

# EAST RAMAPO: A SCHOOL DISTRICT IN NEED OF STATE OVERSIGHT

ALEXIS PIAZZA

*This is an opinion by Social Change editor Alexis Piazza arguing for the New York state legislature to pass a pending bill that would appoint a monitor to provide oversight over East Ramapo Central School District.*

I. OVERVIEW .....	129
II. AN INADEQUATE EDUCATION .....	129
III. A GOVERNANCE PROBLEM.....	131
IV. A NEW STATE MONITOR.....	132

## I. OVERVIEW

The East Ramapo School Board (the “Board”) has failed to provide a constitutionally adequate education and violated its duty to the public school students of East Ramapo. In response, the New York legislature is justifiably considering a bill that would appoint a state monitor to review the Board’s decisions.<sup>1</sup>

## II. AN INADEQUATE EDUCATION

The recent decline of East Ramapo School District has earned significant media attention already.<sup>2</sup> Since 2009, the district has eliminated 450 teaching positions, as well as several guidance counselors, all social workers, and all deans.<sup>3</sup> During that time, kindergarten was reduced from a full-day to a half-day program, high school electives and foreign language programs were reduced, and summer school programs were eliminated.<sup>4</sup>

---

<sup>1</sup> S. 3821, 2015–2016 Reg. Sess. (N.Y. 2015); A. 5355, 2015–2016 Reg. Sess. (N.Y. 2015).

<sup>2</sup> See, e.g., Michael Powell, *A School Board That Overlooks Its Obligation to Students*, N.Y. TIMES (Apr. 7, 2014), [http://www.nytimes.com/2014/04/08/nyregion/a-school-board-that-overlooks-its-obligation-to-students.html?\\_r=0](http://www.nytimes.com/2014/04/08/nyregion/a-school-board-that-overlooks-its-obligation-to-students.html?_r=0); Benjamin Wallace-Wells, *Them and Them*, N.Y. MAG. (Apr. 21, 2013), <http://nymag.com/news/features/east-ramapo-hasidim-2013-4/index1.html>; *This American Life: A Not-So-Simple Majority* (Chicago Public Radio broadcast Sept. 14, 2014), available at <http://www.thisamericanlife.org/radio-archives/episode/534/transcript>.

<sup>3</sup> Henry M. Greenberg, *East Ramapo: A School District In Crisis* 6 (Nov. 17, 2014), [hereinafter Greenberg Report], available at <http://www.p12.nysed.gov/docs/east-ramapo-fiscal-monitor-presentation.pdf> (noting that East Ramapo School District has 33,000 school age children, 9000 of whom attend public schools and nearly 24,000 of whom attend private yeshivas).

<sup>4</sup> *Id.* at 30.

According to any comparative or absolute measure of student achievement, East Ramapo is failing its students. Test data from the 2013–14 school year reveals that only fourteen percent of third to eighth grade students in East Ramapo are proficient in English Language Arts (ELA),<sup>5</sup> less than half the state average and worse than the results achieved by every other district in the county.<sup>6</sup> Moreover, while the state average for ELA proficiency was stable between the 2012–13 and 2013–14 school years, the proficiency rate for East Ramapo dropped by nearly twenty percent.<sup>7</sup> The results for math tell a similar same story, as East Ramapo fell below half the state average during the 2013–14 school year and far below every other district in the county.<sup>8</sup> Although East Ramapo achieved a three-point increase in proficiency between the 2012–13 and 2013–14 school years, the state achieved a five-point increase and Haverstraw-Stony Point School District—which was the only other district in the county performing substantially below the state average—achieved an eight-point increase.<sup>9</sup>

The outlook for high school students in East Ramapo is similarly bleak. East Ramapo’s graduation rate of sixty percent is fourteen points below the state, has decreased by four points from last year, and is less than every other district in the county.<sup>10</sup>

In sum, based on student test data for elementary school and middle school students, as well as high school graduation rates, East Ramapo is performing far below the state average and, in particular, its neighboring districts. Moreover, over the last year, according to any of these measures, the district has fallen even further behind.

The New York Court of Appeals interpreted the state constitution in 1982 to require the state to provide students with the opportunity to obtain “a sound basic

---

<sup>5</sup> *Public Data Access Site*, DATANYSED.GOV, <http://data.nysed.gov> (to find ELA data for East Ramapo, search “East Ramapo CDC”; then follow “3-8 Assessment Data” hyperlink; then follow “3-8 ELA Assessment Data” hyperlink).

