

Corruption in Education: **Hedge Funds and the** **Takeover of New York's** **Schools**

The Washington Park Project

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ZEPHYR TEACHOUT
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About the Washington Park Project

The Washington Park Project is a public policy organization dedicated to fighting legal corruption, challenging concentrated corporate power, and advancing a fearless populist vision for New York.

Freed from corrupt political practices and an increasingly monopolistic marketplace, New York can lead in 21st century democracy, education, clean energy, transportation, and a small business economy. New York is abundant with talent, drive, resources, and people from all over the world. We at the Washington Park Project reject scarcity, and work to build a democracy and economy that works for all of us, not just the wealthy and well-connected.

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"They were careless people, Tom and Daisy- they smashed up things and creatures and then retreated back into their money or their vast carelessness or whatever it was that kept them together, and let other people clean up the mess they had made." - The Great Gatsby

Introduction: Wall Street Hedge Funders' Takeover of Albany Education Policy

New York State is plagued by legal corruption: campaign contributions and outside spending explicitly designed to buy policy outcomes. In 2014, a tiny group of powerful hedge fund executives, representing an extreme version of this corruption, spent historic amounts of money in order to take over education policy.

This paper details this fast-paced purchase of political power, and the threat it poses to democracy and public education in New York State.

A small cadre of men, including Carl Icahn, Paul Tudor Jones, and Dan Loeb, poured more than \$10 million into state lobbying and election campaigns since the beginning of 2014, with electrifying results.ⁱ Their campaign bears the signature components of the corporate takeover world which they occupy: rapid action on multiple fronts; highly secretive activity shielded from the public view; high stakes, big spending; and top-down power plays that are not accountable to the public.

First, in a span of 10 weeks they spent \$6 million on lobbying that won unprecedented public funding to pay for charter school rent.ⁱⁱ

This was done as part of a campaign orchestrated with Governor Cuomo, designed to frustrate Mayor Bill de Blasio's efforts to win universal full-day pre-K, paid for entirely through expanded taxation of New York City millionaires.

Phase two of the attack came in the fall elections.

Twelve individuals spent \$4.3 million on a PAC apparently designed to purchase control of State Senate education policy.ⁱⁱⁱ

Their effort depended on misleading voters about the actual intentions of the PAC. Rather than honestly advocating for more public funding for privately-run charter schools, and explaining who was behind it, the TV ads, mailers and radio spots paid for by the PAC attacked Senate Democrats for doing the bidding of New York City and Mayor de Blasio.^{iv}

Ironically, the PAC's priority was actually to win more money for charter schools located in New York City. The PAC also attacked candidates for supporting the vital anti-corruption measure of publicly funded elections.^v

These Wall Street titans cemented their power play by securing the political allegiance of Governor Andrew Cuomo through campaign donations and outside spending.

They worked together with Governor Cuomo during the state budget process to orchestrate the lobbying campaign that undermined Mayor de Blasio and secured the charter rent deal. Immediately

after the pro-charter pro-millionaires tax budget was passed, the Governor was rewarded by his charter school supporters by being the “honorary chairman” at a political strategy retreat they held in the Adirondacks.^{vi}

Their partnership was just as tight on the electoral front. Just one week before the November election, Governor Cuomo described public schools as a “monopoly” he intended to “break” up by expanding privately run charter schools and increasing their public funding.^{vii} His remarks matched the agenda of the PAC funding the Senate Republicans at a time when he had committed that he himself would be campaigning for Senate Democrats.

The Governor and the legislature are negotiating now on a potential special session for December, 2014. Some members of the Senate have threatened to radically overhaul the fundamentals of the public education system in New York State.

This week the *New York Daily News* reported that Governor Cuomo is pushing to use a December special session to raise the charter cap, perhaps in exchange for a long-awaited pay increase for legislators.^{viii}

The 2014 effort, a kind of lightning war on public education, is important for many reasons: it is hasty and secretive, depending on huge speed and big money, and driven by unaccountable private individuals. It represents a new form of political power, and therefore requires a new kind of political oversight.

Because these hedge fund managers directly involved themselves in New York politics, we should examine them like politicians, attempting to understand their policies and their sources of authority, asking them daily questions about their activities and reasons. They are not mere contributors.

Like the Koch brothers, these hedge fund managers are openly seeking to influence policy in a massive and comprehensive way. The degree of their attempted power grab could make them -- if they are successful -- an invisible, unelected, unaccountable government.

