

BaruchCOLLEGE

SCHOOL OF PUBLIC AFFAIRS

CENTER FOR NONPROFIT STRATEGY AND MANAGEMENT

NEW YORK CITY NONPROFIT ADVOCACY CASE STUDIES

CASE STUDY 3

**EDUCATION FINANCE EQUITY FOR
NEW YORK CITY SCHOOLS:**

THE LONG HAUL

FULL VERSION



NEW YORK CITY NONPROFIT ADVOCACY CASE STUDIES

CASE STUDY 3

EDUCATION FINANCE EQUITY FOR NEW YORK CITY SCHOOLS:

THE LONG HAUL

FULL VERSION

This is one of three multimedia cases in the New York City Nonprofit Advocacy Case Studies series. The case narratives in the series are available in both a *Full Version* that includes an appendix with an analysis of the lesson learned, and a *Student Version* for use in the classroom that omits that appendix.

The *Full Version* is for general distribution to anyone interested in reading about the involvement of nonprofit organizations in advocacy. The *Student Version* is for classroom work. In addition, the background paper that accompanies the case studies, *Understanding Nonprofit Advocacy*, can be assigned to provide students with the theoretical context for analyzing the cases.

Students who are assigned the case study should work under an honor system and not consult the *Full Version* until after the classroom discussion.

Teaching Notes are available that provide instructors with additional information on how to use the cases, study questions for classroom discussions or assessment assignments and an analysis of the lessons learned for all three cases.

For copies of all three cases, the background paper *Understanding Nonprofit Advocacy* and information on how to obtain the *Teaching Notes*, visit the New York City Advocacy Case Studies website:

<http://www.baruch.cuny.edu/spa/researchcenters/nonprofitstrategy/CaseStudies.php>

CONTENTS

ACKNOWLEDGEMENTSiv

CENTER FOR NONPROFIT STRATEGY AND MANAGEMENT v

ROBERT STERLING CLARK FOUNDATIONvi

INTRODUCTION TO THE NEW YORK CITY NONPROFIT ADVOCACY CASE STUDIESviii

CASE STUDY

EDUCATION FINANCE EQUITY FOR NEW YORK CITY SCHOOLS: THE LONG HAUL 1

 ABSTRACT 1

 BACKGROUND TO EDUCATION FINANCE EQUITY ISSUES..... 1

 ADVOCACY ON FISCAL EQUITY ISSUES 3

 ADVOCACY STRATEGIES 6

 CONCLUSIONS 8

APPENDIX I –LESSONS LEARNED 9

APPENDIX II – SUPPORTING DOCUMENTATION AND MEDIA COVERAGE 10

APPENDIX III –DESCRIPTION OF ADVOCACY ORGANIZATIONS AND COALITIONS
HIGHLIGHTED IN THE CASE STUDY 14

A video of the nonprofit advocates highlighted in this case study discussing their role in the advocacy campaign is available at: <http://usqproductions.com/media/baruch>

A background paper, *Understanding Nonprofit Advocacy*, explores the definitions of advocacy, the strategic choices organizations make when planning advocacy campaigns and the difficulties of evaluating the outcomes.

The cases consist of a written narrative and accompanying videos of nonprofit advocates discussing their work. Also available are *Teaching Notes* that provide instructors with additional information on how to use the cases, study questions for classroom discussions or assessment assignments and an analysis of the lessons learned for all three cases.

All documents and links to additional materials are available on the NEW YORK CITY NONPROFIT ADVOCACY CASE STUDIES website at:
<http://www.baruch.cuny.edu/spa/researchcenters/nonprofitstrategy/CaseStudies.php>

ACKNOWLEDGEMENTS

Contributors

The case studies in this series were written by John Casey and Apurva Mehrotra of the Center for Nonprofit Strategy and Management in the School of Public Affairs, Baruch College.

The authors would like to thank David Birdsell, Dean of the School of Public Affairs, Jack Krauskopf, the Director of the Center for Nonprofit Strategy and Management, Margaret Ayers, President and Chief Executive Officer of the Robert Sterling Clark Foundation and Laura Wolff, Senior Program Officer of the Robert Sterling Clark Foundation for their support and encouragement during this project.

Our thanks also to all the interviewees for their generosity with their time and ideas.

The videos for the multimedia support were produced by Union Square Productions.

Funding

Funding for the project was provided by the Robert Sterling Clark Foundation.

CENTER FOR NONPROFIT STRATEGY AND MANAGEMENT

The School of Public Affairs (SPA) at Baruch College launched the Center for Nonprofit Strategy and Management (CNSM) to address the needs of nonprofit organizations that are pivotal to the health and well-being of New York City. The CNSM community of professors and practitioners takes seriously the relationship between research and practice—practice informs the faculty’s development of theory as much as theory informs their approach to practice. Faculty members engage directly and vigorously with area nonprofits and the institutions that support them and command a wide range of expertise. The School has substantial strength in organization theory, budgeting and finance, public communication, advocacy and lobbying, technology diffusion, population studies, strategic planning, housing policy, human services management, and health care policy.

SPA and CNSM offer a wide range of academic and non-credit programs and services that address the complex issues facing the nonprofit sector, including strengthening leadership and building a pipeline of future leaders. These programs include a Master of Public Administration with a concentration in nonprofit management, monthly seminars for nonprofit professionals, conferences, the annual Consulting Day, the annual nonprofit executive outlook survey, the Emerging Leaders Program, and support for and collaboration with various “umbrella organizations.”

