

Amended Complaint for Declaratory and Injunctive Relief [49-78]

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

CAMPAIGN FOR FISCAL EQUITY, INC.; COMMUNITY
SCHOOL BOARDS DISTRICTS 1, 2, 3, 5, 6, 10,
11, 13, 15, 17, 19, 25, 28, 31, AMINISHA
BLACK, KUZALIWA BLACK; INNOCENCIA BERGES-
TAVERAS, BIENVENNIDO TAVERAS, TANIA TAVERAS;
JOANNE DEJESUS, ERYCKA DEJESUS; ROBERT
JACKSON, SUMAYA JACKSON, ASMAHAN JACKSON;
HEATHER LEWIS, ALINA LEWIS, SHAYNA LEWIS,
JOSHUA LEWIS; LILLIAN PAIGE, SHERRON PAIGE,
COURTNEY PAIGE; VERNICE STEVENS, RICHARD
WASHINGTON; MARIA VEGA, JIMMY VEGA; and
DOROTHY YOUNG, BLAKE YOUNG,

Plaintiffs,

vs.

THE STATE OF NEW YORK; MARIO M. CUOMO, as
Governor of the State of New York; THOMAS
SOBOL, as President of the University of
the State of New York and Commissioner of
Education of the State of New York; DONALD
DUNN, as Acting Comptroller of the State of
New York; JAMES W. WETZLER, as Commissioner
of Taxation and Finance of the State of New
York; RALPH J. MARINO, as Majority Leader
and Temporary President of the Senate of
the State of New York; MANFRED OHRENSTEIN,
as Minority Leader of the Senate of the
State of New York; SAUL WEPRIN, as Speaker
of the Assembly of the State of New York;
and CLARENCE D. RAPPLEYEA, JR., as Minority
Leader of the Assembly of the State of
New York,

Defendants.

AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF

INDEX NO. 93111070

PRELIMINARY STATEMENT

1. This suit challenges New York State's method for distributing education funds to local school districts. Plaintiffs allege that the state's education aid allocation scheme denies

thousands of public school students in the City of New York their constitutional rights to equal educational opportunities, and their right to an education that meets minimum statewide educational standards. Although the Court of Appeals in Levittown v. Nyquist, 57 N.Y.2d 27, 38 (1982) rejected an earlier challenge to the constitutionality of the State's public school financing scheme, it specifically left open the possibility of reconsidering that holding if it could be shown in a future case -- as it will be here -- that the state's financing scheme had reached the point of "gross and glaring inadequacy," and that students are being denied an education which meets minimum statewide standards.

2. This case is related to The City of New York and The Board of Education of the City of New York v. State of New York, et al., No. 93/401210 (Sup. Ct. N.Y. Co.), a suit which also challenges the constitutionality of the state's education finance scheme. Both of these cases are brought against the same state defendants. Plaintiffs in this case, however, are parents, students, community school boards and advocacy groups who join in most of the allegations of inequity and disparate impact alleged in the City and the Central Board's suit, but add allegations concerning specific aspects of the issues which affect them, and articulate more concretely the failure of the State to provide an education meeting statewide minimum standards.

3. After more than a decade of legislative inaction in the face of a mounting educational crisis, and in light of

unmistakable proof that thousands of school children in the City of New York are not receiving equal educational opportunities or an education meeting the minimum standards of educational quality and quantity set by the Board of Regents and/or the Commissioner, the time has come for this Court to consider whether the state education aid formula, as presently implemented, violates applicable constitutional and statutory requirements.