Faced with legal corruption on a grand scale, the public must respond. Together, we should bring accountability and scrutiny to the aristocracy that would establish itself as the authority on education public policy in New York State.

At stake is public school funding, attention to the crisis in our public schools, and the very nature of our public commitment to public education.

I. A Lightning War to Privatize Public Education

Since 2008, big banks and big finance have wielded outsized political power in Washington, DC. They have used direct methods, like campaign contributions^x and lobbying^x, and indirect methods, like placing bankers with similar ideologies in positions of power.^{xi} They are political actors as well as market actors.

Here in New York, the financial capital of the country, Wall Street firms and associated individuals have been accumulating influence over state and local government.^{xii} With some of the most lax campaign finance laws in the country, Wall Street is able to spend millions of dollars per campaign cycle to influence legislation and action in New York.

But this year's hedge fund effort to take over education policy represents one of the fastest and biggest efforts to privatize public policy processes in recent history.

Phase One: Lobbying

In early 2014, a new hedge-fund-financed lobbying group made a rapid-fire power play in Albany.

The lobbying campaign, done in the name of Families for Excellent Schools, included a massive \$5.95 million in spending, mostly on television ads.^{xiii} Families for Excellent Schools has refused to disclose its donors, but major hedge fund moguls have been publicly associated with its campaigns.^{xiv}

This explosion of lobbying and money power led to a dramatic revision of state law to require New York City to turn public school building space over to privately-run charter schools for the first time. As an alternative, New York City and New York State would be required to pay rent for these privately run charter schools to occupy private space.^{xv}

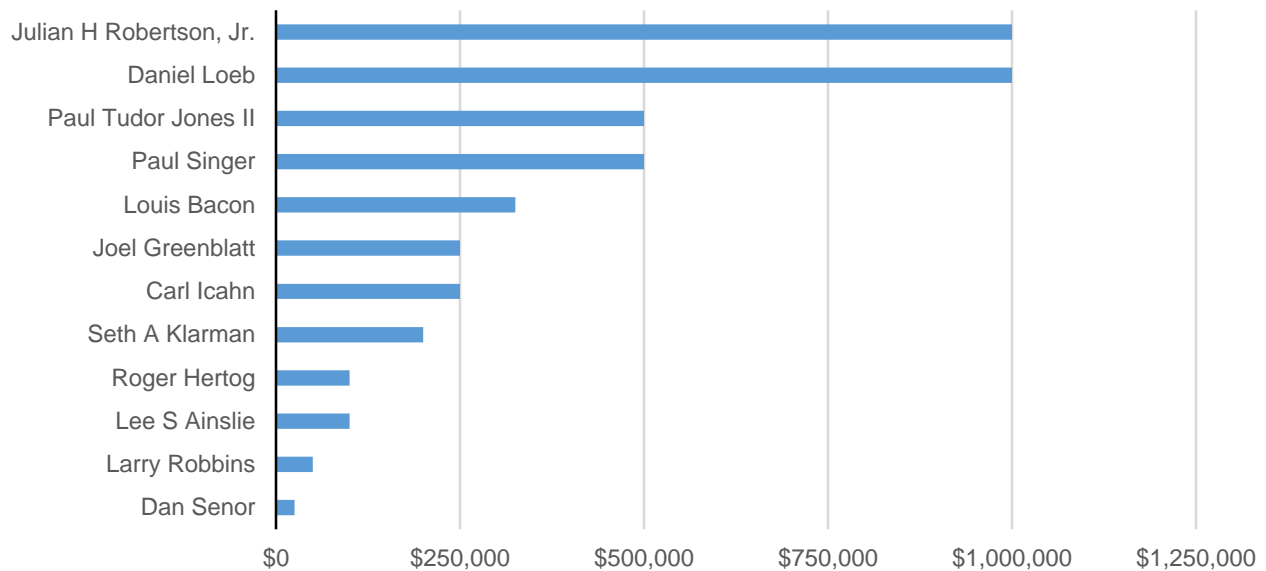
From a legal and policy perspective, this dramatic change was unprecedented. Politically, the outcome was the rapid emergence of hedge fund managers as a powerful force in Albany, with an education agenda focused on privatization and testing as the leading, public face of their agenda.

Phase Two: Elections

In two months before the 2014 general election, twelve individual hedge fund managers banded together to finance a takeover of the State Senate.

