

Safeguarding Sound Basic Education: Constitutional Violations in New York State

The Campaign for Educational Equity undertook an extensive research project investigating educational inadequacies in high-needs schools around the state and published findings about widespread violations of many students' educational rights. This research brief summarizes key findings from this work.

What Is the Constitutional Right to a Sound Basic Education?

New York's highest court ruled in the *Campaign for Fiscal Equity (CFE)* case that the state has a constitutional obligation to provide every student the opportunity for a sound basic education, which it characterized as a "meaningful high school education." The Court and Regents have defined that education as one that will allow each student to meet a challenging set of academic standards and will prepare every high school graduate to be "college and career ready" and a productive civic participant.

This means that each school must have adequate funding to provide students with the basic educational resources they need to meet New York State Learning Standards and diploma requirements, including

- sufficient numbers of qualified teachers, principals, and other personnel;
- suitable and up-to-date curricula;
- an expanded platform of services for struggling students;
- adequate resources for students with disabilities and English language learners;
- appropriate class sizes;
- sufficient and up-to-date books, supplies, libraries, technology, and laboratories;
- a safe, orderly environment; and
- adequate and accessible facilities.

The Campaign for Educational Equity has detailed the specific resource requirements in each of these areas in a report, *Essential Resources: The Constitutional Requirements for Providing All Students in New York State with a Sound Basic Education*.¹

We also studied the availability of basic educational resources in the eight areas listed above in 33 schools around the state that enrolled large numbers of students from low-income households, students below proficiency in basic skills, English language learners, and/or students with disabilities. Our study found a number of serious deficiencies, which we describe at length in our report, *Deficient Resources: An Analysis of the Availability of Basic Educational Resources in High-Needs Schools in Eight New York State School Districts*.² The rest of this brief summarizes these findings.

¹ For the full report, see www.tc.edu/equitycampaign/essentialresources

² See www.tc.edu/equitycampaign/deficientresources



Violations of State Requirements for Basic Educational Resources

Schools Lacked Sufficient Instructional and Student Support Personnel



Nearly all of the schools in our sample (31 of the 33) lacked a sufficient number of certified teachers. The lack of enough teachers resulted in schools being unable to provide sufficient instructional time and course offerings in required curricular areas, as well as in overcrowded classrooms, a lack of required academic support services, and a lack of sufficient electives and advanced classes, among other basics.

Over two-thirds of the schools (25 of 33) lacked a sufficient number of guidance counselors to provide all of their students with state-required services, including basic academic counseling. Eleven of the 12 high schools were unable to provide their students with college readiness counseling and supports.

The vast majority of schools in our sample (28 of 33) did not have sufficient school psychologists or social workers to meet state requirements that schools must respond to the needs of students with behavioral or adjustment problems.

Schools Were Unable to Provide Required Curriculum Offerings



Nearly half of the study schools (15 of 33) were unable to provide sufficient instructional time or appropriate course offerings to satisfy minimum state requirements in core academic subjects. Three schools were not providing sufficient instructional time or course offerings to meet minimum state requirements in mathematics. Five schools were not providing sufficient instructional time or course offerings to meet minimum state requirements in social studies. And 13 schools were not providing sufficient instructional time to meet minimum state requirements in science.

Nearly half the schools were unable to provide other required subjects: 14 schools lacked adequate resources to provide their students with sufficient instructional time or course offerings in the arts. Sixteen schools could not meet the state's minimum requirements for physical education; and 13 schools could not provide students with required instruction in health. In addition, many schools could not provide state-required instruction in a language other than English, technology education, family and consumer science, and career development and occupational studies.

NO Schools Could Meet Requirements to Help Struggling Students



New York has specific laws and regulations that require the provision of “sufficient and appropriate academic intervention services” (AIS) to all students that fail to achieve grade-level performance in English language arts, mathematics, science, or social studies. All schools are now also required to provide Response to Intervention (RTI) services to students at risk of academic failure to lower rates of referral to special education and reduce students’ need for academic intervention services.

Not one of the 33 schools we studied was able to meet the AIS requirement, either by providing extra academic support during the school day, or through after-school, Saturday, or summer programs. Schools tended to provide some services in some subjects to some students, but were far short of meeting the state’s broad mandate that all “at-risk” students receive the full extent of the services they need – and some schools were able to provide none of these supports. In addition, not one of the 33 high-needs schools in our study reported that it was equipped with adequate resources to put in place the RTI procedures necessary to comply with the state’s mandate. Twenty of the 33 schools had no RTI system or services at all, citing a lack of resources for administrative and teacher time, training, and expert personnel as barriers to implementation.

