

# PRESS RELEASE

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## FOR IMMEDIATE RELEASE

### Education groups file lawsuit to block withholding of school aid

**ALBANY, N.Y.** December 16, 2009 — A broad coalition of education advocates and citizen taxpayers, seeking to protect school programs from elimination, stop employee layoffs and prevent dramatic property tax increases, today filed suit against Gov. David Paterson, saying he acted illegally and unconstitutionally by withholding state funds allocated by the state Legislature for school districts.

The lawsuit was filed in state Supreme Court in Albany County by New York State United Teachers; New York State School Boards Association; New York State Council of School Superintendents; and the School Administrators Association of New York State. Other education partners, including the Campaign for Fiscal Equity, the New York State Association of School Business Officials and the state PTA, signaled their strong support.

The suit states the governor is violating the separation of powers doctrine of the state Constitution — and the constitutional guarantee of “a sound, basic education” for students — by ordering the withholding of millions of dollars in state aid payments to school districts when the Legislature not only approved those payments, but specifically rejected proposed education cuts by not enacting a bill submitted by Paterson on Nov. 25 as part of his deficit reduction plan.

“The governor may not agree with the Legislature’s spending priorities and may indeed have profound concerns about the results, but once he signed the state budget in April and approved the deficit reduction plan, he is constitutionally and legally bound to follow the law,” said NYSUT President Richard C. Iannuzzi. “The governor is overstepping his bounds. He clearly lacks any legislative, statutory or constitutional basis to withhold funds from school districts, and by doing so, he is harming children and their schools.”

“School districts cannot provide educational programs to students in an unpredictable and chaotic funding environment,” said NYSSBA Executive Director Timothy G. Kremer. “The governor’s unilateral midyear cut to schools has already created havoc and uncertainty in many districts, as they study their options – all of which have adverse consequences for taxpayers. We are deeply concerned about the governor’s action to withhold or delay payments to schools in the future.”

Kremer added, “School boards are bracing themselves for the tough fiscal challenges that lie ahead, when federal stimulus funds expire and costs continue to skyrocket. What we expect of our leaders is long-term financial planning and greater fiscal certainty, not chaos and doubt.”

“The law is the law,” said Dr. L. Oliver Robinson, president of the New York State Council of School Superintendents. “In seeking to delay school aid and STAR payments, Governor Paterson is choosing to ignore laws which require the state to pay certain amounts of aid to schools by certain dates. We are taking legal action today in part to prevent any governor from ever ignoring those same laws to permanently withhold aid.”

Robinson added, “As it is, Governor Paterson threatens that he may seek to turn these delays into permanent cuts. This puts school leaders in an impossible position. We cannot tell students, ‘Potentially, we will keep your teacher on the job,’ or ‘Potentially, we will continue the extra help you receive.’ We cannot tell employees or suppliers, ‘Potentially, we will pay you what we owe.’”

Kevin Casey, executive director of the School Administrators Association of New York State, added, “The governor’s action will deprive children of educational programming that many will not have the opportunity to make up. It also eviscerates the school district budget approval process, rendering meaningless the district budgets approved by district taxpayers.”

“The opportunity for a sound, basic education is a state constitutional right that ensures that our children are given the tools to thrive and drive the economy. Despite a court order and a legislative agreement to honor this commitment, the governor continues make proposals that turn back the clock on providing adequate school funding to achieve this goal. This delay will necessitate layoffs, as well as program and resource cuts,” said Geri D. Palast, executive director of the Campaign for Fiscal Equity, the education advocacy organization that led the successful constitutional challenge to New York state’s school finance system. “The governor’s decision to withhold education aid ignores a clear constitutional mandate, and it will have a profoundly negative impact on this state’s most valuable asset, its children.”

“If the governor’s actions are allowed to stand, and this aid payment guessing game is allowed to continue, school districts will have no choice but to make management decisions that are counterproductive to sound financial practices,” said Deedrick Bertholf, NYSASBO’s executive director.

New York State Congress of Parents and Teachers President Susan Lipman added that the governor’s decision “presents serious fiscal implications on the ability of local school districts to continue to provide necessary educational services to children. Lipman said the state PTA “supports the efforts of NYSSBA, NYSUT and other education advocates in seeking injunctive relief to stop the governor from taking these steps.”

NYSUT Executive Vice President Alan B. Lubin agreed that the withholding of school aid would likely mean larger classes and the inability of districts to fund programs — such as speech therapy and extracurricular activities for children — and pay teachers and staff.

“Schools rely on state education funding and local property taxes to provide New York’s children with the sound, basic education they are guaranteed under our Constitution,” Lubin said. “The governor’s decision to withhold school aid has already led to layoff notices and worries that school districts will not be able to fund important programs, make payments to vendors and, in some cases, even meet payroll.”

The lawsuit seeks to stop the governor from usurping the constitutional policy-making authority of the Legislature, and asks the court to order the governor to release the appropriated funds immediately. The suit

notes that, if the court does not stop the governor's actions, "He will only be emboldened to take other ... unilateral action, further unbalancing the three coordinate branches of government (and) silencing the voice of the people."

"The governor is well-aware that his actions violate the Constitution but he seems intent on carrying through with them regardless of his constitutional obligations," the suit states.

Among the suit's plaintiffs are NYSUT; NYSSBA and NYSSBA President Wayne Schlifke; NYSCOSS and NYSCOSS President Robinson; and SAANYS and SAANYS President Peter Kruszynski. CFE, NYSASBO and the state PTA are strongly backing the groups' lawsuit.

Other individual plaintiffs include Doug Becker, a math teacher in Churchville-Chili; Brian Boyd, a fourth-grade teacher from Yonkers; George Heidcamp, president of the board of education in Saugerties; Paul Hetland, a social studies teacher from Rochester; Florence D. Johnson, a member of the board of education in Buffalo and president-elect of NYSSBA; Kimberly Petramale, a math teacher in Saugerties; and Harry B. Reeder, a member of the board of education in Herkimer.

In addition to Paterson, the suit names as defendants the state Division of Budget and Budget Director Robert L. Megna, as well as state Comptroller Thomas DiNapoli.