These twelve set up a new PAC, New Yorkers for a Balanced Albany, and capitalized it with \$4.3 million.

Funding for New Yorkers for a Balanced Albany



Source: New York State Board of Elections Campaign Finance Disclosure^{xvi}

This PAC was remarkable for a number of reasons.

The speed of its creation is one of its most striking features. The PAC was first announced after the primary election, on September 12, 2014. It was first reported in the *New York Post* on October 20, 2014^{xvii}, less than three weeks before election: by then it had already spent over \$1 million.

The *New York Times* first covered it on October 30, 2014^{xviii}, less than a week before the election. In most parts of the state, there was no reporting on this powerful group until after the election.^{xix}

In the seven weeks that the PAC raised and spent almost \$4.3 million, there were no serious investigative reports about the agenda or goals of backers of New Yorkers for a Balanced Albany. Most voters never learned about who was trying to influence them, or why.

New York State is overwhelming Democratic, with two times as many registered Democrats as Republicans. Most of the money spent by this billionaire-funded PAC went to TV ads and mailers to support Republican State Senate candidates and oppose their Democratic opponents. They focused on Districts 3, 7, 40, 41, 55, and 60.

In just two of those races, in Districts 40 and 41, the group spent \$2.8 million on negative TV and radio ads, running an estimated 289 attack ads^{xx}

This was the largest independent expenditure in state senate races by any single group.^{xxi}

The PAC was also notable for the methods by which its true agenda was hidden from voters.

New Yorkers for a Balanced Albany was known as a pro-charter school PAC, but the hundreds of ads that they ran did not reveal these motives to voters. The ads focused less on specific policy issues

and instead warned of a left-wing takeover of New York State government spearheaded by New York City Mayor Bill de Blasio.

Ironically, the PAC's agenda actually seeks to drive more state funds to New York City by way of expanding privately run charter schools there. The ads made no mention of the political agenda of the twelve wealthy individuals who funded them.

Here is the full text of one such television ad from Senate District 40:

Enter the distorted world of Justin Wagner, candidate for State Senate: a bizarre universe where Democrats led by Bill De Blasio would control state government. The last time that happened, it led to 9 billion dollars in new taxes and 12 billion in new spending. Where Justin Wagner's support for New York City-style campaign finance means hundreds of millions of our tax dollars paying for...political ads? Justin Wagner's distorted world, a place we just can't go.^{xxii}

At the same time, the financiers of New Yorkers for a Balanced Albany also made significant contributions to Governor Andrew Cuomo.

Hedge-fund donors gave to Cuomo in amounts greater than many families' yearly income. Daniel Loeb contributed over \$60,000 to the Cuomo campaign, Larry Robbins gave \$55,000, Joel Greenblatt donated \$50,000, Louis Bacon over \$85,000, Paul Tudor Jones gave \$45,000 and Carl Icahn gave \$50,000. This does not represent all of the hedge fund-charter school money raked in by Governor Cuomo's campaign.^{xxiii}

Voters, of course, do not know the nature of the private conversations between Governor Cuomo and these donors, and we can only speculate whether there was any discussion about education policy (or tax and fiscal policy, or corporate subsidy and wage policies) -- but the size of the donations, accompanied by the size of the outside spending, suggests that these donors may have been seeking—and may have received—a major say in Andrew Cuomo's choice of priorities and policies.

Just days before the election, Andrew Cuomo, in a meeting with the New York Daily News's editorial board, called public schools a “monopoly” that he would “break up” if re-elected.^{xxiv}

II. The Privatization Agenda

The hedge fund powers behind this push are not publicly elected, have never had to engage in a debate, and have never had to explain—as a politician might—the connection between their private interests and their public policy priorities. But their agenda fits within a broad, Wall Street vision of education, where public schools are starved of resources, children are subject to high stakes testing, and public education is privatized.

This hedge fund group is part of an interlocking effort across the country to privatize education that uses consistent talking points around the country—they call themselves “reformers,” insist that charter schools are “public schools,” and refer to high stakes testing as “student performance.”