PARTIES

4. Campaign for Fiscal Equity, Inc. ("CFE") is a New York State not-for-profit corporation, which is dedicated to promoting fiscal equity for children attending public schools in the City of New York. CFE's headquarters is in New York County. Its membership consists of (i) community school boards; (ii) individuals who are citizen-taxpayers in the State of New York; and (iii) the following parent/advocacy organizations:

a. Advocates for Children of New York, Inc. ("AFC"). AFC is a direct service advocacy organization which provides individual representation to several thousand public school students enrolled in schools throughout the City of New York and their parents.

b. The Parents Coalition for Education in New York City, Inc. ("the Parents Coalition"). The Parents Coalition is a grouping of 33 school and community-based parent organizations, as well as several hundred individual members who are citizen-

taxpayers in the State of New York. The organizations affiliated with the Parents Coalition represent about 20,000 parents of public school children who attend school in all five boroughs of the City of New York.

c. The Educational Priorities Panel ("EPP"). EPP is a coalition of 27 parent, advocacy and educational research organizations which monitors the fiscal and administrative decisions of the public education bureaucracies. EPP has conducted extensive research on state aid and fiscal equity issues.

d. The Public Education Association ("PEA"). PEA is a not-for-profit corporation working for better public education in New York City through research, coalitions, model programs, legal action and public information.

e. Save our Schools ("SOS"). SOS is a citywide campaign established to fight fiscal cuts to schools and to increase city and state funding for public education. Its membership consists of parents, citizen-taxpayers, and parent and advocacy groups.

f. The United Parents Association, Inc. ("UPA"). UPA is a coalition of approximately 200 Parents Associations ("PAs") and Parent-Teacher Associations ("PTAs") located in schools throughout the City of New York. The PAs and PTAs affiliated with UPA represent about 200,000 parents of public school children who attend schools in all five boroughs of the City of New York.

5. Community School Boards Districts No. 1, 2, 3, 5, 6, 10, 11, 13, 15, 17, 19, 25, 28, and 31 are each statutorily-established public agencies whose members are elected pursuant to the provisions of New York Education Law, Section 2590-c. Each Community School Board is vested, pursuant to the provisions of Education Law, Article 52-A, with the power and duty to control and operate all elementary and junior high schools in its district. Each Community School Board is responsible for the education of 10,000 to 30,000 public school students. The Community School Boards are unable to perform fully their constitutional and statutory duties to provide educational services to the extent that defendants are unconstitutionally and illegally withholding state education funds from the City School District of the City of New York. Each Community School Board sues on its own behalf and on behalf of all the students under its jurisdiction. One or more of the plaintiff Community School Board plaintiffs is located in each of the boroughs of the City of New York.

6. Aminisha Black sues on her own behalf and on behalf of her minor child, Kuzaliawa Black. Kuzaliawa is an African-American student who attends Paul Robeson High School in the Borough of Brooklyn.

7. Innocencia Berges-Taveras sues on her own behalf and on behalf of her minor children, Bienvennido Taveras and Tania Taveras. Bienvennido and Tania are Latino students who

attend, respectively, PS 54 in Community School District 28 and Van Buren High School in the Borough of Queens.

8. Joanne DeJesus sues on her own behalf and on behalf of her minor child, Erycka DeJesus. Erycka is a Latina student who attends the Richard Green High School for Teaching in the Borough of Manhattan.

9. Robert Jackson sues on his own behalf and on behalf of his minor children, Sumaya Jackson and Asmahan Jackson. Sumaya and Asmahan are African-American students who attend PS 187 and Intermediate School 187, respectively, in Community School District 6 in the Borough of Manhattan.

10. Heather Lewis sues on her own behalf and on behalf of her minor children, Alina Lewis, Shayna Lewis and Joshua Lewis. Alina attends Junior High School 51 in Community School District 15 in the Borough of Brooklyn; Shayna and Joshua attend the Brooklyn New School in Community School District 15.

11. Lillian Paige sues on her own behalf and on behalf of her minor children, Sherron Paige and Courtney Paige. Sherron and Courtney are African-American students who attend PS 18 and IS 27, respectively, in Community District 31 in the Borough of Staten Island.

12. Vernice Stevens sues on her own behalf and on behalf of her minor child, Richard Washington. Richard is an African-American student who attends PS 150 in Community District 12 in the Bronx.

