

## MORSE, YINGER, AND THE CAMPAIGN FOR FISCAL EQUITY: SCHOOL FINANCE REFORM IN NEW YORK

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Jane Fowler Morse: *A Level Playing Field* (SUNY Press, 2007)

*A Level Playing Field* is well written, informative, and passionate. It is also sure to spark a great deal of conversation and controversy. You can agree or disagree with Jane Fowler Morse's critique of an educational system that disadvantages and disenfranchises large segments of our population. You can agree or disagree with her assessment of fundamental disparities as well as with her identification and analysis of underlying causes. You can accept or reject her various recommendations and social commentary. What you *cannot* do — whether you are a parent, a politician, a college professor, an elementary or secondary school teacher, or “simply” a concerned citizen who wishes to live in a happier, more harmonious, and more equitable society — is ignore this book.

The issues addressed by Professor Morse are thorny, complex, and wide-ranging. Structurally, her analysis can be separated into two complementary segments. The first four chapters address an assortment of obstacles that have plagued attempts to “level the playing field” by reforming the system of taxation and allocation that finances public education (focusing especially on New York, Vermont, and Ontario). The final three chapters tackle broader problems of poverty, racism, and social justice (especially, though not exclusively, as they pertain to education).

In the United States, public education is funded largely through property taxes.<sup>1</sup> Because those taxes are levied, collected, and apportioned on a local level — and because some districts are considerably wealthier than others — some schools have substantially more money than others. Although it may be overly naïve to assume a smooth unbroken correlation between funding on the one hand and quality on the other, it seems readily apparent that there is a strong, nontrivial causal relationship between the two. On average, children who live in wealthier districts receive “better” educations. Their buildings are newer, safer, and better equipped. Their laboratories, libraries, and classrooms incorporate more recent technology and provide a more conducive learning environment. Their classes are smaller, their teachers are better prepared, and they are encouraged to participate in a wide range

of extracurricular activities. Programs in the arts, music, and drama cultivate creativity, aesthetic sensibility, a heightened sense of wonder, and a discriminating awareness of both self and culture.

In a country that embraces both education and capitalism, some degree of disparity along the lines described in the preceding paragraph may be inevitable. A free market economy not only tolerates, but actively encourages an unequal distribution of goods. Because education is broadly valued and evaluated in terms of economic benefits (increased earning potential, investment in the future, etc.), communities with greater fiscal resources can reasonably be expected to construct and equip schools designed to provide their children with a competitive edge for the economic playing field that awaits them upon graduation. Indeed, one can even construct an argument that this is precisely what they *should* do. Social and civic obligations must begin at home. If I fail to answer the cries of my neighbor or address the needs of my own children, I can scarcely be expected to respond positively to the cares and troubles of others.

Nevertheless, granting “some degree of disparity” (above) does not obligate us to accept widespread social injustice or turn a blind eye to the gross inequalities that plague the current system. A funding structure that allows wealthy districts to provide superior education for their own children, while disregarding the needs of others less fortunate than themselves, is a social powder keg. Any system that relies too heavily on local finances (property tax, sales tax, or otherwise) will produce an uneven and unequal pattern of education that not only fails to ameliorate problems of race, poverty, and social class, but actually perpetuates and exacerbates those problems. The rich get richer, the poor get poorer. Those born with advantages gain additional advantages, those born with disadvantages are further disadvantaged.

In Chapter 5, “The Impact of Poverty on Children’s Performance in School,” Professor Morse laments:

“Poverty entails a complex set of conditions harmful to children: inadequate medical attention to mother and child, poor nutrition, low birth weight, low-quality child care, health problems, and environmental hazards. . . . Equitable school funding could mitigate the effects of poverty on children. Unfortunately, such equity is rare. In addition to persistent poverty, racism also rears its ugly

head. Low-income children living in deteriorating urban housing are more likely to be African-American, Hispanic, or immigrant children. The obstacles they face are far greater than those faced by white, middle-income-to-affluent children. . . .” (p. 120)

### Separate and Unequal: A Political Parable

I live in a small community in upstate New York. As a college professor, my annual income exceeds that of many residents (waitresses, cashiers, sales clerks, *et al.*), but falls substantially below that of others (doctors, lawyers, accountants, *et al.*). Like me, each resident pays property taxes to support our elementary and secondary schools. The amount we are charged each year depends on the value of our property, not the number of children we have. When the time came to send my children to school, they joined other children of the community without prejudice or preferential treatment based on race, gender, income, or profession. Their classmates — and friends — included children of waitresses as well as those of lawyers. We have, in short, accepted the following principles: (i) educating the children in our community is an obligation of the entire community (*i.e.* it takes a village to raise a child), (ii) the cost of that education should be distributed according to wealth (those who have more, should give more), and (iii) all the children in our community should receive equal educational opportunities (regardless of class, gender, family income, etc.).

For comparison, imagine a parallel community with the same population, social diversity, and economic profile. Citizens in this hypothetical village accept the first two principles enunciated in the previous paragraph, but reject the third. Rather than constructing a unified system of schools for the public good, they divide citizens into three groups on the basis of family income: (a) those who earn less than \$25,000 per year, (b) those who earn between \$25,000 and \$75,000, and (c) those who earn more than \$75,000 per year.<sup>2</sup> Children of families in the first group attend one set of schools, financed in their entirety by the citizens in that group. Likewise, children of families in the second group attend a second set of schools, funded by citizens in that group. And children in the third group attend yet another set of schools, financed by the members of that group.

If the three populations are reasonably commensurate in size, if the proportions of school-age children in each population are likewise similar, and if the commitment to educa-

tion is also comparable between groups, there can be little doubt about the relative quality of the three sets of schools.<sup>3</sup> Children of those who have the most money will receive the best education; children of those who have the least will receive the worst. Although children in the middle economic class may receive adequate – even good – educations, it is unlikely that the same could be said for children of families in the lowest class. Inequalities will be even deeper – and the quality of education for the lowest class even lower – if, as is frequently the case, the proportion of school-age children decreases as wealth increases.<sup>4</sup>

Wealthy residents of our hypothetical community may be pleased with the superior education available to their own children, but even they have causes for concern. If quality of education in the poorest schools falls below a certain threshold, a sizeable portion of the next generation in their own community will be – literally – undereducated. They will be under-qualified and ill-prepared to take their place in the workforce that is vital to the continued economic prosperity of the community. Unable to find suitable employment, many may turn to crime. This in turn will result in an increased need for police protection, a larger and more costly judicial system, and expensive prisons. Social unrest and resentment will be rife. In short, the quality of life within the community will be substantially less than what it could be if more attention had been given to providing adequate educational opportunity.<sup>5</sup>

Confronted with these and other difficulties, we can easily imagine some residents of our hypothetical community trying to “level the playing field” by making one or more adjustments to the funding structure that gives rise to radical disparities and substandard education. If the structure is an inherited one that has been in place for a substantial period of time – if the inequities are so deeply entrenched to be taken as givens – meaningful change will meet stiff resistance. Our wealthier residents will not voluntarily accept changes that would: (a) increase their taxes and/or (b) decrease the quality of education available to their own children.

