NewYork Appleseed

Reflecting Historical Decisions: Fair Student Funding in New York City

Advocacy Briefing *March 2020*

Introduction

Real Integration as defined by IntegrateNYC requires equitable distribution of resources across schools. Students and parents often hear that New York City's system of "fair student funding" was designed to address resource equity, and yet most of us have a sense that a small number of schools are still receiving more than their fair share. To be sure, private fundraising on behalf of schools explains some of these disparities, but, as this briefing explains, there are also problems with the system of fair student funding itself, including 1) a significant flaw in the fair student-funding formula itself and 2) more importantly, an implementation program that

undermines the goals of the formula.[1] This briefing also provides a brief overview of the objectives of fair student funding and its mechanics.

Background

Since 2007 New York City public schools have been funded in part by a weighted, student needs-based allocation formula known as Fair Student Funding ("FSF") that currently accounts for approximately two-thirds of a school's total annual budget[2]. Before FSF New York City's schools were allocated funds based on a series of financing formulas that were largely tied to the number of teachers a school had and the salary levels of those teachers.[3] As a result, high-performing schools tended to receive greater amounts of funding because they attracted and retained experienced teachers who earned higher salaries.[4] Also, significant disparities occurred in schools' per-student funding levels.[5]

To address this funding inequity and simplify the financing process, the New York City Department of Education ("DOE") replaced the prior system with FSF to allocate funds based on the number and types of students at each school. Through FSF schools receive funding for

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[1] We are grateful for research and writing by Brendan LaFountain and Rene Kathawala, attorneys at our longtime partner Orrick, Herrington & Sutcliffe LLP and for helpful feedback from Sarah Zapiler of IntegrateNYC.

[2] Madina Touré, *New York City to Spend an Average of $17.5k per Student this School Year*, Politico, August 31, 2018, https://www.politico.com/states/new-york/albany/story/2018/08/31/new-york-city-to-spend-an-average-of-17-500-per-student-this-school-year-589344.

[3] David M. Herszenhorn, *Pupil Needs Shape Budget for Schools in New York*, N.Y. Times, May 9, 2007, https://www.nytimes.com/2007/05/09/nyregion/09schools.html; Monica Disare, *Here's How New York City Divvies up School Funding – And Why Critics Say the System is Flawed*, Chalkbeat, January 29, 2018, https://www.chalkbeat.org/posts/ny/2018/01/29/gov-cuomo-wants-needy-schools-to-get-more-money-here-is-new-york-citys-flawed-system-for-doing-that/.

[4] Disare.

[5] Sarita Subramanian, *Is it Getting Fairer? – Examining Five Years of School Allocations Under Fair Student Funding*, New York City Independent Budget Office (April 2013), https://ibo.nyc.ny.us/iboreports/fsf2013.pdf.

each student based on grade level with additional funding for students who are from low-income households, are struggling academically, have a disability, are learning English, or attend designated high schools.

Policy Objectives of FSF

FSF aims to achieve five separate objectives, according to DOE's Fair Student Funding & School Budget Resource Guide for fiscal year 2020.[6] Specifically, FSF is intended to: (i) improve student achievement, (ii) fund schools equitably, (iii) improve the transparency of school budgets, (iv) empower school leaders and (v) align financial policies with the priorities of the DOE.[7]

By allocating funds based on the educational needs of the children at each school, as opposed to funding based on staffing levels, as was done previously, FSF seeks to improve student achievement by providing additional funding for students who are struggling academically or have special needs. As a corollary to this objective, FSF also aims to fund schools more equitably by providing greater levels of per-pupil aid to schools that serve students requiring enhanced academic supports and programs. Implicit in these objectives is the recognition that it costs more to provide academic services to students with greater needs.[8]

FSF was also intended to improve the transparency of the school budgeting process and empower principals to decide how to best spend their FSF funds. The formulaic approach to school funding, which is described in greater detail in the following section, provides some