13. Maria Vega sues on her own behalf and on behalf of her minor child, Jimmy Vega. Jimmy is a Latino student who attends PS 7 in Community District 19 in the borough of Brooklyn.

14. Dorothy Young sues on her own behalf and on behalf of her minor child, Blake Young. Blake is an African-American student who attends a MIS-II, special education class in CES4 Community School District 9 in the Bronx.

15. Defendant the State of New York ("State") allocates financial aid to localities for education pursuant to the provisions of Education Law and through an annual budget for state aid to localities. The State receives annually approximately \$700 million in federal financial aid for such components of the educational system as compensatory education for educationally deprived children in low-income areas, school lunches, aid to disabled children, and vocational education.

16. Defendant Mario M. Cuomo is Governor of the State of New York and is sued in his official capacity.

17. Defendant Thomas Sobol is President of the University of the State of New York ("University") and Commissioner of Education of the State of New York and is sued in his official capacity. As President of the University, defendant Sobol has overall responsibility for administration of the University, which in turn has the responsibility to "distribute to or to expend or administer" for the public schools of the State "such property and funds as the state may appropriate." Education Law, Section 201.

As Commissioner of Education, defendant Sobol has overall responsibility for the operations of the State Education Department, which administers the allocation of state financial aid to localities for education, and distributes and oversees federal funds that support a variety of educational programs in local school districts.

18. Defendant Donald Dunn is Acting Comptroller of the State of New York and is sued in his official capacity. Pursuant to Section 8 of the Finance Law of New York, the Comptroller shall "[s]uperintend the fiscal concerns of the state" and shall "[d]raw warrants on the treasury for the payment of the moneys directed by law to be paid out of the treasury" Finance Law, Section 8.

19. Defendant James W. Wetzler is Commissioner of Taxation and Finance of the State of New York and is sued in his official capacity. Pursuant to Section 7 of the Finance Law of New York, the Commissioner of Taxation and Finance "shall receive all moneys paid into the treasury of the state" and "pay all warrants drawn by the comptroller on the treasury"

20. Defendant Ralph J. Marino is Majority Leader of the Senate of the State of New York; defendant Manfred Ohrenstein is Minority Leader of the Senate of the State of New York; defendant Saul Weprin is the Speaker of the Assembly of the State of New York; and defendant Clarence D. Rappleyea, Jr. is Minority Leader of the Assembly of the State of New York. All four defendants are

sued in their official capacities. The State Legislature is responsible for determining the allocation of state funds expended to aid localities for education.

THE STATE EDUCATION FINANCE SYSTEM

21. Article XI, Section 1 of the Constitution of the State of New York (the "Education Article") provides that:

The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.

22. Pursuant to the Education Article, the Legislature is required to create and maintain an equitable education system that provides a sound basic education for all school children in the State of New York.

23. Defendants have not adopted a systematic method for financing education to assure the provision of a sound basic education for all students throughout the State. Instead, they have, through various actions and inactions, implemented an approach which requires approximately 53% of the funds for education to be raised through local municipal and school district taxes, and allocates only approximately 42% of the funds -- or approximately \$9 billion -- as direct state aid (5% are federal funds). New York State ranks 33rd of all the states in the nation in terms of the proportion of total funds for education which are provided by direct state aid.

24. The funds that are allocated directly by the State are apportioned on a highly inequitable basis. The State education finance system fails to compensate for the vast disparities in the local tax bases and in the ability of local school districts and municipalities to raise sufficient funds to meet the needs of the students residing in the community. In the case of the City of New York, the State aid allocation scheme actually aggravates these inequities by allocating less state aid per capita than the statewide average, even though students in the City of New York have greater needs than most other students in the State.

25. Although often referred to as the State education aid "formula," the defendants' methodology for allocating state education aid funds is, in fact, an incoherent, unsystematic aggregation of approximately 50 different formulas, categorical program fundings, flat grants, minimum aid ratios, caps, hold harmless guarantees and other inconsistent provisions which have emerged from decades of political compromises based on considerations unrelated to educational need or principles of equity. Unlike formulae utilized in other states, New York's education aid allocation system is reopened and reformulated each year.