If social tensions are high – and if stereotypes have taken on negative, fearful, and hateful dimensions – any attempt to level the playing field by combining or integrating schools may encounter stiff resistance from families in both upper and middle economic classes. Some of their objections may be based on racial and/or socio-economic prejudice. Others will be based on fear. Parents may fear an increase in drug traffic or violence in their

children's schools, they may fear a lack of attention to their own children if teachers are distracted by an increase in behavioral problems, they may fear a "dumbing down" of the curriculum, etc. At the most basic level, they may simply fear change itself: if the current system provides an adequate education for their own children at an affordable cost, they may resist rocking the apple cart for fear that any new system may be more problematic and/or more expensive than what they have at present. As a result, families in the middle economic class may join forces with those in the upper economic classes to "keep things the way they are." Opposed by the combined political and economic clout of these two classes, change will be slow, difficult, and uncertain at best.

Now, as incredible as it would seem to an outside observer, my simplistic metaphor of a community that unwittingly sows the seeds of its own economic and social demise — then repeatedly resists efforts by its own citizens to correct a flawed system that continues to sow those seeds on a daily basis — is a hauntingly familiar portrait of our own society. A *Level Playing Field* will encounter resistance for many of the reasons outlined in the preceding paragraphs. For those same reasons, it should be placed on the required reading list of all concerned citizens, especially those who have special commitments to — and responsibility for — the education of our youth.

### **Adequate Education in Kentucky — *Rose v. Council for Better Education* (1989)**

In her first chapter, "Education, Inequity, and the Level Playing Field," Professor Morse provides a clear and insightful history of the social and political forces that conspired to create this murky maze of regulation and irregularity. She launches her analysis with a two-page overview of philosophical foundations, including Plato, Aristotle, John Locke, Mary Wollstonecraft, and John Stuart Mill. Guided by those conceptual principles, Professor Morse turns to an overview of the origins of public education in America, starting with Massachusetts' Old Deluder Law of 1647 — which "required towns of more than fifty households to establish a school so that children might resist the snares of that Old Deluder, Satan, by being able to read the Bible" (p. 2). This leads to a discussion of local vs. state vs. federal government, constitutional law, and a plethora of legal challenges and court decisions. One especially essential element of her analysis focuses on the concept of adequacy, including potentially far-reaching repercussions from a 1989 Kentucky case: *Rose v. Council for Better*

*Education.* Professor Morse explains the significance of the ruling:

“The Kentucky Supreme Court . . . mandated that the entire state’s educational system be revamped. The justices did not hesitate to set a template, although they explicitly declared the implementation of the reform to be ‘the sole responsibility of the General Assembly.’ The template proved, in time, to be the most far-reaching of those proposed by state courts and became a model for other, although often less ambitious, templates.” (p. 8)

Whereas previous lawsuits had focused on inputs (equal access, resources, funding, etc.), *Rose v. Council* targeted outputs (the knowledge and skills acquired by students). The Kentucky template requires schools to impart to each and every child, insofar as possible, at least seven fundamental “capacities.” In the words of the court:

“A child’s right to an adequate education is a fundamental one under our Constitution. The General Assembly must protect and advance that right. . . . [A]n efficient system of education must have as its goal to provide each and every child with at least the seven following capacities: (i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization; (ii) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices; (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation; (iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness; (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and (vii) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.” (p. 26)

A footnote makes it clear that these seven characteristics constitute *minimum* standards, required of all schools for all students:

“In recreating and redesigning the Kentucky system of common schools, these seven characteristics should be considered as minimum goals in providing an adequate education. Certainly, there is no prohibition against higher goals — whether such are implemented statewide by the General Assembly or through the efforts of any local education entities that the General Assembly may establish — so long as the General Assembly meets the standards set out in this Opinion.” (FN22, p. 26)

### Education Finance Reform in New York State: Morse and Yinger

The next three chapters of *A Level Playing Field* are detailed and instructive case studies of sincere, well-intentioned attempts to reform education finance to achieve one or both of the following goals: (a) a reasonable degree of parity between schools in geographically diverse locations and (b) broad compliance with a set of performance standards similar to those specified by the Kentucky Supreme Court (above).

Chapter 2 focuses on litigation in New York (much of which has been unsuccessful or unsatisfying). Chapter 3 chronicles the rise and fall of Vermont’s Equal Educational Opportunity Act (also known as “Act 60”). Chapter 4 analyzes a complex set of executive reforms in Ontario, undertaken to cut property taxes as much as they were to equalize education, which Professor Morse characterizes as “both high-handed and harmful” (p. 66).

Faithful readers of this journal may remember an insightful and lucid essay by John Yinger in the 2003-2004 issue: “State Aid and the Pursuit of Educational Equity: Lessons of New York.” After acknowledging the pivotal role of *Rose v. Council* in the legal landscape on which battles concerning adequacy standards are won and lost (above), Professor Yinger introduces the concept of a foundation aid formula which most states use to distribute aid to school districts:

“Foundation aid is defined by the following formula

$$A_j = E^* \cdot t^* B_j$$

where  $A_j$  is aid per pupil to school district  $j$ ;  $E^*$  is the foundation spending level per pupil, which is selected by state officials and is the same in every district;

$t^*$  is a 'fair' property tax rate, which also is selected by state officials and is the same in every district;  $B_j$  is the actual property tax base per pupil in district  $j$ ." (p. 3)

In terms of the allegorical community introduced earlier in this essay, a foundation aid formula is a political expediency designed to ensure some minimal level of success by the poorer school districts, without unraveling the preexisting fiscal and social structure that separates the schools of our three (hypothetical) economic classes. As Professor Yinger explains:

"The intuition behind this formula is straightforward. The state decides on the level of spending required to meet the adequacy standard ( $E^*$ ) and then makes up the difference between the revenue required for this spending level and the amount of money a district can raise at a tax rate the state thinks is fair ( $t^*$ )." (p. 3)

He discusses the importance of modifying the formula to include an education cost index (similar to a cost-of-living index), the need for a minimum tax rate (to ensure that each community is bearing its full share of the expense), and the challenges that New York faces if it is "to create an aid system that ensures adequate student performance in every district and that spreads the funding burden across the state in a manner that is perceived to be fair" (p. 7).