For more information about SPA and CNSM see:

<http://www.baruch.cuny.edu/spa/home.php>

<http://www.baruch.cuny.edu/spa/researchcenters/nonprofitstrategy/index.php>

ROBERT STERLING CLARK FOUNDATION

The Robert Sterling Clark Foundation supports advocacy through its program on "Improving the Performance of Public Institutions." The underlying premise of the Foundation's interest in government performance is that government agencies and employees will deliver better services in a more cost-effective manner if their activities are scrutinized, evaluated, and held up to public view. While there are a number of public sector entities that monitor government spending, we believe that outside organizations play a critical role in examining existing policies and programs, identifying deficiencies, and promoting reforms that are responsive to changing societal needs. At times, this function has been carried out by the press, but for persistent attention to complex social problems and public bureaucracies, we have come to rely on non-profit organizations that make use of the following strategies to advance the public good:

- Conducting research to determine the efficacy of government programs;
- Communicating information about government performance and policy options to the media, policymakers, and the general public;
- Organizing citizens to bring collective pressure on public agencies to be responsive;
- Helping government officials develop and implement sound policies and programs;
- and
- Litigating when government agencies are not complying with applicable laws, and other actions fail to improve their performance.

The Foundation's focus on advocacy also reflects our desire to maximize the impact of our limited philanthropic dollars. By influencing government policies and programs, our grantees affect the expenditure of millions of dollars in public funds--an impact many times the size of our grants budget. As exemplified by the three case studies presented in this series, our Public Institutions program supports advocacy efforts across a wide range of issue areas.

A primary objective is to safeguard the wellbeing of low-income New Yorkers and other vulnerable individuals who are most dependent on government programs. We are particularly interested in ensuring that all children in the State receive adequate care and education from birth onward, and that young people and adults receive the education, training, and other supports necessary to become productive workers and community members.

Policy change rarely happens quickly or easily. As the case studies demonstrate, it often requires years of class action litigation and persistent monitoring of government agencies, advocacy, and public engagement activities. To mount these kinds of long-term campaigns, advocates need long-term funding. Beginning in 1993 with the filing of the *CFE v. State* lawsuit, the Foundation has provided over \$1 million dollars in support of fiscal equity litigation and advocacy conducted by the Campaign for Fiscal Equity and the Alliance for Quality Education.

INTRODUCTION TO THE NEW YORK CITY NONPROFIT ADVOCACY CASE STUDIES

The Center for Nonprofit Strategy and Management has developed three multi-media case studies on landmark attempts by nonprofit organizations to drive policy changes on key issues in New York City. The three issues are:

Case 1: Solid Waste Management and Environmental Justice. This case examines the continuing work of community-based organizations and public interest lawyers to promote equitable and environmentally sound solutions to waste handling in New York City.

Case 2: Child Welfare/Foster Care. This case study focuses on the campaign to eliminate racial and religious bias from the New York City foster care system, to protect children in foster care from abuse and neglect, and to improve child welfare services.

Case 3: Education Finance Equity. This case study examines the advocacy work in support of the *Campaign for Fiscal Equity v. State of New York (1993)* that brought together a coalition of education advocacy groups, parent organizations, and community school boards to push for more equitable funding of NYC schools.

The three cases document the background of the advocacy campaigns, identify the outcomes and impacts, analyze the role of the advocacy organizations and coalitions, and determine the key factors in the success or failure of the different elements of the campaigns. They highlight key elements of advocacy campaigns, including: the importance of grassroots campaigns and building a public constituency; the dynamics of complex coalitions; the pro and cons of litigation as an advocacy strategy; the role of policy research; and the importance of and preparing for a long-term commitment.

The cases are multi-media, with written narratives and accompanying videos of interviews with the advocates highlighted in the cases. The case narratives describe the unfolding of the events, identify the advocacy strategies used by the nonprofit organizations, and analyze the major lessons learned. Each case has an appendix with links to supplementary online documentation and to numerous examples of print and visual media coverage of the issues.

An additional background paper, *Understanding Nonprofit Advocacy*, explores definitions of advocacy and the challenges in evaluating the outcomes of advocacy campaigns.

Also available are *Teaching Notes* that provide instructors with additional information on how to use the cases, study questions for classroom discussions or assessment assignments and an analysis of the lessons learned for all three cases.

CASE STUDY 3

EDUCATION FINANCE EQUITY FOR NEW YORK CITY SCHOOLS:

THE LONG HAUL

ABSTRACT

This case study examines the advocacy work in support of the *Campaign for Fiscal Equity v. State of New York (1993)* that brought together a coalition of education advocacy groups, parent organizations, and community school boards to push for more equitable funding of New York City schools.

The case demonstrates the importance of building a public constituency and preparing for a long-term commitment. It also shows that a legal victory does not always mean “success,” but does provide valuable leverage for ongoing advocacy.

BACKGROUND TO EDUCATION FINANCE EQUITY ISSUES

Funding for public education in New York State has long been a controversial and convoluted issue. With so many school districts vying for what they consider to be their fair share, state legislators utilized an array of complex formulas to determine funding distribution. The formulas were so complex that it was almost impossible to implement any oversight to ensure fairness and fiscal equity between districts. To most observers, funding decisions appeared to be based more on political deal-making than on the objective needs of students.