<sup>6</sup> *Id.* (the ELA proficiency rate for 2013–14 was 31% across the state; 49% in Clarkstown CSD; 33% in Haverstraw-Stony Point CSD; 57% in Nanuet UFSD; 34% in Nyack UFSD; 49% in Pearl River UFSD; 43% South Orangetown CSD; 41% in Ramapo CSD; and 14% in East Ramapo CSD).

<sup>7</sup> *Id.* (the ELA proficiency rate of East Ramapo decreased from 17% to 14% between the 2012–13 and 2013–14 school years, which marks a reduction of three percentage points or a 17.6% reduction).

<sup>8</sup> *Id.* (the math proficiency rate for 2013–14 was 36% across the state; 55% in Clarkstown CSD; 30% in Haverstraw-Stony Point CSD; 61% in Nanuet UFSD; 35% in Nyack UFSD; 59% in Pearl River UFSD; 54% South Orangetown CSD; 61% in Ramapo CSD; and 15% in East Ramapo CSD).

<sup>9</sup> *Id.* (the math proficiency rates increased between the 2012–13 and 2013–14 by three points across the state; eleven points in Clarkstown CSD; eight points in Haverstraw-Stony Point CSD; nine points in Nanuet UFSD; no points in Nyack UFSD; five points in Pearl River UFSD; twelve points in South Orangetown CSD; five points in Ramapo CSD; and three points in East Ramapo CSD).

<sup>10</sup> *Id.* (to find graduation rate data for East Ramapo, search “East Ramapo CDC”; then follow “Graduation Rate” hyperlink).

education.”<sup>11</sup> The court identified the “essentials” of an adequate education in 1995 to include a “minimally adequate teaching of reasonably up-to-date basic curricula such as reading, writing, [and] mathematics . . . .”<sup>12</sup> In 2003, the court established a more detailed framework for determining whether an education system is sound by looking to “inputs” (the resources afforded students) and “outputs” (test results and graduation rates).<sup>13</sup> Based on the evidence discussed above—which demonstrates the absolute and relative inadequacy of East Ramapo’s educational resources and student outcomes—it is clear that, as the New York City Bar Association recently concluded, the East Ramapo School Board has “consistently denied the students in the district a sound basic education,” in violation of this constitutional duty.<sup>14</sup>

### III.

#### A GOVERNANCE PROBLEM

The defunding of the school district, and its negative impact on student learning, is the result of bad governance.<sup>15</sup> Henry Greenberg, the state-appointed fiscal monitor to the district, recently found that East Ramapo operated at a deficit for seven of the last ten years; that its proposed district budgets have been defeated the last four of five years, which is the highest rejection rate in the state; and that the district has depleted its unreserved funds and restricted funds, leaving the district with no available capital for emergencies.<sup>16</sup>

Meanwhile, the district has made funding decisions that, as Greenberg found, “appears to favor the interests of private schools over public schools.”<sup>17</sup> As public school budgets were dramatically reduced, the district increased funding for transportation and special education services, both of which serve mostly private

<sup>11</sup> *Levittown Union Free Sch. Dist. v. Nyquist*, 439 N.E.2d 359 (N.Y. 1982).

<sup>12</sup> *Campaign for Fiscal Equity, Inc. v. State*, 655 N.E.2d 661, 666 (N.Y. 1995).

<sup>13</sup> *Campaign for Fiscal Equity, Inc. v. State*, 801 N.E.2d 326, 332–40 (N.Y. 2003).

<sup>14</sup> N.Y.C. Bar Ass’n, Report on Legislation by the Education and the Law Committee 3 (May 2015) [hereinafter NYC Bar Report], available at <http://www2.nycbar.org/pdf/report/uploads/20072906-ActtoAuthorizeTheCommissionerofEducationtoAppointaStateMonitorforEastRamapo.pdf>.

*See also* Merryl H. Tisch and David G. Sciarra, *When a School Board Victimizes Kids*, N.Y. TIMES (June 3, 2015), [http://www.nytimes.com/2015/06/03/opinion/when-a-school-board-victimizes-kids.html?\\_r=0](http://www.nytimes.com/2015/06/03/opinion/when-a-school-board-victimizes-kids.html?_r=0) (“[S]tudents . . . are being denied their state constitutional right to a sound basic education by a board that has grossly mismanaged the district’s finances and educational programs.”)