Professor Yinger's recommendations, summarized in a concluding section titled "How to Fix Education Finance in New York" are worth repeating:

"First, the state should set a high standard for an adequate education." (p. 9)

"Second, the state should get serious about adjusting its aid for education costs. . . . [T]he cost of education per pupil is almost twice as high in New York City as in the average district, so the foundation spending level per pupil and the associated state aid, should be almost twice as high for New York City as well." (p. 9)

"Third, the state should require a minimum contribution from all school districts." (p. 9)

“Fourth, the state should improve the fairness of the education finance system . . . by shifting aid away from the wealthy suburbs and other low-need districts, by raising additional money with broad-based state taxes (especially the income tax), and by reforming (or even eliminating) the STAR [School Tax Relief] program.” (pp. 9-10)

As reasonable and straightforward as Professor Yinger’s recommendations may seem, the distance between saying and doing is enormous. Sadly, Professor Morse’s analysis presents abundant evidence that education finance reform in New York does not come without protracted and costly court cases. Even then, progress is piecemeal, patchwork, and unpredictable. Recognizing and enunciating the problem is one thing; correcting it is an entirely different matter.

Most of Professor Morse’s chapter on the topic is devoted to presentation, review, and discussion of a broad assortment of legal challenges to standards, policies, and formulae that determine funding for public education in New York State. Some cases focus on inputs (allocation of resources), some focus on civil rights (equal access), some focus on outputs (adequacy standards, graduation rates, etc.), and some employ a combination of strategies (e.g. equal access plus adequacy standards). Specific cases that she examines in considerable detail include: *Levittown Union Free School District v. Nyquist, Commissioner of Education, et al.* (1973/1982), *Reform Educational Financing Inequities Today v. Cuomo* (REFIT) (1992/1995), *City v. State* (1994/1995), *Campaign for Fiscal Equity v. State* (1994/1995; 1999/2003), *African American Legal Defense Fund v. New York State Department of Education, Pataki, et al.* (1998), *Caesar v. Pataki* (2000/2002), *New York Civil Liberties Union v. State of New York* (2002), and *Paynter v. New York* (1999/2003).

Although Professor Morse deftly weaves these disparate legal cases into a complex but coherent narrative, my goal is far more modest. Drawing heavily on *A Level Playing Field* as well as original source materials (some of which postdate Professor Morse’s book), I turn now to a six-part examination of a single, landmark case: *Campaign for Fiscal Equity v. State* (1994/1995; 1999/2003)

### *Campaign for Fiscal Equity v. State* – Part I (1995) – Decision by the New York Court of Appeals to allow the case to go to trial

During the 1894 Constitutional Convention, New York adopted a provision that has come to be known simply as “the Education Article” (Article 11, section 1). The article mandates that “[t]he 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.”<sup>6</sup> However, despite its reputation for being a progressive state with a strong commitment to education, New York’s courts have not even been able to agree on a set of standards comparable to those adopted by Kentucky in 1989. Consider, for example, the conflicting decisions of various courts as *Campaign for Fiscal Equity v. State* meandered its way through a judicial labyrinth of rulings and appeals.

In May 1993, Campaign for Fiscal Equity, Inc. *et al.* filed a lawsuit in State Supreme Court challenging constitutionality of New York State’s education funding system, especially insofar as it affected schools in New York City. Three defendants – the State of New York, the Senate Majority Leader, and the Assembly Minority Leader – immediately filed a motion to dismiss the case. The Supreme Court granted part, but only part, of the motion to dismiss. The Appellate Division then modified the order of Supreme Court by fully granting defendants’ motion to dismiss. Campaign for Fiscal Equity *et al.* sought judicial remedy from the New York Court of Appeals. On June 13, 1995, the Court of Appeals rendered a split decision cast against a backdrop of precedent established in *Levittown v. Nyquist* (which had ruled that unequal funding, in and of itself, does not violate the State’s Education Article):

“The Court in *Levittown* acknowledged the existence of ‘significant inequalities in the availability of financial support for local school districts, ranging from minor discrepancies to major differences, resulting in significant unevenness in the educational opportunities offered.’ Nonetheless, we concluded, such unevenness of educational opportunity did not render the school financing system constitutionally infirm, unless it could be shown that the system’s funding inequities resulted in the deprivation of a sound basic education.”<sup>7</sup>

After acknowledging New York’s obligation to provide a “sound basic education to all the children of the State,” the Court proceeded to outline the components of such an education

in terms of “the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury.”

“[T]he Education Article. . . requires the State to offer all children the opportunity of a sound basic education. Such an education should consist of the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury. If the physical facilities and pedagogical services and resources made available under the present system are adequate to provide children with the opportunity to obtain these essential skills, the State will have satisfied its constitutional obligation.” (cf. Morse pp. 49-50)

However, the Court made it abundantly clear that even *minimally* adequate facilities and teachers are sufficient to discharge the State’s obligation:

“The State must assure that some essentials are provided. Children are entitled to minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn. Children should have access to minimally adequate instrumentalities of learning such as desks, chairs, pencils, and reasonably current textbooks. Children are also entitled to minimally adequate teaching of reasonably up-to-date basic curricula such as reading, writing, mathematics, science, and social studies, by sufficient personnel adequately trained to teach those subject areas.” (italics added, cf. Morse pp. 49-50)

Having set forth these narrow parameters, the Court of Appeals overturned the Appellate Division (which had granted a motion from the State to dismiss claims brought by Campaign for Fiscal Equity *et al.*) and remitted the matter to the trial court of Justice DeGrasse (below).

