

## Guidance Shines Spotlight on Impact of School Funding Formula on Students of Color

On February 10, 2020, the New York Advisory Committee to the United States Commission on Civil Rights (the “Advisory Committee”) issued a long-awaited report regarding the status of funding of public education in New York State. The report is entitled “[Education Equity in New York: A Forgotten Dream.](#)”

By law, the advisory committees to the U.S. Commission on Civil Rights are composed of state/district citizens who are tasked with advising the Commission of civil rights issues in their states/district that are within the Commission’s jurisdiction.

On June 12 and 13, 2019, the Advisory Committee conducted two days of public briefings in Long Island City regarding the state of school funding in New York State. Testimony was provided to the Committee by 20 persons on 7 panels. The presenters were academics, school administrators, government officials and advocates for reform. The purpose of the briefings was to determine whether New York State’s approach to educational financing, and, in particular, New York’s foundation aid formula, has a discriminatory effect on students on the basis of race or otherwise.

Multiple presenters opined that New York State’s failure to adequately fund high-need school districts in accordance with the foundation aid formula has resulted in demonstrable inequality in those districts, and has therefore discriminated against the predominantly non-white students who are served by those districts.

The concerns presented to the Advisory Committee in June 2019 mirrored the concerns that were raised in joint complaints filed in 2013 with the United States Department of Education, Office for Civil Rights by, respectively, Mr. Laurence T. Spring, Superintendent of Schenectady City School District and Dr. Kenneth Eastwood, then-Superintendent of the Middletown City School District. Schenectady and Middletown are two of the most underfunded small city school districts in New York State. The 2013 complaints alleged that New York State’s systematic failure to adequately fund the foundation aid formula has created a two-tiered educational system, in which the color of a child’s skin is determinative of the extent to which that child is receiving the funds he/she has been promised by New York State. As noted by Mr. Spring in his testimony before the Advisory Committee in June 2019, to date, the Office for Civil Rights has not resolved the 2013 complaints. Additional complaints were filed in 2019 by the Brentwood Union Free School District and the Westbury Union Free School District, which reflect that the pattern of inequity identified in the 2013 complaints by Schenectady and Middletown persists to this day and has yet to be adequately remediated.

The Advisory Committee conducted a comprehensive analysis of the intent, design, and function of the foundation aid formula. The Advisory Committee also conducted a thorough review of the New York State and federal civil rights laws that govern school finance. In its 166-page report, the Advisory Committee fully concurred with the conclusions advanced by Mr. Spring, Dr. Eastwood, and others, that New York State is operating an inequitable school funding system that discriminates against the poor and particularly Black and Latinx children. The Advisory Committee’s report contains multiple bold recommendations for systemic reform to address this inequity, including:

- Resolution by the Office for Civil Rights of the complaints filed in 2013.

- The enactment by the New York State Legislature of a budget in 2020 that allocates the originally-promised foundation aid to Schenectady, Middletown, Brentwood, Westbury, and other high-need and historically-under-funded and predominantly non-white districts.
- Revision of the foundation aid formula to ensure educational equity.
- Elimination of the property tax cap.
- Substantial revision to Title VI of the Civil Rights Act of 1964 as well as New York State civil rights laws to provide legal recourse against New York State for students deprived of an equitable share of school funding.

If you have any questions about this memo, please contact [Kate I. Reid](#), any of the [attorneys](#) in Bond's [School Law Practice](#), or the attorney at the firm with whom you are regularly in contact.



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