<sup>15</sup> At least two former Board members, Stephen Price and Suzanne Young-Mercer, stand out as exceptions. *See* Khurram Saeed, *2 who quit East Ramapo board cite 'intimidation,' denial of information*, J. NEWS (Jan. 23, 2013), <http://www.lohud.com/article/20130124/NEWS03/301240079>

(“Two East Ramapo school board members who unexpectedly resigned Tuesday said they did so because it had become “exceedingly difficult” to work in the district due to a lack of information from the superintendent and continuous intimidation from fellow board members.”).

<sup>16</sup> Greenberg Report, *supra* note 3, at 23.

<sup>17</sup> *Id.* at 29.

school students in East Ramapo.<sup>18</sup> In addition, from 2008–09 to 2013–14, the district increased the amount it paid in legal fees by an incredible 668%.<sup>19</sup> Over the last ten years, while every comparable school district in the county grew its budget by an average of fifty percent—largely in response to the national recession and state cuts in government funding—East Ramapo’s budget grew by only thirty-three percent.<sup>20</sup> Because of the increased costs of pensions, health care, union contracts, and cost of living “that’s devastation.”<sup>21</sup>

Finally, the Board has failed to conduct meetings in an open and transparent way, “routinely spend[ing] 60% to 70% of meetings (sometimes more) in executive session,” and only allowing public comment at the end of meetings, which is often after midnight.<sup>22</sup>

In sum, the New York City Bar Association was also right to conclude that the Board “has breached [its] fiduciary duty, as evidenced by the fiscal management of district funds and assets.”<sup>23</sup>

#### IV. A NEW STATE MONITOR

Assembly Bill 5355, if signed into law, would empower the state education commissioner to appoint a monitor that would act as a non-voting 10th member of the Board.<sup>24</sup> This role would be different in kind from the fiscal monitor that recently reported to the state on East Ramapo’s financial situation. The proposed monitor would have the power to propose resolutions and veto Board decisions, and her chief responsibility would be to develop a five-year strategic academic and fiscal improvement plan.<sup>25</sup>

A monitor is needed to address the underlying political reality of East Ramapo. Over the last twenty-five years, as the population and political power of the ultra-Orthodox Jewish community in East Ramapo grew,<sup>26</sup> the make-up of the Board radically shifted; in 2005, an ultra-Orthodox Jewish majority, having been elected on the strength of the Hasidic vote in East Ramapo, first took control of the nine-

---

<sup>18</sup> *Id.* at 33 (finding that transportation spending grew from \$22 million in 2009–10 to \$27.3 million in 2013–14 and special education tuition costs increased by 33% from 2010–11 to 2013–14).

<sup>19</sup> *Id.* at 27.

<sup>20</sup> *This American Life: A Not-So-Simple Majority*, *supra* note 2.

<sup>21</sup> *Id.*

<sup>22</sup> Greenberg Report, *supra* note 3, at 35. See also *This American Life: A Not-So-Simple Majority*, *supra* note 2.

<sup>23</sup> NYC Bar Report, *supra* note 9, at 3.

<sup>24</sup> Mareesa Nicosia, *Mixed Reactions to East Ramapo Oversight Bill*, J. NEWS (Feb. 20, 2015), <http://www.lohud.com/story/news/education/2015/02/19/east-ramapo-reacts-oversight-bill/23704899>.

<sup>25</sup> *Id.*

<sup>26</sup> Wallace-Wells, *supra* note 2.

member Board.<sup>27</sup> By 2008, the ultra-Orthodox-backed majority increased to six.<sup>28</sup> Because ultra-Orthodox families send their children to private *yeshivas*, Jewish parochial schools, a majority of the Board represents a community that would prefer to minimize tax rates and, consequently, any spending on public schools.<sup>29</sup> With such a divergence in interests between the representatives on the Board and the public school students they serve, a state monitor is necessary.