An early challenge to the state’s funding mechanism came in 1978 when a group of poor school districts in Long Island filed *Levittown v. Nyquist*, claiming that the inequities of the funding system made it unconstitutional. In 1982, the State Court of Appeals ruled that even though inequities in funding did exist, the New York State constitution did not require equal funding for education. Over the course of the next decade, the education finance system remained largely unchanged and the inequities in funding continued, and in some respects became even worse.

In 1993, the Campaign for Fiscal Equity (CFE) filed a suit against the state of New York, once again questioning the constitutionality of the state’s funding system. This time, the suit alleged that the lack of adequate funding for New York City schools directly led to students not being able to receive their constitutional right to a sound basic education. The term “sound basic education” became the focal point of a movement that education advocates rallied around to energize their campaign and ultimately influence the courts.

Thirteen years later, in 2006, the Court of Appeals mandated an increase in funding for New York City schools. The years in between the two rulings saw a slew of court decisions, missed deadlines, appeals, and perhaps most importantly, a statewide movement that kept

the issue of public education funding on the minds of residents and on the front pages of the newspapers. As state budget cuts continue to threaten education funding, CFE and other advocacy organizations are continuing their campaign to ensure adequate funding for students across the state.

The following table highlights key events in the campaign for equitable funding for New York City schools (see Table 1).

Table 1: Timeline of Key Events

Year	Event
1982	The New York Court of Appeals rejects a challenge to the constitutionality of the state's public school financing system in <i>Levittown v. Nyquist</i> .
1993	CFE files a lawsuit against the state of New York charging that it is not providing adequate funding for children to receive their constitutional right to a sound basic education.
1995	The Court of Appeals upholds CFE's right to pursue the challenge to the constitutionality of education financing. Donors Education Collaborative is created to coordinate foundation funding for education reform.
1995-1999	CFE prepares for trial and develops proposals for funding and educational reform through a public engagement process. The statewide process involves collaboration with other education and community groups, issuing reports, organizing conferences and community forums, and media outreach.
1999	<i>CFE v. State of New York</i> is tried for seven months.
2000	The Alliance for Quality Education (AQE), a state-wide coalition, is created to coordinate the efforts of organizations representing parents, children's advocates, schools, teachers, community activists and others.
2001	The trial court finds that the current school funding system denies students in New York City the opportunity for a sound basic education.
2002	The Appellate Division overturns the trial court's decision, saying the state is only responsible for providing an 8 th grade education, a position advanced by Governor George Pataki.
2003	The Court of Appeals affirms the lower court's ruling, saying that the state must provide a meaningful high school education. The court orders the state to reform its education finance system by July 30, 2004.
2004-2005	The state fails to comply with the court order. The trial court appoints a Panel of Judicial Referees who conduct hearings to make recommendations to the court on what the State must do to comply with the court order. The panel recommends, and the judge orders, that the State increase school operating aid to New York City by \$5.63 billion within four years and a total of \$9.2 billion in capital spending over five years. Governor Pataki appeals the order.
2006	The Court of Appeals sets a minimum funding requirement of \$1.93 billion but gives discretion to the executive and legislative branches to enact a specific amount.
2007	The Governor and Legislature pass the New York State Education Budget and Reform Act, providing billions of dollars in additional funding to schools in New York City and across the state, and an accountability system named the <i>Contract for Excellence</i> .
2009	Amidst a state budget crisis, the legislature freezes new CFE funding for two years and stretches out the phase-in from four to seven years.
2010	The Governor proposes to cut \$1.4 billion in school aid statewide, \$493 million in NYC, and stretch out the CFE phase-in from seven to ten years.

ADVOCACY ON FISCAL EQUITY ISSUES

By 1992, Robert Jackson, a public school parent and President of Community School Board 6 in Manhattan, was fed up. With cutbacks in education again affecting his district and others across the city, he approached the school board's lawyer, Michael Rebell, and said that the state's inequitable funding formula was grounds for a lawsuit. Rebell agreed that the funding formula was inequitable, but reminded Jackson that the court had already decided in the Levittown case that it was not unconstitutional and that there was nothing the courts could do.

The numbers backed up Jackson and Rebell's feeling that New York City was not getting its fair share of funding. In 1992, New York City was receiving 32% of state education aid though it had 39% of all students in the state. This amounted to each student in New York City receiving roughly \$400 less per year in state education aid than peers in the rest of the state, despite the fact that New York City had significantly higher concentrations of students in poverty, with disabilities, or with limited English proficiency. As Jackson persisted, Rebell looked for a new approach to a possible lawsuit.

CFE v. The State of New York

Drawing from the experience of advocates in Kentucky and Montana, Rebell formulated a new plan by which to sue the state for inadequate funding of New York City schools. Rebell's approach would differ from previous efforts in two ways. First, Rebell would claim that the state's inequitable funding was denying New York City students their constitutional right to a sound basic education. Secondly, Rebell intended to form coalitions across the state and utilize broad public support to influence and inform educational reforms. Rebell was not merely looking for a court to allocate more money for New York City schools; he was interested in creating a statewide campaign that would ensure that whatever remedies the court suggested would be implemented effectively and actually improve the quality of education for all students.

In 1993, Jackson and Rebell formed the Campaign for Fiscal Equity (CFE), a coalition of dozens of community school boards, parent groups and education advocacy groups. They filed *Campaign for Fiscal Equity v. The State of New York*, charging the state with not providing adequate funding so that students could receive their constitutional right to a sound basic education.