26. Defendants' methodology for allocating state education aid undermines current state educational policies and, specifically, the goals set forth in the Regents' current major policy statement, A New Compact for Learning, (which seeks to

ensure that all of New York State's school children learn at a substantial achievement level).

27. The current methods for allocating state aid prevent the goals of A New Compact for Learning from being achieved and are ineffective because they:

- a. do not provide adequately for all students, especially the most needy;
- b. are unduly complicated, with 53 separate formulas governing the distribution of aid;
- c. inhibit local flexibility, since many kinds of aid require specific programs whether or not such programs are the best use of the money;
- d. entail no accountability for results, because districts continue to receive the money no matter what;
- e. do not deal adequately with local differences in wealth and cost;
- f. do not adequately support needed improvements in teaching and learning, such as:
 - (1) the setting of new, higher content and performance standards in all subjects in the curriculum;
 - (2) the development of better ways of assessing what children have learned;
 - (3) the provision of staff development to enable teachers, other members of the school staff, and parents to work in new ways;

g. do not foster interagency collaboration, since funds are allocated agency by agency and rules for their distribution are separately defined;

h. lack public credibility, for all of these reasons.

28. Each and every allegation set forth in paragraph 27 above was set forth on page 2 of "ALL CHILDREN CAN LEARN: A PLAN FOR REFORM OF STATE AID TO SCHOOLS, Regents' Recommendations for 1993-94 to Support Schools and Implement A New Compact for Learning." As such, these statements represent the official position of the Board of Regents of the University of the State of New York and of defendant Sobol.

29. For the specific reasons set forth in paragraphs 26 and 27 above, defendants' methodology for allocating state education aid has no rational basis and is not rationally related to any legitimate state purpose.

30. Despite the Regents' 1993 recommendations for reform of the current state methodology for allocating state education aid, the Legislature has not in its 1993 session substantially changed the state aid allocation system as described in paragraphs 23-25, above.

31. A major aspect of the allocation system, which largely negates the theoretical equalizing effects of its basic operating aid formula, is its "hold harmless" provisions. These, in essence, guarantee to wealthy districts, including those with

declining student populations, that they will not receive less total aid or less aid per pupil than they received in any prior year. Students enrolled in New York City public schools receive no benefit from these hold harmless guarantees.

32. The basic operating aid formula itself is calculated substantially on the basis of school attendance figures, rather than student enrollment. This approach, which greatly disadvantages the New York City schools, is arbitrary and irrational. Almost all educational costs, such as teachers' salaries, facilities costs and instructional materials, are fixed on the basis of enrollment and do not decrease because of changes in daily attendance.

33. New York City enrolls approximately 37% of the state's public school population, but receives less than 35% of total state financial aid to localities for public education.

34. For the 1992-93 school year, the New York City public schools will receive approximately \$3,000 per student in state education aid, compared to an average allocation for the rest of the state of approximately \$3,400. Thus, on average, each student in New York City will receive approximately \$400 or 12% less education aid than his or her peers in the rest of the state.

35. If state aid were to be distributed on a straightforward per capita basis, New York City schools would receive approximately \$250 million more for the 1992-93 school year than the City school district has in fact been allocated. If an appropriate cost-of-living adjustment reflecting the higher

salaries, building costs, etc., in New York City were added, the City's per capita entitlement would be even higher.

36. New York City enrolls approximately 70% of the students in New York State with concentrated poverty, over 60% of the public school children in the state who participate in remedial programs to compensate for deficiencies in their academic performance, 51% of the state's students with severe disabilities and 81% of the state's pupils with Limited English Proficiency ("LEP").

37. If State education aid were to be allocated through an equitable system that modified per capita enrollment allocations only to reflect a special needs weighting of 20% (the proportion of state aid now distributed for LEP, special education, and compensatory education needs students), New York City would be entitled to receive approximately \$427 million in additional state aid for the 1992-93 school year.