### ***Campaign for Fiscal Equity v. State* – Part II (2001) – Decision of the trial court**

Six years later, following an extensive trial that included testimony from 72 witnesses as well as consideration of 4300 exhibits,<sup>8</sup> Justice Leland DeGrasse “found the school funding formula unconstitutional because it failed to supply New York City’s school children with a ‘sound basic education’ as required” (p. 55). He extended the 1995 ruling (above)

concerning “the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury.”

“Productive citizenship means more than just being *qualified* to vote or serve as a juror, but to do so capably and knowledgeably. It connotes civic engagement. An engaged, capable voter needs the intellectual tools to evaluate complex issues, such as campaign finance reform, tax policy, and global warming. . .

Similarly, a capable and productive citizen doesn’t simply show up for jury service. . . . [J]urors may be called on to decide complex matters that require the verbal, reasoning, math, science, and socialization skills that should be imparted in public schools. Jurors today must determine questions of fact concerning DNA evidence, statistical analyses, and convoluted financial fraud, to name only three topics.” (cf. Morse p. 55)

Acknowledging “a dynamic interpretation of the Education Article,” Justice DeGrasse extended the Court’s concept of productive citizenship to include meaningful contributions to the economy as well as the ability to sustain “competitive employment.”

“If the meaning of the Education Article were to be frozen as of 1894, when it was added to the State Constitution, the Article would cease to have any relevance. It is undeniable that the level of skills necessary to obtain employment in today’s economy exceed those required in 1894.”

“In sum, this court finds that a sound basic education consists of the foundational skills that students need to become productive citizens capable of civic engagement and sustaining competitive employment.”<sup>9</sup>

Professor Morse summarizes the bottom line of this 2001 Supreme Court ruling, including recommended action, as follows:

“ . . . DeGrasse directed the state to take corrective action, after determining the actual costs of a sound basic education in different areas of the state, a procedure called ‘costing out.’ While declining to follow Kentucky’s ambitious template in *Rose*, DeGrasse listed seven points to be considered in a remedy. . . .” (p. 56)

Interestingly, despite the focus on outputs (standards) rather than inputs (resources) in this ruling as well as the 1995 one on which it is based, all of Justice DeGrasse’s “seven points” concern resources rather than standards:

“In order to ensure that public schools offer a sound basic education the State must take steps to ensure at least the following resources. . .

1. Sufficient numbers of qualified teachers, principals and other personnel.
2. Appropriate class sizes.
3. Adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum.
4. Sufficient and up to date books, supplies, libraries, educational technology and laboratories.
5. Suitable curricula, including an expanded platform of programs to help at risk students by giving them ‘more time on task.’
6. Adequate resources for students with extraordinary needs.
7. A safe orderly environment.” (cf. Morse p. 56)

Finally, Justice DeGrasse addressed school funding in terms of standards that include meeting the needs of all districts (not just those with wealthy tax bases), variations in local costs (cf. Professor Yinger’s education cost index, above), sustained and stable funding to promote long term planning, transparency, and accountability.

“[R]eforms to the current system of financing school funding should address the shortcomings of the current system, by, *inter alia*:

1. Ensuring that every school district has the resources necessary for providing the opportunity for a sound basic education.
2. Taking into account variations in local costs.
3. Providing sustained and stable funding in order to promote long-term plan-

ning by schools and school districts.

4. Providing as much transparency as possible so that the public may understand how the State distributes School aid.
5. Ensuring a system of accountability to measure whether the reforms implemented by the legislature actually provide the opportunity for a sound basic education and remedy the disparate impact of the current finance system."<sup>10</sup>

### ***Campaign for Fiscal Equity v. State – Part III (2002) – Overturning the decision of the trial court***

Based on the above quotes from Justice DeGrasse's ruling, a casual and trusting reader might assume that New York had been placed on a smooth road to both adequacy and equity. If so, the reader would be sadly mistaken. The state appealed the ruling. Within a year and a half, a split decision from the Appellate Court overruled Justice DeGrasse. A significant part of the Appellate Court's stated rationale was based on the extent to which Justice DeGrasse exceeded the "minimally adequate" standards stipulated in the Court of Appeals' 1995 ruling.

"The 'sound basic education' standard enunciated by the Court of Appeals . . . requires the State to provide a minimally adequate educational opportunity, but not, as the [trial] court held, to guarantee some higher, largely unspecified level of education, as laudable as that goal might be. Since the court, after a trial of the issues, applied an improper standard, we reverse." (quoted by Morse, p. 57)

A second, related reason given for reversing Justice DeGrasse's ruling focused on the difference between opportunity (inputs) and results (outputs):

"It bears contemplation that the State's obligation is to provide children with the opportunity to obtain the fundamental skills comprising a sound basic education. That not all students actually achieve that level of education does not necessarily indicate a failure of the State to meet its constitutional obligations." (quoted by Morse, p. 57)

As if to seal the deal, the Appellate Court maintained that the Campaign for Fiscal Equity had failed to establish a causal link between adequate resources (inputs) and adequate education (outputs).

“Even if we were to assume that the schools in the City do not provide a sound basic education, plaintiffs failed to prove that deficiencies in the City’s school system are caused by the State’s funding system.” (quoted by Morse, p. 56)

Professor Morse notes: “The judges even suggested that remedying ‘inappropriate placement’ in special education could save the city \$1 billion” (p. 57). Objecting to the suggestion that a minimally adequate education could be achieved by the eighth or ninth grade, as well as the Appellate Court’s rejection of Justice DeGrasse’s standard of “sustaining competitive employment,” she writes:

“To blame public schoolchildren of New York City because they don’t take advantage of the glorious opportunity offered them seems callous at best; at worst, it is both criminal and overtly racist.” (p. 58)

### ***Campaign for Fiscal Equity v. State – Part IV (2003) – Partially overturning the Appellate Courts’ decision to overturn of the decision of the trial court***

According to Professor Morse, public outrage at the decision of the Appellate Court was “immediate, universal, and scathing” (p. 58). Notable critics included former Comptroller H. Carl McCall, *The New York Times*, and *Newsday*.

Predictably, within six months, Campaign for Fiscal Equity *et al.* had filed an appeal of the appeal. A year after a split decision from the Appellate Court had overturned Justice DeGrasse’s ruling, a split decision from the Court of Appeals overturned part of the Appellate Court’s decision and remanded the case back to Justice DeGrasse to oversee implementation of selected aspects of his 2002 ruling. In a section of the ruling titled “The Standard,” the Court of Appeals emphasized the importance of “meaningful civic participation in contemporary society.”

