



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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June 3, 2021

Mr. Michael Smingler
Assistant Chief Budget Examiner
New York State Division of the Budget
State Capitol, Room 140
Albany, New York 12224

Dear Mr. Smingler:

The New York State Education Department (NYSED or the Department) is in receipt of your letter of May 27, 2021 in response to NYSED's proposed 2021-22 school year tuition rate setting methodology recommendations for school-age and preschool special education providers.

2021-22 Trend Factor

The Department and the Board of Regents have long advocated for special education providers to receive an annual funding increase commensurate with the growth in General Support for Public Schools (GSPS). Accordingly, in our April 12, 2021 methodology proposal, the Department recommended that the 2021-22 tuition rate setting methodology for school-age and preschool providers include a 7% trend factor, commensurate with the growth provided in state aid for the 2021-22 school year (as modified to account for the impact of the pandemic adjustment). While in recent years, the approved tuition growth for school-age providers has been linked to GSPS growth, the Division of the Budget (DOB) May 27th letter only approved a 4% trend factor for both school-age and preschool providers.

Approved private special education providers and Special Act School Districts are responsible for providing a free appropriate public education (FAPE) to students with disabilities with the greatest needs placed by the public school districts and counties. While school districts will be benefiting not only from a significant increase in school aid, districts now have access to an unprecedented amount of federal stimulus funds in addition to their local tax levy revenue. Special education providers rely solely on tuition revenue to fund services to students with disabilities who are entitled to the same educational opportunities as students attending public schools. Providing the same 7% trend factor for special education providers as was provided to school districts would ensure funding equity and parity for all students with disabilities, without regard to their public educational placement.

A 7% trend factor would help address the financial stability for approved school-age and preschool programs serving students with disabilities to enable them to better provide mandated services to the students they serve. As with school districts, our approved providers face similar challenges and needs with respect to the provision of specially designed instruction and related services during the COVID-19 pandemic. It is essential that they be equipped with the resources necessary to properly respond to the educational needs of the students they serve. NYSED therefore respectfully requests that the 2021-22 tuition rate setting methodology for school-age and preschool special education providers include a trend factor of 7%.

Enrollment Decline Rate Reform

NYSED respectfully requests that the same enrollment adjustment factor enacted for the 2020-21 school year as part of the 2021-22 state budget be extended to the 2021-22 school year. Specifically, for the 2021-22 reconciliation tuition rates, the enrollment adjustment factor would be continued as a five percentage point reduction or greater in enrollment-to-capacity percentage from the 2016-17 through 2018-19 three-year average enrollment-to-capacity percentage, rather than the 7.5 percentage in DOB's May 27th letter.

This request is supported by enrollment survey data collected from providers in February 2021 that indicates a high percentage of providers were impacted by an enrollment decrease of at least five percentage points in the 2020-21 year due to the pandemic. Anecdotal information from providers and stakeholders indicates that the number of referrals for the upcoming 2021 school year are significantly lower than years prior to the pandemic, and the expectation is that the trend will continue into the 2021-22 school year. This information is supported by preschool regional need data published by the New York City Department of Education and a reduction in the number of evaluation referrals to the district. While it is anticipated that referral and enrollment numbers will recover, more time is needed to determine the true impact of enrollment declines related to the COVID-19 pandemic. Continuing the five percent enrollment adjustment factor for an additional year offers the predictability and stability needed to ensure providers are able to maintain programming as enrollment gradually returns to pre-pandemic levels.

The Board of Regents has long supported funding parity for those approved schools and programs serving students with disabilities to ensure the provision of FAPE and equity in the educational opportunities afforded to all students. Thank you for your consideration of these important requests that are essential to ensuring equity and providing parity to these vulnerable students and the schools that serve them during this unprecedented time. Please let us know if you have any questions or would like to meet to discuss.

Sincerely,



Phyllis D. Morris

cc: Commissioner Rosa
Sharon Cates-Williams
Charles Williams
Stephen Heagle
Christopher Suriano
Suzanne Bolling
Brian Zawistowski