When Governor Cuomo described public schools as “monopolies,” he was echoing a talking point already used by another Governor heavily supported by the hedge fund education “reformers”: in May 2013, Florida Governor Jeb Bush described public schools as “public-run monopolies.”^{xxxv}

The hedge fund- and corporate-sponsored organizations that portray themselves as “education reformers” include Families for Excellent Schools, New Yorkers for a Balanced Albany, StudentsFirst (the parent group of New Yorkers for a Balanced Albany)^{xxxvi}, Democrats for Education Reform (whose Advisory Board member, Joel Greenblatt^{xxxvii}, gave \$250,000 to New Yorkers for a Balanced Albany), 50CAN (including NYCAN), Stand for Children, and Partnership for Educational Justice, among others.

These billionaires have a clear method and goal: replicate market forces in public education.

The Executive Director of StudentsFirst made it very clear that the hedge-fund-sponsored organization wants even greater reliance on standardized testing, not less. Regarding the use of standardized tests to evaluate teachers she said, “they’re the only tool that allows us to make comparisons”^{xxxviii} and described these test scores as “objective and a reliable way of evaluating teacher performance.”^{xxxix}

Through standardized testing, schools, teachers, principals, and students can all be bottom-lined, just like a Wall Street balance sheet.

As one New York City principal put it, “The profit margin in this business is test scores. That’s all they measure you by now.”^{xxx} Tying test scores to high stakes consequences is indeed a powerful market force.^{xxxi}

The two big priorities being promoted by the hedge funders involved in education policy right now are expanding the number of privately run charter schools in New York and obtaining fully-publicly-funded facilities for privately-run charter schools.

Currently there are 197 privately-run charter schools in New York City and 51 in the rest of the state. The state now caps the number of privately-run charter schools at 460 statewide with 256 for New York City.^{xxxii,xxxiii}

The hedge fund-sponsored campaign is focused on raising or eliminating the cap on privately-run charter schools -- and on winning billions of dollars in taxpayer funding for capital and construction for privately-run charter school facilities.

Sadly, these billionaires have never made public school funding or equitable school funding a priority, and have actively opposed it.

Strong public school funding is necessary to ensure small class sizes, arts, sports, counseling, and a rich supportive environment for all children. But billionaire charter champions and their lobbyists have actively worked against it, and even praised massive cuts to public schools.

Democrats for Education Reform advocated against increased school aid in the state budget in 2014.^{xxxiv} StudentsFirst funded a statewide coalition in Ohio that was actively supporting deep cuts in school aid.^{xxxv}

The Republican Senate control sought (and bought) by New Yorkers for a Balanced Albany is widely recognized as being a major impediment to equitable funding that prioritizes high-needs school districts. The Senate Education Committee Chairman, Republican John Flanagan, recently said that new funding should prioritize the needs of wealthy and middle class districts rather than prioritizing high needs districts.^{xxxvi}

III. Standing in the Way of Great Public Schools

The hedge fund agenda is problematic not only because it represents a secretive, unaccountable source of power, but because it stands in the way of a full commitment to making great public education available to all children. Our public schools, especially those in high needs communities, are desperately underfunded. New York State remains a leader in educational inequity. Now is not the time to divert more funds from our public schools to privately run charter schools, especially with increased evidence that the existing charters are plagued by conflicts of interest and mismanagement.^{xxxvii} The hedge fund agenda stands in the way of basic features of providing New York kids with the best public schools in the country.

New York State is a national leader in educational inequity, ranking 7th from the bottom.^{xxxviii} There is an \$8,601 per pupil funding gap between the wealthiest and poorest school districts in New York State.^{xxxix} The state has frozen and slashed state education funding, provided a fraction of the funds needed to implement its Common Core requirements, and demanded teacher performance evaluations without funding them.

The New York State Constitution, Article XI, § 1, provides that: “The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.” The Court of Appeals has interpreted this provision to “impose[] a duty on the Legislature to ensure the availability of a sound basic education to all the children of the state.” That includes giving every child the preparation they need to be “civic participants,” to be able to capably and knowledgeably serve as a juror, vote, learn skills, information, and the “capacity to continue to learn over a lifetime.”

The state is at least \$5.9 billion dollars short on its constitutional obligations to its public school children.^{xl} In 2006, the State Court of Appeals found that New York was unconstitutionally failing its children. Governor Andrew Cuomo and the legislature have failed to comply with the 2007 agreement to fully fund public schools that came about after that case. The state is now being sued by parents and students from eight small cities across the state asserting that their schools are receiving inadequate funding to fulfill their constitutional obligation. It is scheduled to go to trial on January 21, 2015. A second lawsuit recently overcame the state’s motion to dismiss in the trial court.