“In *CFE* we equated a sound basic education with ‘the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively

as civic participants capable of voting and serving on a jury.’ We thus indicated that a sound basic education conveys not merely skills, but skills fashioned to meet a practical goal: meaningful civic participation in contemporary society.” (p. 7; cf. Morse p. 62)

The Court also affirmed the presence of an implicit employment component in their 1995 standard that all children should receive sufficient education to “function productively,” but rejected the Appellate Court’s suggestion that an eighth or ninth grade education would suffice:

“While a sound basic education need only prepare students to compete for jobs that enable them to support themselves, the record establishes that for this purpose a high school level education is now all but indispensable. (p. 9)

The Court then applied similar reasoning to the educational level necessary for effective voting and jury duty:

“We agree with the trial court that students require more than an eighth-grade education to function productively as citizens, and that the mandate of the Education Article for a sound basic education should not be pegged to the eighth or ninth grade, or indeed to any particular grade level. In *CFE* we pointed to voting and jury service because they are the civic responsibilities *par excellence*.” (p. 10)

Concerning the “output” of “school completion,” the Court wrote:

“[O]f those New York City ninth graders who do not transfer to another school system, only 50 percent graduate in four years, and 30 percent do not graduate or receive a general equivalency degree (‘GED’) by the age of 21, when they cease to be eligible for free public education. This rate of school completion compares unfavorably with both state and national figures, and the trial court considered it symptomatic of ‘system breakdown.’ . . . A sound basic education . . . means a meaningful high school education. Under that standard, it may, as a practical matter, be presumed that a dropout has not received a sound basic education.” (pp. 22-23, omitting citations; cf. Morse pp. 62-63).

***Campaign for Fiscal Equity v. State – Part V (2003) – A partially concurring opinion raises the question: “Formula, formula, who’s got the formula?”***

In a separate partially concurring opinion, Justice Smith wrote: “The record establishes what would strike many as an obvious truth: A high school education is today as indispensable as a primary education was in 1894” (pp. 4-5, cf. Morse p. 64). In a section titled “The Formulas Do Not Equal A Sound Basic Education,” Justice Smith noted: “The State uses a system comprised of about 54 formulas to distribute about 13 billion dollars of State aid” (p. 14). Four pages later he wrote:

“Virtually every document in the record prepared by the Regents or the SED [State Education Department] dealing with funding has been critical of the formulas. For example, the Regents’ Proposals on School Aid for 1993-94 and 1994-95 state that the formulas:

- do not provide adequately for all students, especially the most needy
- are unduly complicated, with 53 separate formulas governing the distribution of aid
- inhibit local flexibility. . .
- entail no accountability for results. . .
- do not deal adequately with local differences in wealth and cost
- do not adequately support needed improvements in teaching and learning  
...
- lack public credibility...” (p. 18)

As incredible as it seems, Justice Smith also reported:

“The current Chancellor of the Regents, Dr. Hayden, was asked, ‘Do you believe that you have a thorough understanding of the state aid formula system?’ He replied, ‘I do not.’ When asked why not, he said, ‘I think it defies scrutiny. . .’” (p.21)

Moreover, confusion and dissatisfaction with the funding formulae were not limited to the Regents and the State Education Department:

“The current Commissioner, Dr. Mills, testified that he did not have a deep understanding of how the formulas work, and that only ‘very few people’ do. Dr. Berne, who is one of those few people, testified that the formulas are extremely complex, making it ‘hard for most people in the State to understand. . . .’ . . . Defendant Governor Pataki has called the formulas ‘incomprehensible,’ ‘convoluted,’ and destined for the ‘ash heap of history.’” (pp. 22-23)

Given the “Byzantine complexity” of the funding formulae (p. 23), Justice Smith concluded with the following observations and recommendations:

“The formulas have consistently failed to provide New York City schools with the funds necessary to allow them to provide a sound education for their students. Despite constant fine-tuning, the formulas have impeded the duty of the Legislature to maintain and support an effective system of public schools in New York City. . . . Since the formulas are used to distribute aid to all the schools in the State, the remedy must necessarily affect the entire interdependent school system. In place of the formulas, the Legislature should institute a scheme that:

- 1) eliminates the current state formula for distributing aid to New York City;
- 2) determines. . . the actual costs of the resources needed to provide the opportunity for a sound basic education in all school districts in the State;
- 3) ensures that. . . every school district has the necessary funds to provide an opportunity for a sound basic education to all of its students.” (pp. 23-24)

### ***Campaign for Fiscal Equity v. State – Part VI (2004+) – Implementation: A long and winding road***

Following my discussion of Professor Yinger’s recommendations, I wrote: “the distance between saying and doing is enormous” (above). It is an observation that applies here as well. When the New York legislature failed to meet a deadline of July 4, 2004 to put a new education funding formula in place, Justice DeGrasse appointed a panel consisting

of two retired Appellate Division justices and a former dean of the Fordham Law School. Professor Morse recounts the ensuing moves in this already-far-too-long game of point-counterpoint in which the education of New York's children hangs in the balance:

"The panel recommended adding \$5.6 billion to New York City schools over four years, a capital improvement plan of \$9.18 billion over five years, and continued study of the school-funding formulae. DeGrasse accepted the plan as constitutional in February 2005. [Governor] Pataki opposed the recommendation, appealing DeGrasse's acceptance. In summer 2005, the legislature adjourned again without having revised the funding formulae, despite the introduction of a bill by Assemblyman Steven Sanders. . . Instead of action, a bill creating yet another commission to study the situation languished in the education committee in July 2005." (p. 63)

Any substantial action in the matter awaited the election of a new governor. In a January 2007 address at the State Department of Education, Governor Eliot Spitzer announced the appointment of a Deputy Secretary for Education, Manny Rivera of the Rochester School District. More significantly, he outlined an ambitious plan, the implementation of which would rest squarely on the shoulders of Deputy Secretary Rivera. It is a plan designed — at long last — to implement the trial court's recommendations in *Campaign for Fiscal Equity v. State*. Following greetings, salutations, and opening remarks, Governor Spitzer acknowledged the fundamental and inexorable link between education, economics, and citizenship that had functioned prominently in Justice DeGrasse's ruling:

"The goal of our education system must be to produce responsible citizens who have the tools to participate productively and meaningfully in the world around them — to be the leaders of tomorrow in all areas of culture, science, business, service and government.