The political forces in the school district are at a standstill. On one side, the Board refuses to accept supplemental money that may be tied to supervision. Last year, the Board rejected a badly-needed \$3.5 million advance on lottery funds from the state that would have required the district to form an advisory committee of parents and teachers to direct the money.<sup>30</sup> On the other side, the community refuses to approve additional funding that the Board would control without supervision. Earlier this year, district residents rejected a \$40 million bond for school facilities improvements.<sup>31</sup> As Mimi Calhoun, the Board's former trustee wrote prior to the bond election, "Not a dime without oversight!"<sup>32</sup>

While the problem in East Ramapo is unique, the bill's solution is not unprecedented. The state has the power of intervening in the running of local school districts,<sup>33</sup> and it has exercised this power once before in 2002 to replace the elected members of the Roosevelt Union Free School District Board with state-appointed trustees.<sup>34</sup> Like in East Ramapo, the Roosevelt school district was plagued by poor management and by repeated deficits that resulted in lagging academic performance.<sup>35</sup> Like the proposed bill—which would expire in 2025—the 2002 bill also included a sunset provision that limited the duration of the state intervention.

---

<sup>27</sup> *Id.*

<sup>28</sup> *This American Life: A Not-So-Simple Majority*, *supra* note 2.

<sup>29</sup> Greenberg Report, *supra* note 3, at 6 (noting that East Ramapo School District has 33,000 school age children, 9000 of whom attend public schools and nearly 24,000 of whom attend private yeshivas); *Id.* at 10 ("7 of 9 Board members today are representatives of the private school community.");

<sup>30</sup> *Id.* at 22.

<sup>31</sup> Mareesa Nicosia, *East Ramapo Voters Reject \$40M Repairs Bond*, J. NEWS (Feb. 4, 2015), <http://www.lohud.com/story/news/education/2015/02/04/voters-reject-ramapo-repairs-bond/22838911>.

<sup>32</sup> Mimi Calhoun, *Letter: Say "No" to East Ramapo Bond*, J. NEWS (Feb. 2, 2015), <http://www.lohud.com/story/opinion/readers/2015/02/02/east-ramapo-bond-monitor-place/22756859> ("The East Ramapo school district does need money to repair its neglected infrastructure, but the existing school board has been deemed unfit to manage such funds.").

<sup>33</sup> N.Y. Educ. Law § 2590-h (McKinney 2013) (giving the New York State Chancellor the power to assume joint or direct control of failing schools or districts).

<sup>34</sup> *The Capitol Pressroom: Scott Stringer, Food Banks, Asm. Zebrowski and Asm. Jaffee, President Yehuda Weissmandl* (WCNY radio broadcast Feb. 25, 2015), *available at* <http://www.wcny.org/cpr022515>.

<sup>35</sup> Bruce Lambert, *State Moving to Take Over Roosevelt School District*, N.Y. TIMES (Apr. 17, 2002), <http://www.nytimes.com/2002/04/17/nyregion/state-moving-to-take-over-roosevelt-school-district.html>.

The bill is also not anti-democratic.<sup>36</sup> Although the current members of the Board have the right to run and hold office, they also have an obligation to serve the public school students they represent. Public education is not like any other local service that a community can simply choose not to provide, such as trash removal or tennis courts. The state, and its sub-units, all have an affirmative obligation under the state constitution to provide a “sound” education to all students. If any sub-unit of the state fails to do that, the state has the power and constitutional obligation to step in.

The bill provides an important short-term solution, but it is only that. These problems arose out of a complex underlying political dynamic in East Ramapo. A state monitor can ensure that the Board provides a minimally adequate education and better manages its money in the immediate term, but will unlikely resolve the underlying political tensions in the long term. Until East Ramapo devises a more lasting solution, the state’s bill is an appropriate one.

**Correction: June 4, 2015**

*An earlier version said the number of seats controlled by the ultra-Orthodox majority was seven. After an election last month, that number is six.*<sup>37</sup>

---

<sup>36</sup> See, e.g., Wallace-Wells, *supra* note 2 (“‘We’ve been elected,’ [Board vice president] Weissmandl says, ‘fair and square.’”).

<sup>37</sup> Mareesa Nicosia, *East Ramapo passes school budget*, J. NEWS (May 20, 2015), <http://www.lohud.com/story/news/local/rockland/2015/05/20/east-ramapo-school-district-budget-vote-passes-education/27631995/> (“[N]ewcomer Juan Pablo Ramirez won a seat with 6,216 votes, according to unofficial results.”).