[6] The fiscal year 2020 Fair Student Funding & School Budget Resource Guide (herein referred to as the "2020 FSF Guide") is available at: https://www.nycenet.edu/offices/finance_schools/budget/DSBPO/allocationmemo/fy19_20/FY20_docs/FY2020_FSF_Guide.pdf.
[7] 2020 FSF Guide, pg. 8.
[8] *Id.*

predictability in the amount of funds schools receive and is centralized under the oversight of the Mayor and the DOE. The prior budgeting process was considered by some to be "opaque" and "freewheeling,"[9] as it encompassed over 100 separate financing formulas[10] and was more decentralized. Under this prior system, the superintendents of the separate school districts received their annual appropriations and then distributed those funds to the schools within their districts.[11] As a result, principals could haggle privately with superintendents for more money and, in some instances, significant funding disparities occurred for otherwise similarly situated schools.[12]

FSF seeks to empower school leaders by providing principals with complete discretion as to how FSF funds should be spent. According to the 2020 FSF Guide, the DOE believes that "school leaders, not central offices, are best positioned to decide how to improve achievement" and how to best allocate funding to attain this objective. Accordingly, FSF funding, which on average accounts for two-thirds of a school's total budget, is a principal's most significant and flexible funding source.[13]

The Nominal Formula

FSF is a per-pupil funding system that seeks to align a school's funding with the academic needs of its students. The FSF funds allocated to each school are comprised of three components: (i) a formula that takes into account "the number and instructional need attributes of students at the school," (ii) a lump-sum payment to reflect the increase in costs of the school's

[9] Disare.
[10] Herszenhorn.
[11] Daniel Voloch, *Children First Reforms, Fair Student Funding and the Displacement of Accountability in the New York City Department of Education* (Feb. 2015) (unpublished Ph.D. dissertation, The City University of New York), pg. 93, https://academicworks.cuny.edu/gc_etds/634/.
[12] Disare.
[13] 2020 FSF Guide, pg. 8.

staff due to collective bargaining agreements and (iii) for fiscal year 2020, a fixed sum of $225,000 for each school.[14] The remainder of this section will focus on the formula component of FSF, as it is the basis for the entire FSF program. Because this briefing is intended to provide only a high-level overview of FSF, the 2020 FSF Guide should be consulted for a more detailed and nuanced description of the FSF components, particularly the guidelines as to how the FSF allocation formula is applied in specific circumstances.

Under FSF students are "assigned different weights that correspond to the amount of additional funding that the [DOE] estimated was required to provide each student with the opportunity to receive a sound education."[15] As a result, schools with greater concentrations of students who are struggling academically, come from low-income households, have learning disabilities or are learning English receive more FSF funds per student. As shown in the following table excerpted from the 2020 FSF Guide, there are five categories of weights assigned to students: (i) grade weights, which reflect a student's grade level; (ii) academic intervention weights, which are applied to students at the greatest risk of academic failure; (iii) English Language Learner weights; (iv) special education weights; and (v) weights for "portfolio schools," which include career and technical education (CTE) schools and "specialized academic" schools, a category, which, confusingly, includes not only the eight specialized exam high schools, but five additional high schools: Bard Manhattan, Bard Queens, Millennium Brooklyn, the NYC iSchool, and Townsend Harris in Queens.[16] Why or how these five

[14] 2020 FSF Guide, pg. 9.
[15] Voloch, pg. 103.
[16] 2020 FSF Guide, pg. 13; Mike Elsen-Rooney, *Mysterious Bonus Makes Rich NYC Schools Richer, Critics Say*, WNYC News, November 8, 2017, https://www.wnyc.org/story/mysterious-bonus-makes-rich-nyc-schools-richer-critics-say/.

additional schools were included in this category and why or how other similar schools were excluded remain unanswered questions.[17]