My vision for education reform is built on a single premise: to be effective, new funding must be tied to a comprehensive agenda of reform and accountability."<sup>11</sup>

Governor Spitzer promised a shift in the endless debate that echoes back and forth through the halls of government: from inputs (resources) to outputs (performance). Unsatisfied with the rhetoric of adequacy, he spoke of an aspirational goal of excellence and a

timetable that begins today.

“The dynamic in education is about to change dramatically. With the reforms and accountability we will propose in our upcoming Executive Budget, and the resources we will commit to fully fund our schools over the next four years, there will be no more excuses for failure. The debate will no longer be about money, but about performance; the goal will no longer be adequacy but excellence; and the timetable will no longer be tomorrow but today.”<sup>12</sup>

But lest there be any mistaking his intent, he made it clear that increased funds will not come without strings or consequences. In a section titled “Performance as a Function of Accountability,” Governor Spitzer tied both funding and performance to accountability:

“Improving our children’s performance must be our goal. And the way to do it is to inject greater accountability into the system — financial accountability, programmatic accountability, and performance accountability.”<sup>13</sup>

In terms of financial accountability, Governor Spitzer addressed, first, the virtually incomprehensible patchwork of over 50 funding formulae that Justice Smith had blasted in his 2003 opinion (above) and, second, the need to tie funding “more tightly. . .to educational outcomes.”

“New York State already spends more on education than any state in the nation but one, and yet, at both the state and local levels, too often we can’t explain how that money is allocated, how it is spent, or what we get in return. The main culprit are Byzantine and politically-driven school aid formulas. . .

As a first step, our upcoming budget will replace this flawed system with a straightforward and transparent mechanism — what experts call a ‘foundation formula,’ much like what our Regents have been advocating for years. This formula will distribute educational funding based on the needs of our children, not the needs of our politicians. . . .

And second, what money we do spend must be more tightly tied to educational outcomes. . . Those districts receiving significant increases in funding under our Investment Plan must be able to show how that money is allocated, school by

school, and show how they are using their money to produce the outcomes we expect.”<sup>14</sup>

Turning his attention to performance accountability, Governor Spitzer added teeth to his opening assertion that “there will be no more excuses for failure” (above).

“Money can no longer be an excuse for failing our children anywhere in the state. Now, if children fail, adults must be held accountable. And accountability means consequences, both good and bad, for the performance of schools and school districts.”<sup>15</sup>

Most significantly, it is perhaps fitting that the acronym CFE (Campaign for Fiscal Equity) would now acquire new meaning. As a tie between funding, performance, and accountability the 55 school districts poised to benefit most from the increased funding would be required to develop “Contracts for Excellence.”<sup>16</sup>

“These principles of accountability will be expressed. . . in the form of an agreement that each district receiving significant new funding must enter into with the State — what I call a Contract for Excellence.”<sup>17</sup>

“It will be up to each district to establish real measures of improved performance. That means telling parents, as well as the State, how many more children will read and do math at grade level, how many more students will graduate from high school with Regents diplomas, and how many of them will go on to college...”<sup>18</sup>

The 2007-2008 State Education Budget delivers on Governor Spitzer’s promise that: “Money can no longer be an excuse for failing our children anywhere in the state.” High-lights of major changes include the following:

- \* Overall School Aid Increase: \$1.76 billion increase for 2007-08, bringing total funding to \$19.64 billion.
- \* Foundation Aid Increase: \$1.1 billion for a new Foundation Aid program, bringing total funding to \$13.6 billion for 2007-08. By 2010-11, Foundation Aid will have increased by \$5.5 billion.

- \* Universal Pre-kindergarten Increase: \$146 million increase, bringing total funding to \$438 million in 2007-08.
- \* School Facilities Funding: \$148 million increase for EXCEL and other building aid. This will support \$2.6 billion in State bonding under the EXCEL program when fully implemented over the next two years, supplementing other reimbursements supporting school construction.
- \* Other Aid Increases: \$360 million increase in other school aid programs, such as transportation aid and BOCES funding, bringing total funding to \$1.76 billion for 2007-08.
- \* Stronger Accountability and Transparency Measures: Contracts for Excellence commit school officials to producing measurable results in student performance by utilizing proven strategies: smaller class sizes, full-day kindergarten, teacher quality initiatives, middle and high school restructuring, and after-school programs.<sup>19</sup>

42% (\$712 million) of the \$1.76 billion increase will go to New York City. 7% will go to Buffalo, Rochester, Syracuse, and Yonkers (which, like New York City, do not have the authority to levy property taxes to pay for education). 13% will be allocated to other high need urban and suburban schools while another 10% targets high need rural schools. 23% will be distributed to districts with average needs while the remaining 5% will go to ones with low need.<sup>21</sup>

Given all the brouhaha about Byzantine funding formulae, the structure of New York's revised Foundation Formula is refreshingly simple:

Foundation Aid = Local Cost of Education – Expected Local Contribution (based on local income and property wealth)

Local Cost of Education = Average Cost of Successful Schools x Regional Cost Index x an adjustment for the number of pupils with qualifying needs in the following four categories: special education, census poverty, free/reduced price lunch, and limited English proficiency.<sup>22</sup>

Geri Palast, Executive Director of Campaign for Fiscal Equity, hailed the changes — in the level of funding, in the method of funding via revised foundation formula, and even in accountability — as proof that perseverance and enlightened leadership can make a lasting difference:

“The Campaign for Fiscal Equity battled in the courts. . .to achieve three central goals: a multi-year, massive infusion of school funding; the creation of a clear cut system of accountability to drive funds to key educational strategies; and a fair and simple foundation formula to distribute school aid based on student need not politics. . .With Governor Spitzer’s leadership, we have turned litigation into law. The resulting foundation formula is central to ensuring that this achievement is enduring.”<sup>23</sup>

### Political Will and Social Change

As with any social program — especially one financed through public taxation — there are plenty who have expressed dissatisfaction with Governor Spitzer’s Contracts for Excellence. Progress in some areas should become evident within the first few years. Other, more-lasting effects will take decades. But even if the final report card on these reforms fails to live up to the rhetoric of producing “the leaders of tomorrow in all areas of culture, science, business, service and government,”<sup>24</sup> the current administration deserves considerable praise: not only for taking seriously the education of all the children of New York, but also for having the political will to take action.

