

***NEW YORKERS FOR STUDENTS' EDUCATIONAL RIGHTS***  
***(NYSER) v. STATE OF NEW YORK***

**SUMMARY OF THE CASE**

This action is being brought to compel the State of New York to provide all students in the state's public schools the opportunity for a sound basic education that is guaranteed to them by Article XI, §1 of the New York State Constitution and the decisions of the Court of Appeals in the *Campaign for Fiscal Equity (CFE)* litigation.

In 2003, the Court of Appeals, the state's highest court, held in *CFE v. State of New York*, 100 N.Y. 2d 893, that New York City's one million public school students were being denied sufficient funding to provide them the opportunity for a sound basic education. In 2007, the state legislature enacted an extensive education reform statute that revised the state education finance system. The Budget and Reform Act of 2007 committed the state to providing substantial increases in funding to the New York City school district and to other school districts throughout the state over a four-year phase-in period.

After the first two years of the phase-in, however, the state first froze and then dramatically slashed state aid for education. These funding reductions were undertaken without (1) any study of their likely impact on the ability of school districts to provide students the opportunity for a sound basic education, and (2) any guidance to school districts on how they might provide the opportunity for a sound basic education with substantially reduced funds. Moreover, for the past five years, since the extensive budget cuts were implemented, the state has neglected to undertake any activities that would allow it to determine what services school districts actually have curtailed in response to the budget cuts and the impact of these service reductions on students' opportunities for a sound basic education.

The *NYSER* plaintiffs, parents from throughout the state, major statewide organizations of education stakeholders, New York City community education councils, and advocacy groups from all parts of New York State and New York City, allege that, as a matter of law, the governor and the state have violated their constitutional responsibility to take appropriate actions to ensure that students are provided the opportunity for a sound basic education at all times, and especially during times of fiscal constraint. Plaintiffs further allege that, as a matter of fact, hundreds of thousands of students in the City of New York and in other districts throughout the State of New York are currently being denied the opportunity for a sound basic education.

Plaintiffs allege that as of the 2015-16 school year, the state, through its "gap elimination adjustment," and its failure to provide adequate funding for its own foundation formula, is depriving students throughout the state of approximately \$4.8 billion in state aid. To remedy this on-going constitutional violation, the *NYSER* plaintiffs are asking the court to

1. Fully fund the foundation aid formula and discontinue use of the “gap elimination adjustment,” the annual cap on state aid increases, and the supermajority voting requirements regarding increases in local property tax levies;
2. Reimburse the New York City public schools for all penalties imposed because of past failures of the New York City Department of Education and its unions to adopt a timely Annual Professional Performance Review (APPR) plan;
3. Identify the essential courses of study and types of services, supports, and resources that must be available to all students in order to meet constitutional requirements;
4. Notify school districts of their responsibility to provide such courses of study and types of services, supports, and resources, and of the manner in which the state will ensure adequate funding to enable them to meet these constitutional requirements;
5. Provide school districts and schools information, guidance, and recommended methods for improving the efficiency and cost effectiveness of their operations;
6. Ensure a system of accountability that measures whether every school has sufficient resources and that all students are in fact receiving the opportunity for a sound basic education;
7. Appoint an independent commission to develop and implement a rational new cost study methodology, based on current state policies, effective procedures, and costs to determine the “actual cost” of providing students the opportunity for a sound basic education; and
8. Revise the state aid formulas and mechanisms to ensure that all schools, in fact, have sufficient funds to provide all of their students the opportunity for a sound basic education.