Instead of fighting the lawsuit, Andrew Cuomo and the legislature should quickly move to provide public schools fair, full, equitable funding.

Without basic public school funding, New York classrooms are overcrowded. In New York City, nearly one out of every four 1-5th grader is in classes with more than 30 children, and 43% of 6th-8th graders are in classes with more than 30 children.^{xli} In Buffalo, 63% of Kindergarten classes had more than 24 students with 6% of those having more than 30 students.^{xlii} The professional judgment of a panel of educators assembled by the Campaign for Fiscal Equity called for class sizes of no more than 14-17 students per class in elementary schools, 23 students per class in middle schools, and 18-29 students in high schools, depending on the poverty level of the school.^{xliii} A survey of New York City principals said that for a quality education, there should be classes no larger than 20 in grades K-3, no larger than 23 in grades 4-5, and no larger than 24 in all other grades.^{xliv} There is no excuse for elementary school children in classes twice as large as the recommended range.^{xlv} Instead of

unconstitutionally low levels of funding, New York can aim towards no more than 17 students in all elementary school classes.^{xlvi}

The funding crisis has also led to less art education, meaningful sports, and access to counseling. Arts are essential to the full development of every child, and are even more important for children from poor and disadvantaged backgrounds.^{xlvii} With New York having some of the greatest overall inequality of any state in the country, access to arts for all children is essential for giving all children the chance to thrive in school and society. Kids who are involved in drama, music, and dance do better at reading, writing, and math.^{xlviii} Kids from high arts backgrounds (whether high or low socioeconomic status) are more likely to vote, volunteer, and engage in politics. Arts education, in other words, is part of the foundation of a full democratically engaged future.

In New York, we do not currently provide an arts education to all of our kids. In the last six years, NYC schools have lost over 200 art teachers (according to the NYC DOE). Across the state, 33% of schools districts reduced Arts and Music (according to the annual survey conducted by NYS Council of School Superintendents). Children from disadvantaged backgrounds—those most likely to benefit from arts—are not getting the access to arts that they need.

The state has a responsibility to ensure that all schools have resources to meet the standards set for the arts. Likewise, without adequate funding children are not getting the athletics they need.

While funding has dropped, class sizes have risen, and children have lost arts and sports, kids and teachers have had to take on the extra burden of high stakes testing, including the testing related to Common Core. New York needs to halt the implementation of the Common Core and start over. High stakes testing has been very damaging to our public school system. Consequences tied to these standardized tests create inordinate stress on students, teachers, principals and parents. These consequences include shaming and closing schools and evaluating teachers and principals with possible job loss at stake. Students spend too much time taking these tests and too much instructional time is lost to test prep.

While much of the current testing regime is governed by the federal government, New York State should pursue every avenue possible to reduce standardized testing and to eliminate high stakes consequences associated with these tests.

Until we have addressed these basic needs in our public schools, we must keep the current cap on all privately run charters.

Charter schools become a drain on overall performance of children in many ways: Privately run charter schools are funded by diverting money away from public schools leaving public schools further stretched financially. Privately run charter schools do not reflect the communities they serve. They educate smaller percentages of special education students and non-English speaking students than traditional public schools. Unlike public school districts, charter schools can expel students entirely. These students then become the responsibility of the district to educate. Charters do not educate every child in the community, leaving the public school district with the most expensive to educate students and those with the greatest challenges.

The most fundamental problem with charter schools is that they separate public education from the public itself. They are not responsive to public school boards, let alone to public scrutiny. Even those

charters that succeed in the short term fundamentally take public education into a private realm, where charter school managers can make money off of children—in fact some make as much as \$500,000 a year. The opportunities for profit in charter schools is a fundamental tension that can lead, in the long term, to abuse of children.

Many parents choose charters because their schools are not working well. Their individual decisions make a lot of sense. But the parental solution and the public solution diverge here. Our job in New York is to build the best public education in the country in traditional public schools.

IV. Conclusion

“Not the rich more than the poor.” - James Madison, Federalist 57

Our country was founded in part on a commitment to end the corrupting influence of money in politics. When New Yorker Alexander Hamilton described the American Constitutional Convention, he said that the framer’s purpose was that “every practical obstacle should be opposed to cabal, intrigue, and corruption.” 2014 saw a revolution in the impact of corrupting money on New York State education policy, characterized by cabal, intrigue, and corruption.

