

# NEW YORK CAN'T AFFORD IT

THE STATE DIVERTS HUNDREDS OF MILLIONS OF PUBLIC DOLLARS TO PRIVATE SCHOOLS EACH YEAR

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*Many New York public schools are struggling with a lack of teachers, support staff, and other essential resources because the State has consistently failed to fully fund the school finance formula. Yet, at the same time, the State Budget allocates hundreds of millions of taxpayer dollars to private schools each year.*

*New York does not have a traditional voucher program providing public funds to families for tuition at private schools. But New York does divert substantial amounts of public funds each year to pay for a wide range of expenses incurred by private schools, in the form of reimbursements, grants, and loaned resources from public school districts.*

*The State has a constitutional obligation to adequately fund its public schools to provide all public school students with the opportunity for a “sound basic education.” There is no such obligation to fund private schools. As long as the public schools remain underfunded, depriving students of the resources and opportunities to which they are entitled under the State constitution, New York cannot afford to divert substantial amounts of taxpayer dollars to pay for the operation of private schools.*

## **PERSISTENT UNDERFUNDING OF NEW YORK PUBLIC SCHOOLS**

In the 2003 landmark *Campaign for Fiscal Equity v. State* (“CFE”) case, New York’s highest court ruled the State’s public school finance system was so inadequate that it caused a severe lack of essential education resources, and poor student outcomes as a result, in New York City’s public schools, depriving the City’s 1.1 million students of their right to a sound basic education guaranteed under the New York Constitution.

In response to the CFE ruling, New York State enacted a new method for funding public education in 2007. Through the Foundation Aid Formula, New York committed to increasing state school aid to all public school districts by \$5.5 billion, to be phased in over four years. Though the State fulfilled its commitment for the first two years of the phase-in, it froze state school aid when the 2008 recession started, and then began cutting that aid in subsequent years. Despite modest increases in the past several years, the State remains \$3.8 billion behind in its obligation to fully fund the public schools through the Foundation Aid Formula.

For Fiscal Year 2020-21, Governor Andrew Cuomo has proposed an increase of only \$704 million in Foundation Aid. In contrast, the New York State Board of Regents has proposed a \$1.9 billion increase this year, with the goal of fully funding the \$3.8 billion owed to New York State public school students within three years.

The State’s persistent refusal to fully fund Foundation Aid over the past decade has had dire consequences for public schools across New York, particularly in the State’s many high-need districts. Without adequate funding, these districts are unable to provide a sufficient number of qualified teachers and support staff, preschool, or other programs, services, and interventions essential to deliver a sound basic education to all students.

## ***PUBLIC FUNDS DIVERTED TO PRIVATE SCHOOLS***

While the State continues to underfund the public schools by billions of dollars, it allocates hundreds of millions each year to private schools. In 2019-20, state appropriations for private schools, excluding transportation, topped \$250 million.

Below are major categories of tax dollars allocated to private schools in the 2019-20 State Budget:

<u>Mandated Service Aid:</u> .....	\$193,000,000
Reimburses private schools for the costs of complying with certain state mandates, such as attendance reporting, state assessments, and graduation reports	
<u>Non-Public STEM Grant:</u> .....	\$30,000,000
Grants to reimburse private schools for Math, Science and Technology teachers	
<u>Non-Public School Immunizations:</u> .....	\$1,000,000
Reimburses private schools for costs associated with complying with State School Immunization Program	
<u>Non-Public Academic Intervention Services (“AIS”):</u> .....	\$922,000
Grants for professional development for private school teachers and administrators working with students who score at level 1 or 2 on state assessments	
<u>Textbook Aid:</u> .....	\$21,500,000 (estimated)
Requires public school districts to purchase and loan textbooks for all resident pupils, including those who attend private schools. The state allocation is \$58.25 multiplied by the number of resident students. The estimated aid for private schools is based on private school enrollment.	
<u>Software Aid:</u> .....	\$5,400,000 (estimated)
Aid for public school districts to purchase software for loan to private schools. The per pupil allocation rate must not exceed \$14.98 per pupil. The estimated aid for private schools is based on private school enrollment.	

Computer Hardware Aid:.....\$3,700,000 (estimated)  
Aid for public school districts to purchase instructional computer hardware and technology to loan to private schools. The public school district must loan hardware and equipment valued up to \$24.20 multiplied by the district's building aid ratio.