38. The State education aid allocation purports to adjust per capita allocations and special needs weightings in an "equitable manner" that takes into consideration the local tax bases and relative ability to generate local funds for education. New York City is considered "an average wealth" district under these calculations.

39. However, the State's method for assessing "local wealth" and local ability to generate funds to support education is unrelated to its purported equitable purpose since it totally

ignores the fact that the available tax base in New York City must bear extensive fiscal burdens for mandated programs and extensive services in areas other than education, which are not borne by other districts. For example, New York City is required to spend substantially more per capita than the average district on State-mandated local funding of programs such as Medicaid, Aid to Dependent Children, Home Relief and pre-trial detention. Moreover, the City has a higher concentration of the poor and elderly, larger numbers of recipients of public assistance, and greater demands for public health care, unemployment insurance, police and security, fire services, correctional services, mass transit and subsidized public housing, than the state average.

40. For all the reasons set forth in paragraphs 21-39, the State education finance scheme is grossly and glaringly inadequate, bears no rational relationship to any legitimate state purpose, and lacks any substantial relationship to any important government objective.

IMPACT OF REDUCED RESOURCES

41. The State of New York has adopted minimum statewide standards of educational quality and quantity for students who attend school in the State.

42. The New York State Legislature has adopted minimum statewide standards of educational quality and quantity for students who attend school in the State.

43. The New York State Board of Regents ("the Regents"), in their 1984 Action Plan to Improve Elementary and Secondary Education Results in New York ("The Regents' Action Plan"), their 1991 A New Compact for Learning, and in other regulations, standards and guidelines, has promulgated minimum standards of educational quality and quantity for children who attend school in the State. On information and belief, the Commissioner has articulated and adopted additional standards that elaborate upon and are consistent with the Regents' standards.

44. The Regents' Action Plan specifically states that its standards and requirements "apply to all students" and that "we must assure equity in the availability of resources to provide each student the opportunity to reach or exceed standards and requirements."

45. Nevertheless, the State education aid allocation scheme does not in fact "assure equity in the availability of resources" and denies thousands of students enrolled in the New York City public schools an equal opportunity to meet or exceed these standards.

46. The Regents' minimal statewide standards include at pages 7-8, among other things, specific competency standards such as a requirement that each student will "speak, listen to, read, and write clearly and effectively in English," and that each student shall "perform basic mathematical calculations," "be knowledgeable about political, economic and social institutions and

procedures in this country and abroad," and acquire "the skills, knowledge, understanding and attitudes necessary to participate in democratic self-government."

47. As a result of the reduced resources which the State makes available to the City's schools, New York City school children receive fewer educational services and supports, in poorer facilities, than their peers in the rest of the State. Consequently, New York City public school students are not provided an equal educational opportunity, and thousands of them are not provided the opportunity to obtain an education that meets the specific competency standards and the other minimum standards of educational quality and quantity articulated and adopted by the State, the Legislature, the Regents and the Commissioner (the "minimum standards").

48. New York City's public schools have far fewer teachers per pupil than other districts in the State, resulting in far larger average class sizes -- 28.2% in elementary school compared to 22.5% for the rest of the state, excluding the big five cities.

49. On information and belief, average class sizes in New York City are in excess of those which the Regents and the Commissioner consider adequate to assure that all students have an opportunity to meet the minimum standards.

50. New York City has the largest percentage of uncertified teachers (11.8% in 1991-92 compared to 7.3% statewide,

and 4.6% in suburban districts), the least experienced teachers (13 years, compared to 16 years statewide, and 19 years for suburban districts) and the highest teacher turnover rate in the state (14% in 1989-90, compared to a statewide average of 9% and a suburban average of 7%).

51. On information and belief, thousands of students in the City of New York are being taught by uncertified or inexperienced teachers who do not have the minimal qualifications which the Regents and the Commissioner consider adequate to assure that all students have an opportunity to meet the minimum standards.

