



# MEMORANDUM OF OPPOSITION

## *APPR Deadline and Penalties*

In relation to the 2013 – 2014 Executive Education Budget

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***The New York State Council of School Superintendents OPPOSES an APPR approval deadline and a recurring School Aid reduction penalty and urges attention.***

In his executive budget, Governor Cuomo includes a deadline whereby Annual Professional Performance Review plans must be approved by the State Education Department. If by September 1, 2013 a school district does not have their APPR planned approved, they will lose any increase in School Aid over the previous year. The Governor also proposes to make any aid loss recurring and permanent.

The Council of School Superintendents strongly opposes tying APPR approval to a loss of School Aid and strongly opposes a permanent loss of aid.

In effort to prod school districts and local unions to reach agreement on teacher and principal evaluation plans, the 2012-13 state budget included a provision to deny School Aid increases to districts which did not have plans approved by the State Education Department by January 17, 2013, one year from the date Governor Cuomo proposed his budget for the current year.

When the deadline passed, all but six districts had approved plans in place. New York City is among those not meeting the deadline and now stands to lose over \$240 million in state aid and the \$240 million New York City has lost due to missing this year's deadline would be deducted from every future year's aid, whether or not it makes every deadline in years to come.

Recently, State Education Commissioner John King has advised New York City and other districts that they must still negotiate and gain approval for evaluation plans, or face state management of some of their federal funds.

Governor Cuomo also announced that 30-day amendments to his budget would authorize the State Education Department to impose an evaluation plan for New York City in any school year in which the City and its unions fail to develop a plan approved by SED.

The Council opposed threatening districts with a loss of aid a year ago, believing it would put more pressure on districts than on unions to compromise. Instead, the Council recommended that a state-prescribed model evaluation plan be imposed if local agreements could not be reached, the approach the Governor would now apply to New York City.

Making aid penalties for missing a deadline permanent and recurring is excessive. It needs to be asked, which does more harm to students – having their district miss a deadline for implementing evaluation procedures or experience potentially large and permanent cuts in state aid?

If there is to be a deadline, for at least the coming school year, it must be pushed back from September 1. Districts and teachers will not receive SED-generated student growth scores until mid-August at the earliest. Those results will be one of the factors districts and unions will want to consider before revising their plans.

And with the proposal to authorize SED to impose a plan anytime New York City and its unions fail to agree, the City presumably would be spared from future aid penalties. This begs the question, why should other districts not receive the same treatment?

Importantly, on February 21, 2013 a court injunction was issued preventing the State of New York from denying New York City its School Aid increase pending the outcome of litigation (*Aristy-Farar, et. al. v. State of New York*, Feb. 19, 2013, <http://schoolfunding.info/wp-content/uploads/2013/02/InjunctiveOrder.pdf>). The court held that “[i]nnocent children that had no influence over the legislative process or APPR negotiations were potentially placed at risk academically.”

In light of this ruling, and the pending litigation, we strongly feel that School Aid must be preserved, despite APPR approval. As we have said in our previous budget testimonies, children should not be penalized because adults cannot agree.