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Governor George Pataki
Executive Chamber
State Capitol
Albany, New York 12224

Dear Governor Pataki:

2004 is a watershed year for the future of public education in the Empire State. The Court of Appeals, in *Campaign for Fiscal Equity, Inc. v. State*,¹ has declared the results of the state's funding efforts for New York City to be a violation of the Education Article of the New York State Constitution,² by denying New York City students an opportunity for the "sound basic education" required by the Constitution. As a result of the Court's action, the State must implement a remedy by the end of July.

Each of you faces difficult choices in this time of reduced budgets and economic uncertainty. However, the mandate to act from the Court of Appeals is clear. Given some of the recent debate over what exactly the Court ordered to be done, we believe that we may provide some neutral guidance as to what the Court actually held, and what we believe are the State's obligations.

The Court held that the current state education system violates the New York State Constitution.

The Court of Appeals affirmed the trial court's holding that the State has for many years violated the Education Article of the Constitution.³ The Court of Appeals stated that to meet the constitutional standard of a sound basic education, the State must afford to "New York City schoolchildren the opportunity for a meaningful high school education, one which prepares them to function productively as civic participants."⁴ The Court clearly found that the State has failed to meet this obligation.

¹ 100 N.Y.2d 893 (2003).

² N.Y. Const. art. XI, § 1.

³ See *Campaign for Fiscal Equity, Inc. v. State*, 100 N.Y.2d 893, 902-03 (2003) (upholding trial court, and reversing Appellate Division).

⁴ *Id.* at 908.

The Court held that the plaintiffs successfully proved a causal link between the State's action and the failures of the New York City school system.⁵ The Court did not deny that the City of New York and the Board of Education (now the city Department of Education after reforms enacted in 2002) may share some of the blame for the failings of the New York City school system. But the Court explained that both entities are "creatures or agents of the State" which has delegated to them authority over education, and, therefore, "the State remains responsible when the failures of its agents sabotage the measures by which it secures for its citizens their constitutionally-mandated rights."⁶ The Court of Appeals was clear -- education is a state responsibility, and it is the State that must provide the remedy.

The Court ordered the State to determine the actual cost of a sound basic education.

The Court of Appeals held that the State must "ascertain the actual cost of providing a sound basic education in New York City."⁷ Three proposals can inform this process. In December, the Regents proposed the establishment of a foundation formula that would both simplify and increase state school aid. More recently, the plaintiffs released the preliminary version of a costing-out study calling for significant increases in statewide education funding. Finally, the report of the Governor's Zarb Commission is expected soon. These proposals will need to be reconciled in advance of the Court's deadline for action.

The Court ordered the State to reform the current system of education funding.

The Court required that "[r]eforms to the current system of financing school funding and managing schools should address the shortcomings of the current system by ensuring, as a part of that process, that every school in New York City would have the resources necessary for providing the opportunity for a sound basic education."⁸ The Court found that "the political process allocates to City schools a share of state aid that does not bear a perceptible relation to the needs of City students."⁹ Since the Court of Appeals found that the current system did not provide the necessary resources, such reforms must necessarily involve an increase in resources. Although the court's holding was limited in application to New York City, we strongly believe that the State's reform efforts should be implemented across the state; statewide reform would allow for coherent educational policymaking, and would help to prevent further litigation brought on behalf of students in other under-resourced districts.

Along with funding reforms, the Court ordered the State to provide a system of accountability to ensure the provision of a sound basic education.

⁵ *Id.* at 925.

⁶ *Id.* at 922.

⁷ *Id.* at 930.

⁸ *Id.*

⁹ *Id.* at 929.

The Court of Appeals envisions a “new scheme” for providing New York City students with a sound basic education. This “new scheme” must provide for “a system of accountability to measure whether the reforms actually provide the opportunity for a sound basic education.”¹⁰ The Court recognized, as do we, that there have been significant reform efforts at the federal, state, and city level since the trial record was closed, including reform elements relating to the federal No Child Left Behind Act (“NCLB”), the State’s implementation of NCLB, the Regents’ reform efforts, and the New York City Department of Education’s Children First initiatives, which provide accountability measures.¹¹ The Court found that these efforts could help give more students the opportunity to obtain a sound basic education.¹² To ensure that increases in education funding are used to fulfill the Court’s order and the constitutional mandate, however, new accountability measures should direct resources and assistance toward the students most at risk of not receiving a sound basic education.

The State must act by July 30, 2004.

Finally, the Court of Appeals requires the State to act by July 30, 2004, “to implement the necessary measures” to “determin[e] the actual cost of providing a sound basic education in New York City and enact[] appropriate reforms.”¹³ Given that the Court found that the current system of funding is unconstitutional, that reforms are necessary, and that “a new scheme” is envisioned, there can be no doubt that the State must act this year to implement the necessary reforms.

There is little time to waste. We must avoid the legislative paralysis that has afflicted many other states in similar situations. We trust that all parties share the same goals -- to provide all students in New York State, including those in New York City, with a sound basic education as soon as possible -- and we urge quick and decisive action. On behalf of our Association, we stand ready to provide whatever expertise we may possess to assist you in this necessary and vital undertaking.

Sincerely,

Jonathan Rosenberg
Chair
Education & The Law Committee

¹⁰ *Id.* at 930.

¹¹ *Id.* at 926-27.

¹² *Id.* at 927.

¹³ *Id.*