Rebell knew from the outset that a long, hard road lay ahead and fortunately for CFE there was philanthropic support for education reform initiatives. Some of the foundations funding CFE from even before the lawsuit joined with others as the Donors Education Collaborative to pool resources to support education reform efforts in New York City. CFE also obtained *pro bono* services from a team of attorneys headed by Joseph Wayland from Simpson Thacher & Bartlett LLP.

Early Decisions: Victories and Defeats

The first major victory for CFE and education advocates came in 1995 when the Court of Appeals, the highest court in the State, denied the state's motion to dismiss the case, upholding CFE's right to pursue a legal challenge based on their claims that the state was

not providing adequate funding to ensure a sound basic education for all students. During the seven month trial from 1999-2000, CFE attempted to define the concept of a sound basic education, show that New York City students were not receiving this constitutional right, and convince the court that there was a causal link between inadequate funding and an inadequate education.

In 2001, the trial court sided with CFE and held that the state's inadequate funding was denying students their right to a sound basic education. The state appealed the ruling and in 2002, the Appellate Division of the State Supreme Court overturned the trial court's ruling, saying that the state could satisfy the sound basic education requirement by providing an 8th grade education. The ruling stunned education advocates and CFE prepared to take the case to the Court of Appeals.

Public Engagement

From the time CFE was formed and its lawsuit against the state filed in 1993, Michael Rebell intended to utilize a public engagement campaign to propel education advocates to victory. Rebell's theory of public engagement was rooted partly in his frustration that court decisions in constitutional cases often failed to bring about meaningful social change. He realized that in order to reform a large institution, such as the statewide financing system for public schools, it would require more than a court order. "If this is going to be a lasting change, if it's going to be something more than a superficial statement, the people who are going to be affected by this change have to want it and have to understand it," says Rebell. "So that convinced me that what we have to do in these large institutional reform litigations is to combine the lawsuit with an extensive public engagement campaign to reach all the people within the institution and all of those affected by the institution in a very meaningful way."

The public engagement campaign manifested itself in a variety of ways. CFE formed coalitions across the state with various parent groups, teacher unions, and other organizations interested in education reform. The groups held conferences and community forums, issued reports, and conducted media outreach in an effort to define the terms of what they wanted to achieve and bring as many people into the discussion as possible. Speaking of the public engagement campaign's ability to bring in the voices of the most affected constituencies, current CFE Executive Director Geri Palast says, "I think when people feel the energy and they experience in their own classrooms that they're not getting what they want and they see the ability to make a change, it engages them."

The public engagement campaign's statewide focus eased long standing tensions between different geographic areas in the state of New York. New York City, Long Island, and upstate regions had generally been in competition over resources and funding. The CFE court case only involved New York City, but the greater movement that resulted from the public engagement campaign was about securing adequate funding for all schools in the state. "I think one of the important things that we brought into this discussion by making it statewide ... was that in upstate there are a lot of large, urban districts that are poor as well as rural districts who actually benefited more [from the CFE decision] than New York City did," says Palast.

Rebell was given a chance to bring the public into the education reform debate at an early stage. After the 1995 ruling by the Court of Appeals upholding the adequacy challenge, CFE gave the trial judge who would hear the case a template for what it believed a sound basic education to be. The template, however, was open to input and changes that they expected would come from lawyers and experts. Rebell, however, saw this as a golden opportunity to open the issue up to public debate. In the ensuing years, CFE held forums across the state, bringing together students, teachers, education officials, and advocates to formulate a statewide consensus on how to define a sound basic education. "When we had these forums across the state, we would start off by saying, the highest court in the state is about to make this really important, constitutional decision about what kids' rights to education means and they want your help," says Rebell. "So we'd have these wonderful discussions where people would really think about it...we'd get input from all of the regional [meetings] and see if we could work it out in a consensus." The definition that was ultimately reached would be the basis for what CFE hoped to achieve in its lawsuit against the state.

The Alliance for Quality Education

Those involved in the campaign for increased funding for New York City schools knew that the effort had to extend well outside of the courtroom. In 2000, a group of community based organizations pulled together parent and community groups across the state to form a coalition known as the Alliance for Quality Education (AQE). From that point on, AQE would play a pivotal role in rallying grassroots support, attracting press coverage, and pressuring elected officials to support CFE and their case against the state.

AQE was particularly active in protesting the Appellate Division decision supporting Governor Pataki's claim that students were only entitled to an 8th grade education. After the Governor announced his position, AQE brought a horse and buggy to Albany to symbolize how far back in time Pataki's position would take education. During the gubernatorial election in October 2002, AQE protested the court's decision's by organizing a fourteen-stop "12th Grade Express" tour of a yellow bus around the state to demand that the Governor settle the CFE case and guarantee every child a 12th grade education. These, and similar public events, brought AQE's cause significant attention among the media, elected officials, and the public at large.

Funding a Sound Basic Education

In June 2003, the Court of Appeals overturned the Appellate Division decision and declared that the state was indeed mandated to provide "a meaningful high school education," supporting CFE's claim that the constitutional requirement should be defined in terms of an education that prepares students for competitive employment and active civic participation. The high court ordered the state to reform its education finance system, assess the cost of a sound basic education in New York City, allocate funds accordingly, and set up a system of accountability to measure student performance.

