

STATE SENATE STANDING COMMITTEES  
ON EDUCATION AND BUDGET AND REVENUES  
Public Hearing

December 3, 2019

Remarks by Kevin Gomez, Esq.

School Board Member,

Enlarged City School District of Middletown

Good Morning Chair Meyers, Chair Benjamin, Ranking Members Antonucci and Little, Distinguished Members of the New York State Senate Joint Standing Committees on Education, Budget & Finance:

My name is Kevin Gomez, I'm an attorney and teacher by vocation, blessed by God as a parent of four beautiful public-school students ages 5 to 15. I come before you as a parent, private citizen and School Board Member for the Enlarged City School District of Middletown, where I chair the Fair Funding committee.

The New York State Constitution provides for the "maintenance and support of a system of free common schools, wherein all the children of this state may be educated." To fulfill that end, the Enlarged City School District of Middletown has set forth in its Mission Statement to "strive to provide fiscally sound educational

opportunities,” that “will enable all students to graduate, to reach their full potential, to become life-long learners, and to be competitive, productive members of society;”

However, to accomplish our goals we need the necessary financial resources to make this happen, or to quote Sir Winston Churchill, “give us the tools so we could finish the job.”

The New York State Court Appeals has repeatedly in landmark rulings, Campaign for Fiscal Equity v. State of New York (2003), and Maisto v. State of New York (2018), reaffirmed the Constitutional right of New York’s school children to a sound basic education, based on a fair and equitable funding.

For New York State's 950 School Districts to fulfill their missions at full capacity, the State of New York, must honor its 2007 commitment when the State Legislature passed the State Education Budget and Reform Act of 2007 establishing our Foundation Aid Formula. The formula promised an equitable funding for our public schools, consistent with school districts academic, socio-economic and demographic needs in order to empower each student to become life-long learners and productive members of society. However, the formula has become a set of broken promises.

For over the span of a decade the State of New York has defaulted in its with over \$ 220.2 million dollars owed in Foundation Aid to School Districts in Orange, Ulster and Sullivan Counties, of which \$ 51.7 million remains owed to the Enlarged City School District of Middletown for 2018; \$ 43,377,452 for 2019. In essence the equivalent of half of the resources our districts need per year to meet the educational needs of our Students. As a result, a new lawsuit has been filed by the Alliance for Quality Education, naming 10 Hudson Valley school districts as the plaintiffs for being the School districts that are owed the most in back pay.

For this reason on behalf of my children and all our states students from Montawk to Harlem all the way through Buffalo, I urge the Governor and our State Legislature to come now and let us reason together by reaffirming our students'

State Constitutional right to a sound basic education, with an established fair and equitable funding formula built with bipartisan effort, construed to withstand the test of time, whose success will serve as a model for other states to follow, by:

- ✓ **Empowering** local school districts without exception, to the necessary resources, and flexibility to use as needed a fair equitable funding pursuant to a statutory Foundation Aid Formula that must be followed and no longer violated.
  
- ✓ **Disbursing** Foundation Aid Funds previously owed in a time frame that will allow the Districts to use the funds in the areas most needed to allow each student to strive for educational excellence;
  
- ✓ **Adopting** a decentralized approach that will allow disbursement and allocation of foundation aid funds on a regional basis via block grants whereby enabling school districts within particular regions to collaboratively assess and determine their needs based on their demographic and socio economic makeup of the respective communities our school districts serve.

- ✓ **Comprehensive unfunded mandate relief.** Despite annual increases in state aid, the ability of School Districts to use its financial and teaching resources are further constrained by over 151 state and federal public-school unfunded mandates too often over regulate school district's ability to maximize effective use of its financial resources with respect to administration, business, health/safety, instruction, technology, human resources, non-public schools, and transportation. In fact, it has been estimated that such mandates comprise between 17% and 20% of school district spending. This is the equivalent of an increased tax burden on our families and homeowners already overburdened with taxes. At the same unfunded mandates limit the freedom and flexibility of School districts to maximize use of resources in a manner best tailored to meet their district needs. Addressing unfunded mandate as part of foundation aid reform will provide our families the tax relief and School Districts greater flexibility in using resources with innovation, creativity and fiscal accountability in a manner best tailored to meet Our District's needs, as our Districts embark to empower each and every one of our students to be life-long learners and productive members of our Society.”

- ✓ Promote Private Sector Investment through tax incentives that will engage local businesses and entrepreneurs to voluntarily invest in providing resources for local school districts to advance learning opportunities for students.

We must never minimize the importance or long term positive impact the state to promote economic policies that promote tax relief and private sector economic growth and the positive impact it can have in producing greater economic revenues to invest in education. Common sense dictates that a budget surplus with a growing tax base is always better than a budget gap with overburdened taxpayers fleeing the state.

Finally, when our Country's Founders gathered in Philadelphia to launch America's great experiment in freedom, they did it with an eye on the future. "to "secure the Blessings of Liberty for our-selves and our Posterity." How we eye the future, may well determine whether our new decade like the 1920's a century before will produce a new "greatest generation" to lead our country towards a future of unlimited opportunity. So let us without hesitation empower our local school districts with the freedom and resources to prepare our future leaders of America. For these reasons, I commend this legislative committee for coming up to the plate to address the question of Foundation Aid Reform. It is my hope again that through bipartisan collaboration, with the eye on the future you will be able to enact the necessary

comprehensive reform that will work and as the song goes, can “be signed, sealed and delivered.” Thank you.