Schools Lacked Required Supports for Students with Disabilities and English Language Learners



In six of the 33 schools, students with disabilities were placed in inappropriate classes or were not receiving required related services or assistive technology because of budget cuts. Nine schools lacked facilities that were adequate for students with disabilities, including three that had to provide physical therapy or adaptive physical education in hallways or other public areas.



Almost half of the schools with English language learners (13 of 27) lacked sufficient English as Second Language (ESL) teachers to provide the state-required amount of instruction in language arts or required content area instructional supports.

Classrooms Were Overcrowded



Nearly all of the schools (30 of 33) had class sizes in excess of the 20-23 student range that the *CFE* court used a benchmark for what was appropriate in this area. All of the New York City middle and high schools in our sample had some class sizes of 30 or more students, though these schools serve students who could benefit from smaller-than-average class sizes.

A Lack of Instructional Materials Impeded Teaching and Learning



In 25 of the 33 schools there was a lack of sufficient up-to-date books for classroom use. In 21 of these schools, there were not enough textbooks to allow students to take them home to complete homework assignments, to review, or to study for a test.

Two-thirds of the schools reported that a lack of basic and current computer hardware impeded teaching and learning. All of these schools lacked sufficient resources to maintain and repair existing technology and replace worn out or obsolete software, hardware, or necessary accessories (such as ink cartridges). As a result, much of the instructional technology they had was functionally unusable.

Schools Lacked Personnel to Ensure Student Security and Safety



Overwhelmingly the high-needs schools in our sample lacked sufficient numbers of disciplinary and safety personnel and of student support personnel (guidance counselors, psychologists, and social workers) to ensure a safe and orderly environment: all 33 lacked sufficient numbers of disciplinary and safety personnel and 32 lacked sufficient numbers of student support personnel.

Facilities Were Not Properly Equipped or Maintained



Fifteen schools had lost custodial personnel, and, in five of them, routine cleaning was done every other day instead of daily. As a result, eight schools were infested with mice, and seven were infested with cockroaches and or other insects; two schools had rooms quarantined because of mold, and four others had closed classrooms or bathrooms because of their inability to undertake necessary repairs.

Twenty-four of the 33 schools lacked proper electrical infrastructure to support instructional technology, and 25 schools reported that they were not meeting legal requirements in regard to providing students access to libraries, auditoriums, gymnasiums, art rooms, and playgrounds. Sixteen of the 33 schools reported that they were not fully accessible to mobility-impaired students or staff.

Further Findings of Noncompliance with Constitutional Requirements

The Minimums Have Become Maximums

Although often breached, the state's minimum requirements provide important protections for students. Frequently they are the only deterrence to further cuts to educational services. However, in too many cases, especially in NYC, the minimum resource or service a school is required to provide has become the maximum that its students can expect – and, in many areas, state requirements are quite minimal.

- New York State requires only one year of study of a language other than English for a Regents diploma. As a result, some high schools offer only one year of language study, usually of Spanish. To receive a Regents diploma with advanced designation, however, students must be able to take a three-year language sequence. This was impossible in a number of high schools, putting the advanced diploma out of reach for their students.
- The state requires high schools to provide three years of science instruction, but this need not include basic chemistry or physics. Some high schools did not offer these courses, though many colleges consider them admissions requirements.
- Only one year of art or music is required for middle school and only one year is required for graduation from high school. In many schools, this minimum amount was all that was available to students, and some schools, as we reported earlier, were not even able to provide the minimum.

Critical Areas Have No Requirements

In many other vital areas, the lack of state requirements means that, when funding is tight, education suffers.

- There is no requirement that schools provide field trips and other hands-on, real-world learning opportunities, though exposure to such experiences is essential for students to understand key concepts. Over a third of the schools we studied were unable to provide their students with these experiences.
- There are no requirements that teachers are adequately supported or supervised. No school in the study had sufficient resources for the time, staffing, or expertise necessary to provide professional development to ensure effective basic instruction for their high-needs student population.
- Schools must provide students who are below proficiency on state tests or at risk of academic failure with extra support to allow them to reach proficiency. However, there are no quantity or quality parameters to this requirement and, in practice, any service provided is sanctioned as sufficient.
- All 12 high schools lacked adequate resources to provide students sufficient job-related courses, internship support, and college and career counseling to prepare them to explore occupational options and postsecondary educational plans. Nine of the 12 high schools could not offer students the advanced course offerings that competitive colleges want to see on students' transcripts.
- Schools at all levels reported that they were unable to provide students adequate opportunities to acquire basic citizenship skills. Budget cuts had forced most of the high schools in our study to eliminate their civics-related extracurricular offerings, including community service programs, student government, school newspaper, and programs like Model UN and moot court.

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