52. Many New York City public school students are denied access to specific courses, including courses mandated by the Regents and the Commissioner. Many New York City junior high schools and high schools lack sufficient laboratory facilities to provide science instruction meeting the Regents' and the Commissioner's requirements.

53. On information and belief, only 15 of the approximately 125 high schools in the City of New York have an academic program which allows students to meet the full academic unit prerequisites for admission newly promulgated by the City University of New York.

54. Many New York City public school students are denied instructional materials which the Regents and the Commissioner

consider adequate to assure that all students have an opportunity to meet the minimum standards.

55. New York City public school students are denied adequate access to computers and other technological equipment. For example, in 1991-92, New York City students on average had only one computer for every 19 students, compared to a statewide public school average of one computer for every 13 students.

56. On information and belief, thousands of public school students in the City of New York are being denied access to computers and other technological equipment at a level which the Regents and the Commissioner consider necessary to assure that all students have an opportunity to meet the minimum standards.

57. New York City's public schools have substantially fewer pupil support service personnel per pupil, including guidance counselors, psychologists, social workers and substance abuse counselors, than the statewide average. For example, the current ratio of guidance counselors to students in the City's schools is approximately 700:1, compared to the statewide average of 350:1.

58. On information and belief, thousands of public school students in the City of New York are being denied access to a level of pupil personnel services which the Regents and the Commissioner consider adequate to assure that all students have an opportunity to meet the minimum standards.

59. New York City public school students are not provided adequate library books or library services. For example,

in 1991-92, the City's schools had an average of only 10.4 library books per pupil, compared with 20.9 in suburban areas, and 16.5 statewide.

60. On information and belief, thousands of public school students in the City of New York are being denied access to a level of library services which the Regents and the Commissioner consider adequate to assure that all students have an opportunity to meet minimum standards.

61. Numerous public school buildings in the City of New York lack proper illumination, heating and ventilation, an aesthetically pleasing environment, adequate sanitation facilities and adequate facilities for physical education. For example, many students attend schools with an utilization rate of 170% or higher, and the average utilization rate for New York City high schools in 1990-91 was 119.9%; during that same period there was a backlog of 21, 025 repair orders for elementary schools.

62. On information and belief, thousands of public school students in the City of New York are being denied school facilities which the Regents and the Commissioner consider adequate to assure that all students have an opportunity to meet minimum standards.

63. In 1984, the Regents established a series of "[S]tate reference points" ("SRPs") to measure proficiency at various grade levels as determined by performance on competency tests administered under the Pupil Evaluation Program ("PEP").

Students who score below the reference point are, according to the State Education Department, "making less than normal progress in developing the basic skills measured by that test."

64. Substantial numbers of New York City public school students, and proportionately more students than in other parts of the State, score below the State reference points because of the inequities of defendants' education aid allocation scheme. These inequities deny New York City public schools sufficient resources to obtain the educational services and support necessary for them to develop the skills and competencies that will permit them to meet the Regents' and Commissioners' standards. . For example, in 1992, 40% of the City's third-grade pupils scored below the SRP for reading, meaning that they were unable to read with comprehension the easiest connected sentences and paragraphs, compared to 11% of the third-grade pupils in the rest of the state. Similarly, 19% of the City's third-grade pupils scored below the math SRP, compared to 2% for the rest of the state.

65. By the time the City's public school children reach high school, they fall further behind than their peers elsewhere in the State. For example, of City high school students who took the Regents' competency tests in reading in 1992, 16% failed, compared to 5% in the rest of the State; 25% failed the Regents' competency tests in writing, compared to 9% in the rest of the State; and 43% of City students failed the competency tests in mathematics, compared with 17% in the rest of the State.