## **Unfunded New York State and Federal Mandates and Mandatory Reporting Requirements:**

Every year, the New York State Legislature, Governor, and Board of Regents and/or the Federal Government adopt new mandates that school districts are required to follow. In virtually all cases, additional funding is needed to fulfill these mandates. In most cases, the majority of funding is sustained at the local level. Therefore the mandate is “unfunded” by those who are requiring the action. Although most are supported by the majority of the educational community the reality is that each mandate requires a variety of resources: administrative, clerical, and financial. There may be the perception that unfunded mandates only include the following:

- Megan’s Law
- Fingerprinting of Potential Employees
- Automatic External Defibrillators (AED’s)
- Learning Standards
- Character Education

The following is a brief list of school district unfunded mandates that have been implemented within the past several years:

- District Intern Plan
- Comprehensive District Education Plan
- School Code of Conduct
- Corporal Punishment
- Local Assistance Plan
- Public School Performance Report
- Professional Performance Review Plan
- Professional Performance Annual Report
- Corrective Action Plan
- Annual Program Report: Educationally Related Support Services
- Professional Development Plan
- Professional Development Plan Report
- Local Special Education Comprehensive System of Personnel Development
- School District Report Card
- BOCES Report Card
- Academic Intervention Services Procedure
- Uniform Violent Incident Reporting System
- Child Abuse Reporting in an Educational Setting
- School Based Shared Decision Making Plan
- Instructional Computer Technology Plans
- School District Property Tax Report Card
- Individual Home Instruction Plan
- Pupil Attendance and Record Keeping
- Comprehensive Plan for Safety Education



## **Unfunded New York State and Federal Mandates and Mandatory Reporting Requirements:**

Incarcerated Students Plan  
Physical Education School District Plan  
Occupational Education Plan  
Education of Gifted and Talented Students Plan  
Early Grade Size District Plan  
Attendance Plan  
Attendance Report  
Set-Aside for Early Grade Intervention  
Compensatory Education  
Universal Pre-kindergarten Program Plan  
Policy of Educating Pupil with Limited English Proficiency  
Comprehensive Long Range Plan for Educational Facilities  
5-Year Capital Facilities Plan  
Comprehensive Public School Safety Program  
District Wide School Safety Plan  
Building Level School Safety Plan  
School Facility Report Card  
Pesticide Notification Requirements  
School Emergency Management Plan  
Registry of all Students with Disabilities  
School Policy on Procedures and Practices for Disabled Students  
District Plans  
Special Education Space Requirements Plan  
Personnel Development Plan for Special Education  
Individualized Educational Plans  
Functional Behavior Assessment  
Behavioral Intervention Plan  
AIMS  
LEAP Reporting  
STEP Reporting  
Mandated Testing and scoring  
Annual Professional Performance Review

LEA for IDEA - Multiple Components  
No Child Left Behind — Multiple Components

### **Additional Requirements:**

Statewide Data Collection — Data Warehousing  
District Data Manager  
Grades 3 — 8 Testing, Scoring, Analyzing and Mailings  
Revised Math Curriculum  
Inclusion Training and Staffing  
Early Intervention — RTI

## **Unfunded New York State and Federal Mandates and Mandatory Reporting Requirements:**

English Language Learners  
Instructional Support Teams  
AIDS Education  
Middle Level Education  
Requirement for Teaching Assistants  
Staff Development for Teacher Assistants  
SED Core Curriculum and Assessments Revised  
Internal Auditor  
Claims Auditor  
Audit Committee  
Audit Policy  
Wellness Committee  
Wellness Policy  
Uniform Voting Dates — and 2 Budget Votes  
SEQRA Review by School Districts  
Building Condition Survey  
SAVE Legislation Updated

### **Additional Requirements:**

WICKS Law — Multiple Contractors for Building Projects  
Mentor-Teacher Internship Program  
Pandemic Plan  
Purchase of Student Calculators  
Segregation of Duties — Purchasing Agents, Treasurer, District Clerk  
Financial Statement's Accountant  
Engineering Review of all Maintenance Projects Costing over \$5,000  
Pension Costs — Increase Costs for ERS and TRS  
Response to Intervention — Special Education Students  
Twenty Additional State Performance Plan Indicators — Special Education Students

**Furthermore** — The State Education Department (SED) is no longer mailing documents to School Districts. Each School District must download needed information from the SED website regarding reporting requirements, deadlines, testing data, assessment updates, curriculum guides, etc. Each document must be printed, copied and disbursed to the appropriate staff members.

### **Additional Requirements:**

Charter Schools Funding  
Chapter 165 of the Laws of 2006  
    Reinspection of School Buildings — Fire Inspections  
Chapter 57 of Laws of 2007  
    School Leadership Report Card and Student Progress Report  
    Loan Instructional Computer Hardware to Non-Public Schools

**Unfunded New York State and Federal Mandates  
and Mandatory Reporting Requirements:**

Chapter 58 of the Laws of 2007

Required Student Body Mass Indexes

Chapter 111 of the Laws of 2007

Breast and Prostate Cancer Screening — Employees' 4 hours time off from work

Chapter 281 of the Laws of 2007

AED Posting for Public Access to Machines

Chapter 578 of the Laws of 2007

Blood Donation — Employees' 3 hours time off from work

Chapter 583 of the Laws of 2007

Impartial Hearing - Burden of Proof Shift from Parent to School District

Student Dental Health Certificates

Seatbelts on School Operated Van Vehicles

Bus Driver Training for Special Education Students

Parentally Placed Students Attending Non-Public Schools