FSF Category	Service/Need	Weight	Per Capita
Grade Weight: All Pupils	K-5	1.00	$4,109
	6-8	1.08	$4,438
	9-12	1.03	$4,232
Academic Intervention	Poverty*	0.12	$ 493
	4-5 Well Below	0.40	$1,643
	4-5 Below	0.25	$1,027
	6-8 Well Below	0.50	$2,056
	6-8 Below	0.35	$1,438
	9-12 Well Below	0.40	$1,643
	9-12 Below	0.25	$1,027
	9-12 Heavy Graduation Challenge OTC	0.40	$1,643
English Language Learner	K-5 Freestanding English as a New Language (ENL)	0.40	$1,643
	6-12 Freestanding English as a New Language (ENL)	0.50	$2,056
	K-5 Bilingual	0.44	$1,808
	6-12 Bilingual	0.55	$2,260
	K-5 Commanding	0.13	$ 534
	6-12 Commanding	0.12	$ 493
	Students with Interrupted Formal Education (SIFE)	0.12	$ 493
Special Education Needs	Single Service <=20% [Low Frequency]	0.56	$2,301
	Multi-Service 21% to 59% [Medium Frequency]	1.25	$5,139
	K-8 Self-Contained (SC) >= 60% [High Frequency, High Intensity]	1.18	$4,852
	9-12 Self Contained (SC) >= 60% [High Frequency, High Intensity]	0.58	$2,400
	K Integrated Co-Teaching (ICT) >= 60% [High Frequency, Low Intensity]	2.09	$8,581
	1-12 Integrated Co-Teaching (ICT) >= 60% [High Frequency, Low Intensity]	1.74	$7,150
	K-12 Post IEP Support	0.12	$ 493
Portfolio Schools	CTE Tier 1	0.26	$1,068
	CTE Tier 2	0.17	$ 699
	CTE Tier 3	0.12	$ 493
	CTE Tier 4	0.05	$ 205
	Specialized Academic	0.25	$1,027
	Specialized Audition	0.35	$1,438
	Transfer - Heavy Graduation Challenge	0.40	$1,643
	Transfer - Non-Heavy Graduation Challenge	0.21	$ 856

* Poverty funds eligible pupils in all grades for schools beginning before 4th grade, i.e. K-5, K-6, K-8, K-12; where test scores are not available for students on incoming grades.

[17] *Id*.

For fiscal year 2020 the FSF base per capita funding is $4,109, which is shown in the table as having a weight of 1.00. All students in kindergarten through fifth grade are assigned this base per capita funding. Students in grades sixth through eighth receive a funding weight of 1.08, which translates to $4,438 per student (calculated as: $4,109 x 1.08 = $4,438), and students in grades ninth through twelfth receive a funding weight of 1.03, which translates to $4,232 per student (calculated as: $4,109 x 1.03 = $4,232). Middle and high school students are allocated higher levels of baseline funds under FSF to provide schools with additional resources to combat drop-offs in student achievement address "greater average social-emotional needs" and fund classroom materials, which can cost more for older students.[18]

In addition to the baseline grade weights that are applied to all students under FSF, certain students also receive supplemental funds to address heightened academic needs. As shown in the table, these needs-based allocations include additional funding for academic intervention (which includes funds for students struggling academically or, where test scores are not available, who come from low-income households), English Language Learners and special education. To be eligible to receive academic intervention funding, a student must either: (i) score "Below Standards" or "Well Below Standards" on certain standardized tests upon entry to the school or (ii) meet certain poverty metrics if test scores are not available.[19] These needs-based allocations supplement the baseline grade weights to create a personalized funding weight for students requiring additional academic resources. As an example, a middle school student who scored "Well Below Standards" on the proficiency exam would be assigned an academic intervention weight of 0.5 and would be allocated $6,494 in FSF funds. This amount is calculated by adding the baseline middle school funding amount of $4,438 (calculated in the previous paragraph) to $2,056 (calculated as $4,109 x 0.50 = $2,056).

[18] 2020 FSF Guide, pg. 14.
[19] *See* 2020 FSF Guide, pg. 15-19, for a full description of the criteria for academic intervention funding, including the definitions of "Below Standards" and "Well Below Standards."

Additional weights can also be included in the funding calculations for students who are English Language Learners or have special education needs.