When the state failed to comply with the court's order, the trial court appointed a Panel of Judicial Referees to conduct hearings and make recommendations. They recommended, and the trial court ordered, that the state increase annual school operating aid to New York City by \$5.63 billion within four years and add a total of \$9.2 billion in capital spending over five years. After an appeal by the State, the Appellate level court ordered the State to increase

school operating funding between \$4.7 and \$5.63 billion. The capital funding amount of \$9.2 billion was uncontested. After the State failed to grant the operating aid in the budget, CFE went back to the courts. The Court of Appeals decided in 2006 that the state must provide a minimum of \$1.93 billion in operating aid over four years, even while several of the judges suggested that the \$5 billion figure would be advisable. The court, however, deferred to the Governor and the legislature to decide the exact amount.

The 2006 decision meant that the work for CFE and AQE was far from over. They continued rallying public support, garnering media attention, and pressuring elected officials to provide more than the minimal amount set by the court. In 2007, newly elected Governor Eliot Spitzer and the legislature enacted the New York State Education Budget and Reform Act of 2007, a major statewide school finance reform initiative designed to resolve the CFE litigation. Fortunately for advocates, they had already secured a commitment from Spitzer before he was elected, and before the Court of Appeals decision, that he would increase state aid to schools by far more than the Appellate Division's minimum requirement if elected. The new law provided \$7 billion of new funding in state school aid, \$5.5 billion through a new foundation formula based on need, to be phased in over four years, and a new accountability system for strategic classroom investment and assessment that required school districts to invest these funds in specific school improvement strategies and to develop plans known as *Contracts for Excellences* specifying how the funds would be allocated. The law also called for a process of public participation in the development of these *Contracts*. For New York City, the Act provided an additional \$3.2 billion in state school aid, including \$2.35 billion in foundation aid, and it required New York City to provide an additional \$2.2 billion for schools over the same four year period.

ADVOCACY STRATEGIES

In the battle to secure increased funding for New York City schools, advocates utilized a variety of strategies to influence the courts, legislators, and the public at large. What started as a lawsuit in 1993 eventually turned into an ongoing statewide campaign that engaged the public in a unique and indispensable way.

Legal and Legislative Strategies

Michael Rebell was hesitant to initiate litigation around the education finance equity issue in light of the court's Levittown ruling fifteen years prior. Prodded by Robert Jackson's persistence, Rebell moved ahead with the lawsuit, forming CFE and suing the state of New York for inadequate funding and failure to provide students a sound basic education. "We had to do a lot of fancy legal homework to convince the court that there was a new legal theory, that things had changed and that they should give consideration to this case," says Rebell. Rebell knew that the odds were long and that it would take a comprehensive, lengthy campaign to bring about meaningful reform, but his and Jackson's passion for the issue outweighed their reservations.

Once the courts decided to give the Governor and legislature flexibility in determining how large a funding increase was required, the advocacy groups involved in the CFE campaign shifted their attention from the courthouse to the statehouse. The gubernatorial election of 2006 provided a perfect context for groups such as CFE and AQE to mobilize support for

their campaign. With Eliot Spitzer as the heavy favorite, advocacy groups secured an early commitment from his campaign that he would make a response to the CFE case and education funding a top priority. "We had a whole series of activities leading up to the court case...all of that activity was focused on how we can make this impact on Eliot Spitzer," says Billy Easton, Executive Director of AQE. After his election, when it seemed like the Governor might waffle on his promises, AQE and CFE applied heavy pressure on the administration to keep its word and respond energetically to the CFE court order.

Research and Policy Analysis

In the effort to convince the courts that the public education finance system was failing the city's students, CFE drew extensively on social science data to document its claims. Research on student performance, achievement gaps, and classroom size all informed CFE's litigation and its attempt to convince the court that inadequate funding was leading to an inadequate education. According to Rebell, "As the courts have gotten more involved in these social policy cases, and education in particular, the use of social science has become much more widespread and much more sophisticated." One of the challenges in the CFE case was translating the social science evidence into a language that lawyers could understand and that would be admissible to the courts.

Outside of the courtroom, both CFE and AQE issued a slew of reports highlighting their claims that students were not receiving their constitutional right to a sound basic education and that increased funding could remedy some of the ills. They have also issued accountability reports on how money allocated under the 2007 Education and Budget Reform Act is being spent.

Coalition Building and Capacity Development

From the moment Michael Rebell decided to go to court, he knew that the effort would require a broad coalition and a public engagement campaign that would bring in the voices most affected by the problems with the state's education financing system. CFE itself started as a coalition of fourteen community school boards and various parent groups and education advocates; AQE represents over 230 organizations of parents, children's advocates, teachers, and community activists.

To recruit new groups into their coalitions, CFE and AQE actively advertised their cause and invited participation. CFE reached out to statewide school board associations, parent and teacher associations, unions, and business groups who would co-sponsor forums across the state. They travelled around the state inviting local organizations to these public forums to explain what they were doing and invite them to participate. "We had a list of...a couple hundred organizations around the state that we kept in touch with and when we came to their area, we would reach out to them," says Rebell. CFE also contacted local media so that they could do interviews, which attracted attention and increased participation in their local forums and overall campaign.

Community Support and Direct Action

On the day CFE filed its case against the State of New York, Robert Jackson, the parent and Community School Board president who co-founded CFE, led a march from his apartment in Washington Heights in upper Manhattan to the courthouse steps near City Hall where the case was being filed. Ten years later, before the Court of Appeals issued its ruling on whether the state was only required to provide an 8th grade education, Jackson organized a new march, this time from Manhattan to Albany some 150 miles away, to generate support for a favorable decision. Jackson and his entourage, including a brass band he picked up in Albany, arrived at a park across the courthouse just before the final argument was scheduled to begin. The event gained the attention of the media and the judges hearing the case.