Library Materials Aid:.....\$2,300,000 (estimated)  
Aid to public school districts to loan library materials to private school students, at a rate of \$6.25 per student. The estimated aid for private schools is based on private school enrollment.

The total of these categories of tax dollars allocated by the State to private schools is **approximately \$257,822,000** in the 2019-20 State Budget.

### **ADDITIONAL PUBLIC FUNDS ALLOCATED TO PRIVATE SCHOOLS**

Smart Schools Bonds: The Smart Schools Bond Act authorized the issuance of \$2 billion of general obligation bonds to finance improved educational technology and infrastructure. Upon the request of a private school located in the district, the State requires public school districts to loan classroom and/or connectivity technology to that private school.

Learning Technology Grants: The State has made available \$3.2 million in grants for public and private schools to develop programs for the use of technology in learning and for professional development to enhance the use of technology in learning.

The readily available state data does not disaggregate the amounts diverted to private schools through Smart School Bonds or Learning Technology Grants.

*A separate issue, not addressed in this report, is whether the private schools are properly using the public dollars provided by the State for their intended purposes and whether there is sufficient accountability for these expenditures.*

## Transportation

In addition to the tax dollars diverted to private schools for operating expenses, approximately \$500 million in public funds is spent on private school transportation each year. This consists of state aid along with significant amounts of public school funding that districts must divert from their own budgets to cover the full cost of private school transportation.

Under New York state law, non-city public school districts are required to transport all resident children not only to their public schools, but also to private schools. The amount of state aid for transportation is calculated pursuant to a state-local cost sharing ratio and typically does not cover the full amount of a district's actual transportation expenses.

In 2017-18, the most recently available data, public school districts expended **\$504,049,869** on private school transportation. This includes the funds diverted by public school districts from their budgets to cover the full cost of private school transportation, as illustrated by the East Ramapo Central School District example below.

### **How Private Transportation Costs Impact One District: East Ramapo**

In 2017-18, East Ramapo Central School District (ERCSD) in Rockland County enrolled 9,076 students. Of ERCSD's students, 89% were economically disadvantaged, 37% were English Language Learners, and 19% were students with disabilities. This puts the ERCSD above the state average for each of these populations of students who require additional supports in school. In 2017-18, there were also an additional 26,000 students residing in ERCSD but enrolled in private schools.

The State provided the ERCSD only 63% of the state school aid it was owed under the Foundation Aid formula in 2017-18, shortchanging the district by over \$20 million. A 2014 report by a state fiscal monitor documented financial mismanagement by the ERCSD Board of Education, as well as diversion of public school funds to private schools. As a result of the State's underfunding of the ERCSD and Board mismanagement, the district has had to cut essential educational resources for its students, including teachers, social workers, guidance counselors, administrators, curricular offerings, and programs serving high-need students.

In 2017-18 the ERCSD spent nearly \$24 million on private school transportation for 26,000 students. Of that amount, approximately \$18 million was covered by the State's allocation of transportation aid. To cover the full cost of private school transportation, the ERCSD was compelled to divert approximately \$5.7 million from the budget for its schools, further reducing the funding and resources available to educate ERCSD students. Furthermore, a 2019 audit by the State Comptroller found that, in 2017-18, the ERCSD paid to transport 717 more private school students than were registered, an overpayment of \$495,499.

## **CONCLUSION**

New York has a constitutional duty to adequately fund the state's public schools. This obligation has been reinforced by rulings of the State's highest court and the enactment of the Foundation Aid Formula in 2007. Nonetheless, the State continues to dramatically underfund its public schools, with significant year-to-year shortfalls in the aid required by the Formula.

While many public schools across the state are chronically underfunded, New York diverts hundreds of millions of tax dollars each year to private schools. It's time for Governor Cuomo and the Legislature to phase out the over \$250 million diverted to private schools and re-direct those funds to New York public schools. All New York children deserve access to a fully resourced public school where they can learn, grow, and thrive. The bottom line on tax dollars for private schools is this: New York can't afford it.

## **Acknowledgement**

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## **About Public Funds Public Schools**

Efforts to undermine public education by promoting the use of public funds for private education must be met with a robust, sustained response to safeguard the nation's public schools.

Public Funds Public Schools is a national campaign supported by the Southern Poverty Law Center, SPLC Action Fund, Education Law Center, and Munger, Tolles & Olson LLP that strives to ensure that all public funds for education are used to maintain and support public schools. PFPS uses a range of tools to protect and promote public education, including litigation, advocacy, and research.

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