Apart from the needs-based allocations reflected in the academic intervention, English Language Learner and special education weights, FSF also includes additional funding for students attending "portfolio schools." There are currently four categories of schools that qualify for these additional funds: (i) CTE high schools, (ii) "specialized academic" high schools, (iii) "specialized audition" schools, which include programs designed specifically for students studying the arts and (iv) "transfer" high schools, which are "designed to re-engage students who have dropped out or are over-age or under-credited for grade."[20] Like the needs-based allocations, the allocations for the portfolio schools supplement the baseline grade weights to provide additional funding for certain students. For fiscal year 2020, the FSF formula weights for the portfolio schools ranged from 0.05 to 0.40 and translated to additional funds per student in amounts ranging from $205 to $1,643.

Currently, each student at 13 "specialized academic" schools is allocated an additional weight of 0.25 in the FSF formula - an extra $1,027 per student. As reported by *WNYC News* two years ago, only 15% of students at these schools are Black or Latinx (compared to around 70% citywide). The students fortunate enough to attend these schools "are getting almost $18 million more … than they would have without the bonus."[21]

Actual Funding

Despite FSF's goal of a fully equitable funding system, there remain significant disparities in per-pupil funding levels among New York City schools. More than a decade after

[20] 2020 FSF Guide, pg. 33-35; see footnote above about the meaning of "specialized academic" for the purposes of FSF.
[21] Mike Elsen-Rooney.

FSF was first implemented, most schools do not receive the funding they should under the formula. The DOE explained the reason for this disparity as follows:

> Since its inception, FSF has been implemented by allocating funds to each school equal to its baselined funds, discretionary funds the school received in the previous year, and then adding or deducting adjustments for register changes and changes in the citywide average teacher salary from the previous year. In the first year of FSF this meant the schools received funds that were based on the amount they would have received under the prior funding policies, instead of the amount they would have received from the FSF formula. In preserving this baseline budget reflecting historic [*sic*] funding decisions as the basis of each school's FSF allocation, each school is effectively assigned a funding percent that indicates the ratio of its actual funding to the FSF formula.
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> As a result, the FSF budgets for a large number of schools are still below the 'entitlement' amount based upon full application of the FSF formula.[22]

When FSF was originally implemented in 2007-2008, DOE was concerned that "full implementation of [FSF] would produce large and sudden changes in the budgets of some schools."[23] As a result, DOE opted to phase in FSF over a span of two years, and a component of this phase-in was a "hold-harmless provision [that] ensured that those schools that had been receiving more than they were entitled to under the new formula would continue to receive the higher amount."[24] The DOE anticipated receiving additional funding from the State of New York at that time, and the plan was that these additional revenues "would allow schools below their formula amount to be brought up to the level of funding determined by the FSF methodology, while no school would see its budget cut … thanks to the hold-harmless provision."[25] However, "due to state budget shortfalls brought on by the economic downturn

[22] 2020 FSF Guide, pg. 9.
[23] Subramanian, *Is it Getting Fairer?* (April 2013), pg. 1.
[24] *Id.*, pg. 2.
[25] *Id.*

in 2008…the necessary revenue surge did not materialize," and the DOE left the transitional components of FSF in place, including the hold-harmless funding.[26]

The DOE's initial decision to not allocate the same percentage of FSF funds to all schools therefore maintained prior funding disparities through the present day.[27] Because FSF continues to use each school's prior-year FSF funding percentage "reflecting historic[al] funding decisions," disparities in FSF funding levels are carried forward from year to year. As a result, for the 2013-2014 school year, for example, schools received anywhere from 81% to 134% of the funds they were entitled to under the FSF formula, "which meant that schools could receive as much as $2,200 more or less per student with the same needs."[28] Since then, the DOE "has invested over $800 million cumulatively to raise the 'floor,' or the lowest amount a school can receive, from 81% of the formula amount to 90% of the formula amount."[29] However, as of the 2017-2018 school year, 1,199 out of the total 1,533 schools (78%) received less funding than prescribed by the formula.[30] Sixty-three of these schools had an annual shortfall of at least $1 million in FSF funding, and three-quarters of these most underfunded schools were located in Queens and Brooklyn.[31]

