

Long Island Foundation Aid Roundtable

The New York Civil Liberties Union is the foremost defender of civil rights and civil liberties in New York. We have more than 200,000 members and 8 offices around the state, including offices in Nassau and Suffolk County, which, between them, include some of most dramatic inequality in our entire state. The work of the NYCLU's education policy center focuses on two goals: 1) protecting and expanding civil rights and racial equity in institutions that serve young people, and 2) ensuring public schools live up to their promise as incubators of democracy. We are concerned with issues of school discipline and pushout, school climate and student supports, the opportunity gap for students of color, culturally responsive and affirming educational environments, and access to adequate supports for English Language Learners and students with disabilities. While the challenges for students of color and students with disabilities in NY schools are myriad, nearly all of would be eased by a fair, adequate, and equitable funding plan.



125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Robin Willner
President

Every year, instead of funding the Foundation Aid formula, New York legislators substitute a temporary formula that leaves schools underfunded and Black and Brown students feeling the impact. The state calls this temporary funding formula Foundation Aid, but it is a poor substitute for the real Foundation Aid formula. Under true Foundation Aid our schools would be receiving \$4 billion more than they are.

I. Racial Injustice

Many schools across our state are strapped for cash, but districts that educate the greatest proportion of students from poor households are hit the hardest. These districts serve the children with the most intense needs and generally have less funding from local sources. On average, New York State spends enough to guarantee every child a sound basic education, but we don't spend it in the right places. This is the tragedy of school funding, and it is nowhere more apparent than in Long Island, where wealthy and poor school districts are essentially side by side.

The Hempstead School District, specifically, is owed more than \$57 million under the Foundation Aid formula, which would account for more than 25% of its annual budget, or more than six thousand dollars per student.¹ Freeport is owed \$44 million; Uniondale and Westbury \$41 million each. **Students in these districts are between 88% and 98% Black and Latinx.**² The first thing the state has to do is to pay these districts what they are owed.

Second, the state must abandon the "Hold Harmless" rule, which ensures that no district will receive less aid than the year before, no matter their enrollment or needs, and which is responsible for some of the worst funding injustices on Long Island. **Sending more money to every district is not an equitable plan and it will not produce equitable results.** According to the Citizens Budget Commission, the amount needed to fully fund even the highest-needs districts is

¹ Alliance for Quality Education, What is My School District Owed? <https://www.aqeny.org/school-district-owed/>

² US DOE Civil Rights Data Collection 2015-16

about \$80 million, far less than the \$1 Billion proposed by the governor, which would send more money to all districts.³

There are seven districts in Nassau County that have been fully funded under Foundation Aid and between them they have an average of just 30% enrollment of Black and Latinx students.⁴ This is educational racism at work, and should be an embarrassment to our state.

II. Immigrant Students

On Long Island, one issue we encounter very often is school districts struggling to accommodate immigrant students, despite a clear moral and legal mandate to do so. Due to a lack of supports for ELL classes, interpretation services, and bilingual education, we constantly hear about students who are new arrivals being turned away and not even permitted to register. These kids and families are scapegoated for the failures of the state to fund districts adequately, and the failures of the districts to meet students' needs. This, of course, is not lawful under state regulations and constitutional principles, but is a regular occurrence nonetheless.

In 2010 and 2014, the NYCLU issued reports which uncovered dozens of school districts across the state asking families for social security numbers and immigration documents at enrollment, which is unlawful because it can discourage immigrant families from registering.⁵ However, Long Island school districts are among the worst, regularly denying or restricting access to immigrant families. The East Meadow School District, for example, states on its website that an "original birth certificate" is required for registration (we have reported this to the State Education Department twice).⁶ This is not a lawful requirement—families have only to prove a child's age and that they have been vaccinated in order to register for school. State Education Law permits parents to prove a child's age using a passport, baptismal certificate, consular ID, hospital record, or affidavit.⁷ Producing an "original" birth certificate can be prohibitive for a newly arrived family, and we believe the requirement is designed that way, to keep kids out of the district. We believe this is motivated at least in part by funding concerns, and an inability to adequately provide for the needs of immigrant students.

When districts lack the resources to meet students' needs, we also encounter abusive school district boundary policing. Districts in Long Island regularly spend money on private investigators and conduct surveillance on families for the purpose of gathering evidence to kick children out of the district. Often these children are recent immigrants, are homeless, or are living in nontraditional, and sometimes

³ <https://www.nydailynews.com/opinion/ny-oped-state-education-aid-20190311-story.html>

⁴ West Hempstead (56% Black and Latinx), Manhasset (21%), Great Neck (10%), Jericho (less than 6%), Long Beach (35%), Lawrence (74%), and Locust Valley (19%). Source: US DOE Civil Rights Data Collection 2015-16

⁵ See Plyler v. Doe, 457 U.S. 202 (1982)

⁶ East Meadow Registration Requirements:

http://www.eastmeadow.k12.ny.us/for_parents/new_student_registration. Other districts just in Nassau County that purport to require an original birth certificate include: Great Neck Union Free School District (<https://www.greatneck.k12.ny.us/Page/14151>) and Island Trees Union Free School District (https://www.islandtrees.org/apps/pages/index.jsp?uREC_ID=415352&type=d).

⁷ See, e.g. NYSED Letter to Superintendents Re: Student Registration Guidance, August 30, 2010. <http://www.p12.nysed.gov/sss/pps/residency/studentregistrationguidance082610.pdf>.

unstable, family situations. These are the children who most need a welcoming and supportive school. And that money spent to kick them out could instead be invested in a healthy school system. Yet, the funding pressures on school districts are so immense that this misplaced focus feels imperative.

We call on the state legislature to fully fund the Foundation Aid formula in 2020. Currently, the amount owed by the state to our schools is \$4 billion and almost 2/3 of that is owed to districts with majority students of color. This should be the primary focus of the State Legislature this year.

Further, in the 2021 session, we call on the legislature to improve on and update the Foundation Aid Formula to better account for high-needs students, including English Language Learners and students with disabilities.⁸ If fully funded by the state, the neediest Long Island School Districts could invest in, among other things, interpretation and translation services, adequate supports for bilingual and ELL education, and additional teachers to reduce class sizes.



⁸ US DOE Civil Rights Data Collection 2015-16