66. On the more rigorous Regents' comprehensive examinations, the New York City public schools consistently have the smallest percentage of their average enrollment participating and the smallest percentage of their average enrollment passing. For example, in 1992, only 18% of the City's average enrollment passed the Regents' examination in English, while over three times that percentage -- 55% -- of the enrollment in the rest of the State passed the same exam. Similarly, only 26% of the City's average enrollment passed the Mathematics I examination, compared to 59% in the rest of the State.

67. High school achievement statistics in fact understate the extent to which New York City students do not meet minimal statewide standards because they do not reflect the large number of City high school students who drop out of school altogether each year. For example, in 1989-90, the City's dropout rate was 7.8%, compared to the statewide average of 4.9%, and 2.2% in the suburbs.

68. Commissioners' Regulations, 8 NYCRR, §§100.3(b)(3), 100.4(f), and 100.5(a)(4)(b)(v) mandate extra remedial instruction for students whose performance falls below the State reference point. Such remedial instruction should be designed to enable them to score above the State reference point on future competency examinations.

69. On information and belief, thousands of students in the City of New York whose performance falls below the State

reference point are denied remedial instruction which the Regents and the Commissioner consider adequate to assure that all students have an opportunity to meet the minimum standards.

70. Defendants have denied thousands of students in the City school district an adequate education by failing to establish an equitable state education finance system that insures that all students have an opportunity to learn (i) the skills necessary to participate effectively and intelligently in the American political system; (ii) the basic tools by which individuals lead economically productive lives; and (iii) fundamental literacy.

71. Defendants have denied thousands of students in the City district opportunities for enrichment programs, advanced courses, extra curricular activities, pre-school education, parent involvement, and other such programs which are routinely made available to students in neighboring suburban districts and in other school districts in the State.

DISCRIMINATION AGAINST MINORITY STUDENTS

72. The New York City public schools are responsible for educating the vast majority of African-American, Latino and Asian-American students in the State of New York. In the 1990-91 school year, approximately 74% of the minority public school population in the State attended New York City public schools. Minority children comprised 81% of the City's public school enrollment that

year, compared to 17% of the public schools enrollment outside the City.

73. The State's educational aid allocation scheme has a disparate impact on the racial and ethnic minorities who live in New York City. Because a disproportionate number of the racial and ethnic minorities in the State attend public schools in the City school district, the state's inequitable funding of New York City schools has the effect of injuring minority students by providing them, on average, with less State aid per pupil and less of an opportunity to meet the minimum statewide standards established by the Regents and the Commissioner than it provides their non-minority peers.

74. Minority students in New York City receive scores below the State reference point on statewide achievement tests in numbers disproportionate to non-minority students in the rest of the State.

75. The State Education Department has itself acknowledged that the educational services being provided to students in New York City and other large urban areas with large minority populations fall below the standards established by the Regents. Its 1992 Chapter 655 Report stated at xxvii:

Large urban districts, where students with large percentages of minority and poor children were concentrated, continued to place below other districts on almost all measures of academic performance. The urban districts also had fewer resources and less qualified teachers, by several measures, than other districts. The patterns of inequality in educational outcomes and the breadth of these

inequalities between minority and non-minority children have not changed since this report was first published in 1988. Consistent with the principles of the New Compact, there is a clear and compelling need to close this gap while simultaneously lifting the entire enterprise to higher levels of accomplishment.

76. Over the past ten years, despite knowledge of the facts set forth in the preceding paragraphs, and despite recommendations for major reforms in official reports issued by commissions created by the defendants themselves, the defendants have re-enacted the inequitable state aid scheme without substantial modification to address the blatant inequities and their disproportionate impact on minority students, or to ensure that all students throughout the state of New York have available to them the resources necessary to obtain an education meeting or exceeding the Regents' minimum statewide standards. Defendants have refused to act, even though the detrimental impact of their failure to provide equitable levels of funding on minority students was well-recognized and reasonably foreseeable.