Jackson's marches were emblematic of how effectively direct action was utilized to gain media attention and gain community support. AQE played a primary role in many of those actions. Organizing bus tours, rallies, and acts of civil disobedience, such as when protesters blocked the exit for state legislators until they responded to the CFE court order, AQE ensured that the campaign would be read about in newspapers and seen on televisions across the state. "You want to be able to use all of the tools there are. You want to think about how the media plays into things," says Easton. "You can do events, things like the horse and buggy and other activities that get media attention. But you also want to think about how you can tell a media story over time." Jackson also put his organizing skills to use in another political arena and in 2002 won a seat in the New York City Council and became the Chair of the Education Committee.

CONCLUSIONS

The Court of Appeals decision in 2006 and the passing of the New York State Education Budget and Reform Act in 2007 represented major victories for education advocates. They were the fruits of a 13-year campaign in which the courts and the state legislature repeatedly issued orders and enacted laws supporting increased funding for public schools, but the victories were then rolled back on appeal or funding was not made available for their implementation. Education advocacy organizations such as CFE and AQE continually battled in the courts of law and in the court of public opinion to ensure that each gain was defended and implemented. Currently, however, any positive results of these campaigns have been tempered by the reality of the financial crisis – in the 2010 New York State budget \$1.4 billion was cut from school funding, the largest cut in the state's history.

The primary objective of lawsuits and wider advocacy campaigns was that students across the state receive the quality of education they are entitled to. The advocacy organizations continue to be actively involved in the ongoing discussions over funding and accountability and in ensuring that funds are spent in ways that improve student learning and outcomes.

APPENDIX I – LESSONS LEARNED

Note: The following sections focus on the most salient lessons of this particular case study. As the lessons learned in the other two case studies in the series may also be applicable here, readers are encouraged to look at those cases and at the background paper *Understanding Nonprofit Advocacy*.

Favorable Court Rulings Do Not Equal Success

A court order can often be a hard fought and significant victory, but it does not mean that true change will necessarily occur. As Rebell notes, “The court agrees that something needs to be reformed but you come back five and ten years later and see whether the court ruling had any substantial impact on people’s lives and the answer is not always positive. More often than I would like to acknowledge over the years, it’s been a negative answer”. In the case of education finance reform in New York City, the first ruling to acknowledge that the state’s funding was in fact leading to an unconstitutional denial of students’ right to a sound basic education took place in 2001. In the year 2010, advocates are still fighting for adequate funding. Not only do those who oppose such reforms have the ability to engage in lengthy appeals processes, but legislators with the power of the purse can also undermine or weaken the impact of favorable court rulings.

Public Engagement Can Be a Key to Success

The fact that court orders often do not result in the desired outcome underscores the importance of public engagement campaigns. Rebell recalls telling the board of directors of CFE before the case began, “It may be ten years before we see the end of this case, but what we need to do is work for these ten years to build the right climate and the right basis of support for this.” Rebell wasn’t far off the mark. The CFE case lasted thirteen years and the public engagement campaign was pivotal in ensuring that the court’s remedies would be carried out by the legislature. Geri Palast, who became Executive Director of CFE in 2006, says, “It’s very important to recognize that to attain a constitutional right and get a settlement in a moment in time is not winning a social cause. So yes you win at a moment in time, but that’s only a moment in time. It’s the movement and the ability of that movement to function together that’s probably the most critical thing that happened. ...We can’t let it go away. We have to take it through the challenges. It’s important that this is not seen as one victory... and it’s time to do something else.”

There’s No Season like Election Season

If there is one thing that can lead an elected official to commit to a cause that he or she might otherwise not commit to, it is an impending election. In 2002, Governor Pataki, who had previously called for and endorsed the intermediate court’s decision that the state was only required to provide an 8th grade education, began to sing a different tune during his re-election campaign. His opponent, Carl McCall, was making some headway primarily based on his support of CFE’s assertion that the 8th grade decision was outrageous. Pataki publicly announced that he disagreed with the judges, and while the about-face had no real legal

standing, it certainly made it much easier to argue against the decision to the Court of Appeals after its primary proponent had changed his mind.

In 2006, CFE and AQE also utilized the gubernatorial election to further their cause. With Eliot Spitzer emerging as the likely winner, AQE pressed his campaign to commit to supporting the CFE case. "At some point, in one of the debates, he said he would fund CFE. So we capitalized on that right away and we started using every quote he had ever used in a positive light, putting it out there, here's what Eliot Spitzer said he's going to do and he's a man of his word... so sort of creating that expectation," says Easton.

Grassroots Organizing and Collaboration Drive Advocacy Campaigns

As AQE Executive Director Billy Easton notes, organizing and coalition building are fundamental to the success of an advocacy campaign. "Without organizing in many cases, advocacy runs into limitations. It's much stronger when you have the power of a lot of people who can come out. We've had so many rallies and lobbying activities that thousands and thousands of parents and students and community residents have participated in. That wouldn't be possible without the commitment of the groups in the coalition to organizing." The collaboration of various groups in the fiscal equity campaign not only ensured large turnouts at rallies and other events, but put added pressure on elected officials to adhere to the demands of their constituents, particularly once the court had made its decision. And while the initial lawsuit was focused on New York City schools, a decision was made early that the campaign would have a statewide reach. Michael Rebell of CFE began building statewide coalitions early on, knowing that if and when a favorable decision was reached in the courts, they would need a broad base of public support to actually get reforms enacted. "If we were to win this case and do nothing to build coalitions around the state, we would have a disaster when we went to the legislature at whatever point in time it was and try to get reforms of the formula even with a court order," says Rebell.