These funding disparities are then exacerbated by DOE's decision to fund all new schools at 100% of their FSF allocation. According to the DOE, "schools opening in September 2019 do not have existing budgets and will receive their full FSF formula amounts for their

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[26] *Id.*
[27] "For FY 2020 each school's allocation starts with their FY 2019 FSF baselined allocation. This allocation reflects a percentage of the FSF formula each school received in FY 2019." 2020 FSF Guide, pg. 39.
[28] Voloch, *Children First Reforms, Fair Student Funding and the Displacement of Accountability in the New York City Department of Education* (Feb. 2015), pg. 28.
[29] 2020 FSF Guide, pg. 9.
[30] Sarita Subramanian, *How Much More Would it Have Cost to Fully Fund Fair Student Funding for the City's Schools Last Year?*, New York City Independent Budget Office (Oct. 2018), https://ibo.nyc.ny.us/iboreports/fair-student-funding-btn-ocotber-2018.pdf.
[31] Subramanian, *How Much More Would it Have Cost.*

projected register."[32] This seemingly arbitrary decision not to fund new schools at the average FSF allocation necessarily means that it will take longer for the DOE to raise the FSF funding floor to above 90% and to allocate the funds needed to those schools that have consistently received less funding than is prescribed by the FSF formula.

Conclusion

For over a decade New York City's public schools have received funding through FSF, which replaced a prior system that allocated funds based largely on schools' staffing levels and salary needs. Under FSF, schools are allocated funds based on a formula that provides more financial resources for students with greater academic needs. Each student receives a baseline funding allocation based on his or her grade level, and additional funds are allocated under the formula for students who are from low-income households, are struggling academically, have a disability, are learning English or attend one of a designated group of high schools.

Although FSF provides a framework for equitable funding of schools, as of the 2017-2018 school year over three quarters of all schools received less funding than prescribed by the formula. FSF's promise is compromised both by a significant flaw within the formula itself and by more substantial flaws in its implementation. In seeming contradiction to its own principles, the formula awards significantly more funding for students in "specialized academic" schools who already enjoy some of the most coveted academic opportunities in the city. In 2017 only 15% of these students were Black or Latinx. ***Recommendation: Eliminate the bonus for the 13 "specialized academic" high schools.*** [33]

[32] 2020 FSF Guide, pg. 36.

[33] Our focus on this egregious and self-defeating flaw in the formula should not preclude other needed revisions to the formula. Other advocates have, for instance, convincingly made the case that the formula should take into account the number of students in temporary housing at each school.

Compounding the inequalities baked into the formula are problems in the implementation of FSF. By continuing to employ a transitional strategy reflecting historical funding decisions, the DOE preserves the historical disparities FSF was meant to eliminate. In the years since FSF was first implemented, the *New York Times* has identified New York City's school system as among the most racially segregated in the nation, and the *City's Where We Live NYC* process has uncovered a history of racist decision-making by government officials throughout the twentieth century.[34] We know even better today than we did then that historical decisions regarding the allocation of benefits and burdens can never be the foundation for an equitable future. ***Recommendation: Fully fund all schools. In the event of insufficient funding, all schools should receive the same percentage of fair student funding.***

[34] Ford Fessenden, "A Portrait of Segregation in New York City's Public Schools," NY Times, May 13, 2012; City of New York, Where We Live NYC Draft Plan, February 2020, https://wherewelive.cityofnewyork.us/wp-content/uploads/2020/01/Where-We-Live-NYC-Draft-Plan.pdf; see also Adrien Weibgen, "Racist planning shaped our city; conscientious planning can help undo its mistakes," Daily News, April 11, 2019, https://www.nydailynews.com/opinion/ny-oped-racist-planning-shaped-our-city-20190411-pkobnblgejhbdjitqpdhflxj6u-story.html .