

The New York State
Coalition of 853 Schools



Cerebral Palsy Associations
of New York State
Real people. Realizing potential.



NEW YORK STATE
ALLIANCE
FOR CHILDREN WITH
SPECIAL NEEDS
- SCHOOL AGE



DDAWNY **SpeciAl Acts**
DEVELOPMENTAL DISABILITIES ALLIANCE OF WNY

Special Acts provide Equal Access to public education for students unable to attend schools in their communities. Help us to continue to ensure their right to Free Appropriate Public Education.



NEW YORK STATE
ALLIANCE
FOR CHILDREN WITH
SPECIAL NEEDS

May 25, 2022 rev.

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Via email: legislative.secretary@exec.ny.gov

Dear Governor Hochul:

Our organizations represent a majority of approved private school age special education schools (853), special act public school districts, and preschool special education programs (4410). Our schools and programs serve students with disabilities who require individualized instruction and related services. We partner with the State, county, and local school districts to ensure that children with disabilities are afforded a free and appropriate education when their public school district of residence is unable to provide such instruction or service.

We begin by thanking you for recognizing the need for significant investments in the education of students with disabilities served by our schools and programs. The historic financial support of \$240 million (11%) made by the Executive and supported by the Legislature for the 2022-23 school year does not go unrecognized. Never before has our sector received this level of support. We are confident that your administration will continue to invest in our students by committing to annual growth or trend in the subsequent school years as well. As you know, if it were not for a

disability, developmental delay, mental health needs, behavioral challenges, addiction or trauma induced conditions, our students would be educated in their public school. Educational equity must be maintained across all sectors.

Annual growth is just one factor necessary to support the private special education sector and access to a free and appropriate education by students with disabilities. Redesigning the current tuition rate methodology is also necessary so that investments, like the committed \$240 million, can be used completely to support the education of our students.

During the budget process this year, we shared serious concerns that the tuition methodology would not enable full realization of the \$240 million by all schools, all programs for all students. We highlighted the aspects of the methodology that would prevent the investment from being fully realized and offered recommendations to address the short-term immediate implications of the methodology and long-term redesign of the methodology. While the Legislature included several of our recommendations in their one house budgets, the administration proposed an alternative approach that would authorize our schools and programs to retain funds for use in subsequent years. While we appreciate that the administration endeavored to assist our schools, unfortunately, the proposal included in the enacted budget does not fully enable all schools, all programs and all students to realize the promise of the investment in the 2022-23 school year and does not address the need for long term reforms.

The Legislature has introduced legislation to address two short term issues:

1. A.10191 Assembly member Benedetto/S.9132 Senator Mannion amends the enacted budget to ensure that the calculation of the amount authorized to be retained by a school or program is conducted prior to certain applications of the methodology which would negatively impact the schools; and
2. A.10192 Assembly member Benedetto/S.9134 Senator Mannion authorizes the issuance of interim “plus” rates. Currently, the Division of the Budget only allows the NYS Education Department to issue interim rates with 0% growth. Interim rates are essentially the school or program’s last certified rate. Interim rates are used to allow schools and programs to request tuition reimbursement while rates are finalized. DOB has not allowed such rates to include growth. Interim “plus” rates would allow NYSED to include growth more in line with the investment made by the state and would provide the increase at the start of the school year. This would also allow the 90 schools/programs with an outstanding waiver or appeal request to receive growth to their tuition rates. Absent interim “plus” rates, these 90 schools/programs will not see the investment made until the waiver or appeal request is resolved, which may take years.

We believe these legislative proposals are necessary to assure the realizations of the State's fiscal commitment to our sector, offering clarification of terms and intent more aligned with our sectors' initial requests. However, these legislative efforts would be unnecessary, were the Executive to accommodate these recommendations through the administrative process associated with the development of the 2022-23 tuition rate methodology. As you are well aware, Education law section 4405 requires that the Commissioner of Education develop the annual tuition rate methodology. On April 13, 2022, Commissioner Rosa developed the 2022-23 tuition rate methodology and shared it with the Division of the Budget. Our organizations strongly support this methodology. Full realization of the \$240 million investment is contingent upon a methodology that permits it.

Our schools and programs are struggling. We are facing certified teacher and teacher assistant shortages made more pronounced as the public sector with higher salaries attract the few candidates available. We are unable to fill vital therapeutic clinical related services positions, such as speech language pathologist or occupation therapists. As our children were the most impacted by the pandemic, we are experiencing escalation in behavioral, developmental, and mental health challenges in our students, including our youngest. The historic investment made by the Executive must be accessible to all schools, all programs, and all students.

Thank you for taking a leadership role in the education of students with disabilities. We are confident that we can build a strong working relationship together that enables us to have transparent conversations about the challenges associated with the tuition rate methodology and work collaboratively towards a funding system that strengthens our ability to best educate and serve students with disabilities.

Sincerely,

Thomas McAlvanah, Executive Director, InterAgency Council of Developmental Disabilities Agencies, Inc.

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Kelly Lappan, Chair of the Steering Committee, Lower Hudson Education Coalition

Kelly Young, President, NYS Coalition in Support of Birth²Five Special Education

Ms. Rhonda Federick, President, Developmental Disabilities Alliance of WNY

c.c.: Dr. Betty Rosa, Commissioner, NYSED

Senator Shelly Mayer, Chair of the Senate Committee on Education

Senator Mannion, Chair of the Senate Committee on Disabilities, Sponsor

Assembly member Benedetto, Chair of the Assembly Committee on Education, Sponsor

Dan Fuller, Executive Secretary for Education, Executive Office

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