Advocacy is Expensive

All advocacy work has its costs; and when a campaign requires litigation, those costs soar. The value of the *pro bono* legal work provided for the CFE litigation was calculated to be the equivalent of some \$26 million. Finding funding for advocacy is never easy as government funding is usually not available for that purpose, and private donations from individuals or foundations can be hard to attract when issues are controversial, outcomes are uncertain, and donors may be wary of the legal and tax implications of funding the work. Advocates in the campaign for fiscal equity were fortunate to have funders who shared their long term vision. The Donors Education Collaborative, the coalition of grant making foundations, provided some \$2 million in to CFE and AQE during their long campaign (as well as an additional \$6 million to other education organizations). Geri Palast emphasizes the importance of the Donors Education Collaborative to the fiscal equity campaign, saying "I think one of the things that's been unique about this set of funders, which is unusual in the funding community, is that they have been in it for the long haul." Without *pro bono* legal services and the continued support of funders the Collaborative and its members – many of whom also made separate grants to CFE and AQE – the victories won in the fiscal equity campaign would have been significantly more difficult, if not impossible, to achieve.

APPENDIX II – SUPPORTING DOCUMENTATION AND MEDIA COVERAGE

Documents

Alliance for Quality Education. *Contracts for Excellence Year One: Grading the NYS Education Department*. December 22, 2007. Available at:

http://www.aqeny.org/cms_files/File/AQE%20Contracts%20for%20Excellence%20Year%20One%20Grading%20the%20State%20Education%20Department.pdf

Campaign for Fiscal Equity. *A Seat of One's Own: Class Size Reduction in the Lowest Performing Schools in New York City*. November 2007. Available at:

<http://www.cfequity.org/pdfs/reports/ASeatofOnesOwnFullReport.pdf>

Campaign for Fiscal Equity. *Summary of the Decision by the Court of Appeals in Campaign for Fiscal Equity, Inc. v. State of New York*. June 26, 2003. Available at:

http://www.cfequity.org/static_pages/CrtofAppeals2003.pdf

Campaign for Fiscal Equity. *Analytic Overview of Appellate Division Majority's Decision in CFE v. State of New York*. 2002. Available at:

http://www.cfequity.org/static_pages/appellateanalysis.pdf

Campaign for Fiscal Equity. *A Brief History of the Lawsuit*. n.d.

<http://www.cfequity.org/static.php?page=historyoflawsuit&category=resources> (Full documentation of the CFE lawsuit is available at:
http://www.cfequity.org/static.php?page=cfe_v_ny&category=resources)

Cohen, Bob. *Still No Funding, Still No Fairness: The State of Our Schools in 2005*. Public Policy and Education Fund, Inc. December 22, 2005. Available at:

http://www.aqeny.org/cms_files/File/Reports/State%20of%20Our%20Schools%202005%20Report%20Final.pdf

Grantmakers for Education. *Working Together to Achieve Greater Impact: The Donors' Education Collaborative of New York City*. Case study on improving grant making in education. The full case is available at: http://www.edfunders.org/downloads/Case3-Collaboration_B&W.pdf ; the Case in Brief is available at:

<http://www.edfunders.org/downloads/CaseinBrief2.pdf>

(The complete series of seven case studies on improving grant making in education is available at: <http://www.edfunders.org/knowledge/eeg.asp>)

News Coverage - Print

DeMause, Neil and Green, Elizabeth. The Campaign for Fiscal Equity Lawsuit was the Best Hope for City Schools. It Failed. *The Village Voice*. January 21, 2009. Available at:

<http://www.villagevoice.com/2009-01-21/news/the-campaign-for-fiscal-equity-lawsuit-was-the-best-hope-for-city-schools-it-failed/1>

King, David. Education Groups Sue Patterson. *Gotham Gazette*. December 16, 2009.

Available at: <http://www.gothamgazette.com/blogs/wonkster/2009/12/16/education-groups-sue-paterson>

Matthews, Cara. Education Cut Could Affect CFE Resolution. *The Journal News*. November 17, 2008. Available at: <http://polhudson.lohudblogs.com/2008/11/17/education-cut-could-affect-cfe-resolution/>

Medina, Jennifer. More Aid for City Schools but Less than Promised. *The New York Times*. January 23, 2008. Available at: <http://www.nytimes.com/2008/01/23/nyregion/23schools.html>

Palast, Geri. Schools in New York Need Remedy, Not Appeals. *Times Union*. September 17, 2006. Available at: http://www.aqeny.org/cms_files/File/articles/times%20union%209.17.06.pdf

Rebell, Michael. Stuck in the Stone Age. *The New York Times*. May 1, 2005. Available at: <http://query.nytimes.com/gst/fullpage.html?res=9407E7D61331F932A35756C0A9639C8B63>

Robinson, Gail. The Latest Round on School Funding. *Gotham Gazette*. February 2005. Available at: <http://www.gothamgazette.com/article/education/20050217/6/1325>

Robinson, Gail. The Last Word in School Funding? *Gotham Gazette*. November 2006. Available at: <http://www.gothamgazette.com/article/education/20061127/6/2044>