FIRST CAUSE OF ACTION

77. Plaintiffs adopt and incorporate herein the allegations of Paragraphs 1 through 76.

78. The State's educational financing scheme denies thousands of public school students in the City of New York, including the individual student plaintiffs herein and students represented by the organizational members of CFE and the plaintiff

community school boards, an opportunity to obtain an education meeting the statewide minimum standards of educational quality and quantity established by the Regents and the Commissioner, in violation of the Education Article, Article XI, Section 1 of the New York State Constitution.

SECOND CAUSE OF ACTION

79. Plaintiffs adopt and incorporate herein the allegations of Paragraphs 1 through 78.

80. The State's educational financing scheme denies thousands of public school students in the City of New York, including the individual student plaintiffs herein and students represented by the organizational members of CFE and the plaintiff community school boards, equal protection of the laws, in violation of the Fourteenth Amendment to the Constitution of the United States, and Article I, Section 11 of the New York State Constitution. This cause of action for violation of federal constitutional rights also is brought pursuant to 42 U.S.C §1983

THIRD CAUSE OF ACTION

81. Plaintiffs adopt and incorporate herein the allegations of Paragraphs 1 through 80.

82. The State's education financing scheme impermissibly discriminates on the basis of race, against thousands of African-American, Latino, Asian-American and students of other minority

groups, including individual student plaintiffs Kuzaliawa Black, Bienvennido Taveras, Tania Taveras, Erycka DeJesus, Sumaya Jackson, Asmahan Jackson, Sherron Paige, Courtney Paige, Richard Washington, Jimmy Vega, Blake Young, and students represented by the organizational members of CFE and the plaintiff community school boards in violation of the anti-discrimination clause of Article I, Section 11 of the New York State Constitution.

FOURTH CAUSE OF ACTION

83. Plaintiffs adopt and incorporate herein the allegations of Paragraphs 1 through 82.

84. The State's education financing scheme imposes a disparate detrimental impact on thousands of African-American, Latino, Asian-American and other students of other minority groups, including individual student plaintiffs Kuzaliawa Black, Bienvennido Taveras, Tania Taveras, Erycka DeJesus, Sumaya Jackson, Asmahan Jackson, Sherron Paige, Courtney Paige, Richard Washington, Jimmy Vega, Blake Young, and students represented by the organizational members of CFE and the plaintiff community school boards, such impact is unjustified and therefore violates Title VI of the Civil Rights Act of 1964, 42 U.S.C., §2000(d), et seq., and implementing regulations issued by the United States Department of Education, 34 C.F.R., §100.3(B)(2)(p). This cause of action also is brought pursuant to 42 U.S.C. §1983.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court enter judgment as follows:

1. Declaring that defendants' failure to appropriate sufficient funds to permit the City School District of the City of New York, including plaintiff community school boards, to provide sufficient educational services to insure equal opportunities to meet or exceed the statewide standards of educational quality and quantity, violates plaintiffs' rights and defendants' obligations under the Educational Article of the New York State Constitution, Article XI, Section 1;
2. Declaring that defendants' education aid scheme violates plaintiffs' rights and defendants' obligations under the equal protection clauses of the State and federal Constitutions;
3. Declaring that the State education aid scheme violates plaintiffs' rights and defendants' obligations under the anti-discrimination clause of Article I, Section 11 of the New York State Constitution;
4. Declaring that the State education aid scheme violates plaintiffs' rights and defendants' obligations under Title VI under the Civil Rights

Act of 1964 and implementing regulations issued thereunder;

5. Permanently enjoining defendants to create and maintain a state education aid system that complies with the requirements of the Education Article of the New York Constitution, the Equal Protection Clauses of the State and federal constitutions, the anti-discrimination clause of the State Constitution and Title VI of the Civil Rights Act of 1964 and the implementing regulations issued thereunder, and that provides equal educational opportunity and a reasonable opportunity to receive an education meeting the minimum standards articulated and adopted by the Regents and the Commissioner to all public school students in the City of New York.
6. Awarding plaintiffs their reasonable attorneys' fees and costs in bringing this action; and

7. Providing such other and further relief as the Court may deem just and proper.

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