In his Preface to the 2003-2004 issue of *Educational Change*, Anthony Roda positions the article by Professor Yinger within a distinguished and illustrious tradition.<sup>25</sup> He begins by quoting Aristotle concerning the nature of a “right” constitution: “It is clear then that those constitutions which aim at the common good are right, as being in accord with absolute justice. . .”<sup>26</sup> Professor Roda mixes in an insight from James Madison concerning taxation: “The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality. . .”<sup>27</sup> He speaks of the views of Aristotle and Madison as “two sides of the issue of justice,” which he then clarifies as “justice procedurally established by a right type of constitution which holds in check arbitrariness, force and fraud in the distribution of goods and resources. . .” (p. iii).

Following a succinct overview of Professor Yinger's article, Professor Roda expresses a poignant mixture of political frustration and social optimism:

"It is apparent, given the recent court rulings, that New York State has ignored its obligations to the education of its children. If the state continues on the same path one can expect conditions to deteriorate even further. Perhaps it is too much to suggest that by redeeming education the state might also reclaim and revitalize its cities and their civic life." (pp. vi-vii)

Although Professor Roda does not cite *Campaign for Fiscal Equity v. State*, Justice DeGrasse's 2002 ruling develops a similar theme concerning education and responsible, engaged citizenship:

"[E]ducation is perhaps the most important function of state and local governments. ... It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education."

When *A Level Playing Field* was written, New York's political leaders were engaged in a tug of war with the judiciary in an ongoing battle in *Campaign for Fiscal Equity v. State*. Confronted by the frustration of what seemed to be a never-ending conflict, it is not surprising that Professor Morse titles the final section of her analysis of this issue: "Lacking: The Political Will to Remedy Injustice in New York." She writes:

"The crisis in New York exemplifies much that makes reform of school funding in the United States difficult. These children did nothing to harm anyone, but they are being grievously harmed by the very state that depends on them as future citizens, family and community members, and workers. As things stand, if poorly educated, lower socioeconomic status students are lucky, they will become the working poor, barely able to support themselves, let alone a family, on two jobs at the minimum wage. . . . If the poor are not lucky, their children will be

ill-educated, illiterate, unemployed, and perhaps in prison.” (p. 65)

Professor Morse’s focus on political will is apt. In his January 2007 speech, in which he announced New York’s new Contracts for Excellence, Governor Spitzer said: “Just about every education reform expert agrees that a more efficient, transparent and reform-minded school aid formula will get the best education for our buck. We just need the political will to make it happen.”

### Poverty, Racism, and Social Justice

If the economic and civic benefits of education are so well established, and if the need for education finance reform is so readily apparent, why is it so difficult to mobilize the social forces required for broad scale change? Why is political will in such short supply? In a previous section of this paper — “Separate and Unequal: A Political Parable” — I outlined a small part of the social dynamic of fear and self-protection that leads to public resistance and political paralysis. In the following passage from Chapter 5, “The Impact of Poverty on Children’s Performance in School,” Professor Morse offers a more chilling suggestion:

“Historically, Americans have long believed in the power of education to eliminate poverty. The idea that all children, not just boys of European ancestry, deserve an equal educational opportunity gradually came to accompany this belief. Education broadened to include white girls, immigrant children, African-American children, working-class children, children with special needs, and children of poverty. Unfortunately, the ideal of an equal educational opportunity for all children has not yet been realized, despite many sincere efforts and a great deal of rhetoric. The question is, why? The first answer proposed by this book is inequitable school funding; the second, poverty, racism, and other social ills that persist.” (p. 120)

There is an important sense in which both *A Level Playing Field* and this essay are written backwards: discussing the means before clarifying and establishing the ends. Professor Morse’s most fundamental arguments (re social justice) are those of the final (seventh) chapter. Arguments in the fifth and sixth chapters add depth and detail concerning two interrelated sources of injustice (poverty and racism). The second, third, and fourth chapters examine efforts to remedy those two sources of injustice, especially as they pertain to

elementary and secondary education (focusing somewhat more heavily on poverty than racism). The first chapter, “Education, Inequity, and the Level Playing Field,” provides a summary of issues and challenges that confront school finance reform.

Striped to bare essentials, the argument from social justice is relatively simple and straightforward:

- 1) It is better to live in a just society than an unjust one.
- 2) We do not live in a just society.
- 3) Much of the injustice in our society is fueled by poverty and racial inequity.
- 4) Equitable public education of adequate quality could help heal much of the social injustice in our society.
- 5) Therefore, we should do what it takes to ensure equitable and sufficient public education (including, though not necessarily limited to, school finance reform).

There is, obviously, much to be written about poverty, racism, and social justice. But that, as they say, is another essay. For this occasion, I can think of no better or more fitting way to close than by citing a cogent well-known observation from Dr. Martin Luther King, Jr.’s “Letter from a Birmingham Jail” — one which, unfortunately, our society is slow to heed:

“I am cognizant of the interrelatedness of all communities and states. . . . Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.”<sup>28</sup>

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## ENDNOTES

1. According to Justice Smith’s concurring opinion in the 2003 incarnation of *Campaign for Fiscal Equity v. State* (a case that will be discussed in some detail later in this paper): “New York’s public education system is supported and maintained by funds from three

sources: localities (about 56 percent), the State (about 40 percent); and the Federal government (about 4 percent)” (<http://www.cfequity.org/CFEIDdecision.pdf> pp. 12-13). David Boughtwood *et al.*, citing a December 2005 publication from the New York State Education Department, provide similar (if somewhat slightly different) figures: “According to the State Education Department, in 2003-04, 49 percent of funding for public education came from local revenue sources, 44 percent came from State aid and grants, and 7 percent came from the federal government. Within the local revenue category, property taxes comprised nearly 90 percent of the total” (“Local Income Tax for School Finance in New York State: A Primer,” p. 1).