Wolff, Jessica and Wardenski, Joseph. The School Funding Victory. *Gotham Gazette*. June 2003. Available at: <http://www.gothamgazette.com/article/education/20030627/6/438>

News Coverage – Television/Video

AQE. Available at: <http://www.youtube.com/watch?v=liPuSxIDKlg>

Alliance for Quality Education Demonstration at State Education Department. July 2008. Available at: <http://www.youtube.com/watch?v=obQHWpCDBp4>

CFE, Chancellor Ask Albany for Billions in School Construction Aid. *NY1 News*. April 13, 2004. Available at: <http://www.ny1.com/content/38912/cfe--chancellor-ask-albany-for-billions-in-school-construction-aid>

Court Panel Recommends NYC Receive \$14 Billion In School Funding. *NY1 News*. November 30, 2004. Available at: <http://www.ny1.com/content/45729/court-panel-recommends-nyc-receive--14-billion-in-school-funding>

Governor's Budget Includes "Historic" Education Funding. *NY1 News*. January 31, 2007. Available at: <http://www.ny1.com/content/66364/governor-s-budget-includes--historic--education-funding>

Groups Challenge Public School Funding Formula. *NY1 News*. October 12, 1999. Available at: <http://www.ny1.com/content/2066/groups-challenge-public-school-funding-formula>

New Yorkers of the Year: Councilman Robert Jackson and the Campaign for Fiscal Equity. *NY1 News*. January 5, 2004. Available at: <http://www.ny1.com/content/36174/new-yorkers-of-the-year--councilman-robert-jackson-and-the-campaign-for-fiscal-equity>

State Funding Formula for City Schools Ruled Illegal. *NY1 News*. January 10, 2001. Available at: <http://www.ny1.com/content/10123/state-funding-formula-for-city-schools-ruled-illegal>

Students, Parents And Teachers Rally In Albany For More School Funding. *NY1 News*. March 14, 2006. Available at: <http://www.ny1.com/content/57817/students--parents-and-teachers-rally-in-albany-for-more-school-funding>

Supporters of School Funding Lawsuit to March to Albany. *NY1 News*. May 1, 2003. Available from <http://www.ny1.com/content/29832/supporters-of-school-funding-lawsuit-to-march-to-albany>

Additional Documentation

Both CFE and AQE maintain archives of the numerous reports, testimonies, and policy briefs they have produced during their struggle for education finance equity.

CFE Archive page:

http://www.cfequity.org/static.php?page=cfe_archives&category=resources

AQE Action and Information page: <http://www.aqeny.org/action-information.php>

APPENDIX III –DESCRIPTION OF ADVOCACY ORGANIZATIONS AND COALITIONS HIGHLIGHTED IN THE CASE STUDY

The following descriptions provide additional information about the organizations and coalitions highlighted in this case study.

Donors Education Collaborative (DEC)

<http://www.nycommunitytrust.org/AboutTheTrust/FunderCollaboratives/DonorsEducationCollaborative/tabid/396/Default.aspx>

The Donors Education Collaborative is a joint grant making effort that supports policy reform efforts aimed at making the New York City public school system more equitable and responsive to the needs of its students. Since its founding in 1995, 27 foundations and donors have become involved as members, some for longer periods of times than others. DEC has invested millions of dollars to support the advocacy work of various organizations, including the Campaign for Fiscal Equity and the Alliance for Quality Education. DEC grants totaled approximately \$9 million from 1995 to 2007.

The Alliance for Quality Education (AQE)

<http://www.aqeny.org/>

The Alliance for Quality Education was founded in 2000 and has become one of the state's leading community based education advocacy organizations. AQE unites a coalition of over 230 organizations of parents, children's advocates, schools, teachers, clergy, and others. AQE utilizes leadership development, community organizing, electronic activism, media relations, policy work, and lobbying to campaign for education reform. Thanks in large part to the work of AQE, the issue of funding for New York public schools has become a high profile issue throughout the state.

AQE is a 501(c)4 civic league and social welfare organization. They have a staff of nine people spread out throughout the state, with their headquarters in Albany. Operating expenses for the organization were approximately \$1.2 million in 2008.

The Campaign for Fiscal Equity (CFE)

<http://www.cfequity.org/>

Founded in 1993 by Robert Jackson, Michael Rebell, and a coalition of concerned parents and education advocates, the Campaign for Fiscal Equity strives to protect and promote the constitutional right to a sound basic education for all students in the state of New York. CFE was the lead plaintiff in the landmark CFE v. State of New York case that established the state's obligation to provide adequate funding and resources so that all students can enjoy their constitutional right. CFE currently is involved in ensuring the transparency and accountability of the state funding system through advocacy/lobbying, policy research, and a public engagement campaign. CFE is a 501(c)3 public charity with a small staff of three people and offices in New York City. Operating expenses for the organization were approximately \$865,120 in 2008.

BaruchCOLLEGE

SCHOOL OF PUBLIC AFFAIRS

CENTER FOR NONPROFIT STRATEGY AND MANAGEMENT

ONE BERNARD BARUCH WAY, D – 901

NEW YORK, NEW YORK, 10010

646.660.6700

www.baruch.cuny.edu/spa/researchcenters/nonprofitstrategy/



135 EAST 64TH STREET

NEW YORK, NY 10065

212.288.8900

<http://www.rsclark.org/>



January 2011

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Unported License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/> or send a letter to Creative Commons, 171 Second Street, Suite 300, San Francisco, California, 94105, USA.