A cabal of hedge fund managers privately intrigued to use unprecedented amounts of money to buy unprecedented influence and power over state education policy. Their power is based on legal corruption, not legitimate political authority.

This lightning war is a war on public education, but also on the fundamentals of democracy in New York: who should decide, and how, the future of our children’s education?

Some political theorists have argued, in essence, that mere power creates political legitimacy—Hobbes, for instance—but in a democracy, legitimate political authority depends upon more than that.

The hedge fund managers’ claim to the exercise of political authority comes from money alone. There is no evidence of superior access to facts or technical expertise, on the part of these men. They were not elected. Their ideas were not subject to rigorous public debate. They spent money using arguments that had nothing to do with the underlying reason for their spending money.

The claim that access to money alone, combined with a personal belief set, is a legitimate reason for exercising power, is a radical one, far more radical even than the claim in *Citizens United* (that the state cannot stop companies from spending money in politics).

If the mere capacity to spend money, along with a view about public policy, is sufficient grounds for political authority, we quickly move to absurd conclusions: the lottery winner has more moral authority for coercive action moments after winning the lottery than before, because she has more capacity to spend money to achieve her preferred results.

Taking the hedge fund managers at their word, with the most generous understanding: their interest in a Republican Senate is due to a charitable interest in changing education policy in a way that they deeply, personally, believe is better for all New Yorkers. In practice, this means that they used private money to help create a Senate that is not representative of New York politics, with deep and enduring policy implications, including tax laws that benefit them and the wealthiest at the expense of everyday New Yorkers, an inadequate minimum wage, continued resistance to the DREAM Act, and great difficulty in passing the public financing of campaigns that would dramatically lessen the corrupting influence of money on politics.

These individuals unilaterally decided, based on the authority of their own wealth, that their personally-held beliefs about privately-run charter schools were more important than doing something about corruption in Albany, changing the way campaigns are funded, making it possible to adequately and equitably fund public schools, and changing energy policy.

New Yorkers may not have the right to stop them from spending money, but that does not mean it is not worthy of public notice -- and even anger.

The hastiness with which the war of the billionaires came together, the seven-week creation of a campaign, the nature of the private money and private preferences, all of this suggests something more reminiscent of Gatsby, a kind of public carelessness.

We know where the few, elite hedge fund managers stand: they stand in favor of an all-out attack on public schools that was succinctly described by Governor Cuomo when he called our schools a “monopoly” he would “break up.” We fear where the Governor and the Senate Majority stand: with the money of the hedge fund puppeteers who are poised to pull the politicians’ strings to privatize public education.

Now we must see New Yorkers take a stand.

We have enough privately-run charter schools at this time. As a state we need to focus our energies, and our resources, on making every public school a great school. That means we need to invest in our children, particularly in our high needs communities, and we need to ensure every child, regardless of race, family income, language or zip code, has an equal opportunity to succeed. We can do this if we provide every child with pre-kindergarten, small class sizes, a diverse curriculum including art, music and sports, as well as academics. We must do this. It is our constitutional obligation; it is a moral imperative. We cannot afford to be diverted from this mission and we cannot afford to divert even more resources away from the 97% of children who are in public schools for the 3% of children who are in privately run charter schools.

And we must also make a stand for democracy. Hedge fund pluralism is not democracy. America, and New York, should be governed through a representative electoral process based on the hard-fought principle of one-person, one-vote – not ‘he who has the most gold rules.’

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^{xlviii} Research supports the common sense notion that arts are essential to long-term success. In 2013, the National Endowment for the Arts conducted a study of the impact of arts education, and found that students with less arts involvement had worse grades, lower college enrollment, and less civic engagement than students with greater arts access (see ^{xlviii}). The most striking difference was that "students with access to the arts in high school were three times more likely than students who lacked those experiences to earn a bachelor's degree." They also found an interaction between arts and sports and other extracurricular activities: students with high arts access were more likely to get involved in sports after school and other activities, like the newspaper. They were likely to dream bigger and achieve more.

Arts help with higher achievement and success as well as higher order thinking: "Are We There Yet?" (n.d.): n. pag. Alliance for Quality Education. Web. <<http://www.aqeny.org/wp-content/uploads/2012/03/Are-We-There-Yet-College-and-Career-Readiness-Report-Card.pdf>>.