2. Specific income levels are arbitrary and may be varied to whatever extent the reader wishes. Since neighborhoods tend to reflect income levels, it is not hard to imagine geographic boundaries separating the three groups (mansions on the hill, center city, and the other side of the tracks) — and thus a tripartite property tax and school system that, on the surface, reflects those geographic boundaries rather than the economic disparities that create and reinforce those lines of demarcation.
3. The parameters specified in the antecedent of this conditional (relative population size, proportion of school-age children, and commitment to education) are critical ones that will be discussed in the pages to come. Additional factors that could affect the quality of our three hypothetical schools include: (1) minimal economic thresholds necessary to support various types of programs (science labs, etc.), (2) minimal student populations necessary to sustain various types of programs (concert bands, etc.), (3) variations in proportions of special needs children in each school, (4) the number of qualified teachers who reside in or are willing to relocate to our hypothetical community, (5) the quality, availability, and cost of private schools, (6) tax relief programs for the elderly (who are more likely to belong to the first two groups than they are the third), and (7) economic distributions within each population. If 95% of the families in Group A have annual incomes of \$24,500 while 95% of those in Group B have annual incomes of \$25,500, differences between the first and second sets of schools may be negligible. If 95% of the families in Group A have annual incomes under \$10,000 while 95% in Group B have annual incomes over \$50,000, the gap will widen accordingly.
4. If funding is based on property value rather than the number of school-age children,

variations between populations in terms of this factor will have a strong impact on quality. Spreading funds more thinly translates into a reduction of available funds per child, which translates into larger class sizes, less money for library acquisitions, etc.

5. Sadly, the list of social ills enumerated in this paragraph is far from complete. Better educated people make better decisions on a broad assortment of issues that impact the entire community: personal hygiene and healthcare for themselves as well as their family, personal finances (with repercussions for others in terms of foreclosures, paying taxes, and paying debts), participation in government, etc. As the number of people who cannot maintain gainful employment (or successfully manage their debts) increases, so too does the cost of social services: Welfare, Unemployment Compensation, Subsidized Housing, Medicare, etc. Illegal mind-altering drugs provide a promise of escape as well as the allure of easy money (together with a host of tribulations for users and dealers alike).

Readers who are especially interested in the social costs and consequences of inadequate education are encouraged to pay particular attention to Chapters 5 and 6 of Professor Morse's book: "The Impact of Poverty on Children's Performance in School" and "The Impact of Racism on Children's Performance in School." Taken individually, each chapter is well written and informative. Together, they provide a compelling and chilling account of the price we pay — and the price our children pay — if we turn our backs on social justice and fail to ensure adequate, equitable educational opportunities for the downtrodden and disabled.

6. The description and language of the Education Article are taken from *Campaign for Fiscal Equity et al. v. State of New York et al.* (accessed online, November 26, 2007).
7. *Campaign for Fiscal Equity et al. v. State of New York et al.*, 86 N.Y.2d 307, 655 N.E.2d 661, 631 N.Y.S.2d 565: Initial ruling by the Court of Appeals, June 15, 1995 [http://www.law.cornell.edu/nyctap/195\\_0156.htm](http://www.law.cornell.edu/nyctap/195_0156.htm) (accessed November 26, 2007). The opening paragraphs of the ruling summarize the case history to date. A chronology from May 1993 to November 2006 is available on the following website: <http://www.cfequity.org/CFEchronology.htm> (accessed December 2, 2007).
8. *Campaign for Fiscal Equity et al. v. State of New York et al.* 1995, p.3.
9. *Campaign for Fiscal Equity et al. v. State of New York et al.* 2001.

10. *Ibid.*
11. Spitzer, Eliot. "A Contract for Excellence."
12. *Ibid.*
13. *Ibid.*
14. *Ibid.*
15. *Ibid.*
16. To develop a sense of scope, it is worth noting that there are approximately 700 school districts in New York State (only 55 of which are required to develop Contracts for Excellence). The Contracts, which will account for \$428 million in State funding, will affect 1547 schools with enrollments of nearly 1.1 million students. See Campaign for Equity's "2007-2008 Enacted Education Budget Legislation," the New York State Assembly's "2007-2008 School Aid," and the State Education Department's "School Districts in New York State for School Year 2004-2005" and "Contracts for Excellence: Index of Slides" (slide 3).

Other publications and announcements from the State Education Department help round out pedagogic as well as fiscal aspects of picture: "Contracts for Excellence Approved for 55 School Districts" provides a useful overview of the specific items that have been targeted for this additional funding (11/29/2007 press release); "Final Contract for Excellence Accountability Dollars, as of 11/01/2007 Database" provides dollar amounts for each of the 55 districts; and "Contract for Excellence - District Reports" includes links to documents that detail the needs and plans of various districts.
17. Governor Spitzer explained the Contract for Excellence criteria as follows: "Every district receiving an increase in funding of at least \$15 million or 10 percent more than in the previous year through our new foundation formula will enter into a contract that will govern how those new funds are spent."
18. Spitzer, Eliot. "A Contract for Excellence."
19. This list was adapted from CFE's website (<http://www.cfequity.org/>) on November 26, 2007. Also see the summary of changes listed in the New York State Budget Office's "FY0708 Little Book" (November 26, 2007).

20. <http://www.cfequity.org/CFEIDdecision.pdf>, pp. 47-48.
21. Campaign for Equity's "2007-2008 Enacted Education Budget Legislation." The New York State Assembly's "2007-2008 School Aid" provides a complete listing of state aid by school district.
22. Details concerning the formula are taken from a chart included in CFE's "2007-2008 Enacted Education Budget Legislation." CFE praised the formula as follows: "The state's new foundation formula is similar to the foundation formula proposed by CFE. . . The foundation formula simplifies school funding by collapsing over 30 separate aid formulas into a single formula. The foundation formula provides transparency by providing a clear predictable distribution of school aid. The foundation formula is fair because it prioritizes funding distribution based upon student need. Seventy-two percent of new foundation funding will go to high-needs districts and 42.6% will go to New York City."
23. "Letter to Ms. Johanna Duncan-Poitier, Senior Deputy Commissioner of Education, State Education Department," dated July 24, 2007.
24. Eliot Spitzer, "A Contract for Excellence," quoted earlier in the section titled "*Campaign for Fiscal Equity v. State* — Part VI (2004+) — Implementation: A long and winding road."
25. Professor Yinger's article was discussed earlier in this essay, in the section titled "Education Finance Reform in New York State: Morse and Yinger."
26. *The Politics*, p. 189, Book III, Chapter VI, 1279a 16.
27. *Federalist Papers*, p. 48.
28. Quoted by Morse, p. 196.

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