



## **NYSER** New Yorkers for Students' Educational Rights

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### **NYSER PLAINTIFFS ASK COURT TO RESTORE IMMEDIATELY \$1 BILLION IN STATE AID TO EDUCATION**

**NEW YORK, June 25, 2014** — The plaintiffs in the *NYSER v. State of New York* lawsuit have asked State Supreme Court Justice Manuel Mendez to restore \$1 billion in aid due to school districts throughout the state immediately, even before the case goes to trial.

“We believe that the state’s withholding of over \$1 billion from the aid due to New York City and other school districts around the state is blatantly unconstitutional,” said Michael A. Rebell, co-counsel for plaintiffs in the lawsuit.

In a Preliminary Injunction Motion filed last evening, the plaintiffs also allege that the state’s property tax cap and its cap on year-to-year funding increases are unconstitutional, as long as the state has not provided the full amount of funding required by the courts’ decisions in *CFE v. State of New York*.

For the past few years, the state has utilized a “gap elimination adjustment” (GEA) in its state aid budget to deduct billions of dollars due to school districts under the state aid formulas, in an effort to balance the “gap” between what is due to the schools and the state’s available revenues.

Plaintiffs in the lawsuit claim that even if the state is experiencing fiscal constraints, it cannot put students’ constitutional right to a sound basic education on hold.

For the current school year, the statewide GEA is \$1.6 billion, and for the coming 2014-2015 school year, despite some increases in state aid to education, the state is still imposing a GEA of \$1.036 billion.

“Maintaining the GEA for the coming year is especially indefensible, because there is no longer, in fact, a ‘gap’ in the State’s finances,” said Douglas T. Schwarz of Bingham McCutchen LLP, co-counsel for the NYSER plaintiffs. For 2014-15 and beyond, the Legislature has enacted a series of property tax cuts and reductions in business taxes that will total well over \$2 billion.

The NYSER plaintiffs include nine New York City parents, eight parents from other urban, suburban and rural districts throughout the state, and New Yorkers for Students Educational Rights (“NYSER”), an unincorporated association whose members include 11 of New York City’s 32 community education councils, the New York State School Boards Association, the

New York State Council of School Superintendents, the New York State PTA, the New York State Association of School Business Officials, the Statewide School Finance Consortium, the Rural Schools Association and a variety of parent and educational advocacy groups.

The defendants are the State of New York and Governor Andrew Cuomo, the State Board of Regents, and John B. King, Commissioner of Education.

The complaint in the case was filed in February. Plaintiffs are seeking to compel the state to fully implement the constitutional right to the opportunity for a sound basic education that is guaranteed to them by Article XI § 1 of the State Constitution and the decisions of the New York Court of Appeals in *CFE v. State of New York*.

The total shortfall between the amounts required by the foundation formula the state enacted in 2007 to comply with the CFE decisions and the actual funding level for the coming school year is approximately \$5.6 billion, according to Frank Mauro, former executive director of the Fiscal Policy Institute.

Counsel for Plaintiffs are Michael A. Rebell, who was co-counsel for plaintiffs in *CFE v. State*, and Douglas T. Schwarz, Colleen J. O'Loughlin, Alicia M. Reed, and Brendan T. Chestnut of the law firm of Bingham McCutchen LLP.

A copy of plaintiffs' motion for a preliminary injunction is available at [www.nyser.org](http://www.nyser.org).