Education Department have taken any systematic actions to inform superintendents and local school districts of cost efficiencies or cost effective programs or operations that they should or could adopt to reduce educational expenditures, without compromising

students' opportunity for a sound basic education. On the contrary, the state's adoption of the common core requirements, the Annual Professional Personnel Review process, Response to Intervention and other mandates adopted in recent years, have increased, rather than ameliorated cost pressures on school districts.

8. In 2012 and again in 2015, the legislature enacted statutes that impose a penalty in the form of a revocation of the entire annual increase in state aid for any school district that fails to negotiate with its collective bargaining agents and to obtain approval from the commissioner of education for a plan to implement an annual professional performance review ("APPR"). Prior to enacting these statutes, neither the governor, the legislature nor the State Education Department undertook any studies of the impact of withholding such annual state aid increases on the ability of local school districts to provide their students the opportunity for a sound basic education.

Respectfully submitted,

  
Robert Lowry

Sworn to before me this

13<sup>th</sup> day of May, 2015



