



# Advocates for Children of New York

Protecting every child's right to learn

## Testimony for the Joint Legislative Public Hearing on the 2018-2019 Executive Budget Proposal: Elementary and Secondary Education

January 31, 2018

Thank you for the opportunity to speak with you today. My name is Randi Levine, and I am Policy Director at Advocates for Children of New York (AFC). For 45 years, Advocates for Children has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. Every year, we help thousands of New York parents and students navigate the education system. We focus on the students who are most likely to experience failure in school because of poverty, race, disability, homelessness, immigration status, involvement in the child welfare or juvenile or criminal justice systems, or language barriers.

Based on this experience, we urge the Legislature to:

1. Invest \$50 million to promote safe and supportive schools;
2. Invest an additional \$150 million in prekindergarten programs and \$6 million to support inclusion prekindergarten programs;
3. Invest \$100 million to support English Language Learners (ELLs) and \$4.43 million for accurate assessments for ELLs;
4. Reject the Executive Budget special education waiver proposal;
5. Reject the Executive Budget proposal to reduce funding for summer special education programs;
6. Increase Foundation Aid by \$1.4 billion;
7. Reject the Executive Budget proposal to cap certain expense-based aid;
8. Support the Executive Budget proposal to increase funding for after-school programs by \$10 million; and
9. Support the DREAM Act.

### **1. Invest \$50 million to promote safe and supportive schools.**

Every child deserves to attend a safe, high-quality school where students, teachers, and staff are treated with dignity and respect. Without the training and tools teachers need to support students, schools resort too often to exclusionary discipline like suspensions, even though evidence shows that suspensions simply do not work. Suspensions, disproportionately given to black students and students with disabilities, force students to miss valuable instructional time, while failing to address the issues underlying the students' behaviors. Suspensions and expulsions increase the

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likelihood that students will have lower academic achievement, be held back a grade, not graduate, drop out of school, receive a subsequent suspension or expulsion, and become involved in the juvenile or criminal justice system. These suspensions also have financial consequences for New York; experts estimate that suspensions cost states hundreds of millions of dollars in lost wages, tax revenue, and other social costs.

There are effective alternatives to suspending and arresting students that hold students accountable and help create healthy and inclusive school communities where both students and educators can thrive. For example, in contrast to suspensions, which focus on excluding students from school as punishment for breaking rules, restorative practices allow school officials to consider how students will best learn why they must change their behavior, require students to take responsibility for their behavior, help students learn to avoid such behavior in the future, and keep students in the classroom. Schools and school districts that have successfully integrated restorative justice practices have seen higher graduation rates, improvement in math and reading scores, and reductions in chronic absenteeism.

We recommend that the budget include at least \$50 million to provide schools with the assistance and training needed to adopt positive, age-appropriate approaches to discipline that keep students in school and on a positive track, such as training for school staff and administrators on restorative practices, in-school restorative practices facilitators, peer mediation training and facilitation, and additional social workers and school psychologists.

The Executive Budget includes \$250,000 for grants to allow community schools to expand mental health services and improve school climate and \$500,000 for in-school gang prevention programs. The Legislature should ensure that the final budget includes language explicitly allowing these grant programs to fund training in positive school discipline practices, such as restorative practices, and training of school staff to provide behavioral supports. The funds allocated for these grant programs, however, are woefully inadequate to meet the need across the State and far less than the \$50 million recommended.

**We recommend that the Legislature negotiate a budget that includes \$50 million for grants for schools to implement positive approaches to discipline.**



## **2. Invest an additional \$150 million in prekindergarten programs and \$6 million to support inclusion prekindergarten programs.**

By the time children enter kindergarten, children from lower socioeconomic backgrounds lag significantly behind children from higher socioeconomic backgrounds in academic skills. High-quality early childhood education programs are proven to help fill this gap. Rigorous research has shown that, compared to children left out of high-quality early childhood education programs, low-income children who participated were less likely to be retained a grade in school, be placed in a special education class, drop out of school, rely on public assistance, or be arrested for a violent crime. As a result, these programs result in substantial cost savings to schools, government, and taxpayers.

We are grateful to Governor Cuomo and the Legislature for increasing funding for prekindergarten over the past few years, making it possible for New York City to offer a pre-K seat for every four-year-old child. However, despite promises to make full-day prekindergarten available statewide, tens of thousands of four-year-old children around the State still have no full-day pre-K. Although research shows the benefits of giving children access to high-quality early childhood education programs at an even younger age, far fewer three-year-old children have access to pre-K.

We appreciate that the Executive Budget sustains the recent increases in prekindergarten funding and includes an additional increase of \$15 million. However, this funding falls far short of the amount needed to reach universal access. We urge the Legislature to keep the promise of universal pre-K by investing at least an additional \$125 million in prekindergarten for three-year-old and four-year-old children and an additional \$25 million for quality improvements to ensure that the State funds high-quality programs.

In addition, we are pleased that the Board of Regents' 2018-2019 State Budget Priorities recommends \$6 million for a pilot of "inclusion prekindergarten programs." Preschoolers with disabilities have a legal right to participate in prekindergarten programs alongside their typically developing peers, unless their needs require a separate preschool class. However, the State has a shortage of "preschool special classes in integrated settings," classes where children with disabilities and without disabilities learn alongside each other with the support of a special education teacher. Many of these classes have closed due to the State's low reimbursement rates. Last year's budget legislation requires the New York State Education Department (NYSED) to develop a new reimbursement methodology for these classes. We have been pleased to participate in NYSED's work group focused on developing new integrated program models, as well as new reimbursement methodologies for



preschool special classes in integrated settings. However, to implement financially viable integrated preschool programs, the State must increase the reimbursement rate for these programs and invest funding in these classes. As recommended by the Board of Regents, we urge the Legislature to invest at least \$6 million to help support inclusion prekindergarten programs.

**We ask the Legislature to keep the promise of making full-day prekindergarten universal by negotiating a budget that invests at least an additional \$125 million for prekindergarten, \$25 million for prekindergarten quality enhancement, and \$6 million to support inclusion prekindergarten programs.**

**3. Invest \$100 million to support English Language Learners (ELLs) and \$4.43 million for accurate assessments for ELLs.**

Statewide, there are more than 250,000 students classified as English Language Learners (ELLs)—approximately 9 percent of New York State’s students. Over half of New York City’s school-age children come from immigrant families and around 15 percent of NYC students are ELLs. We work with many families of ELLs whose schools are not equipped to provide their children with the support and instruction required by law and are not providing them with access to the interpretation and translation needed to play a meaningful role in their children’s education.

**a) Invest \$100 million in support for English Language Learners**

Given the growing number of ELLs, a significant investment is needed to serve them through a variety of approaches, including matching content area teachers with teachers who have training and certification in bilingual education; creating materials and instructional resources for ELLs that are age and grade appropriate, academically and linguistically relevant, and aligned with the New York Learning Standards; providing professional development; providing appropriate support and programs for newcomers, Students with Interrupted Formal Education (SIFE), ELLs with disabilities, and other subpopulations of ELLs; and creating and translating materials for families. For the past few years, the Board of Regents has recommended an influx of additional resources to serve ELLs. Unfortunately, however, the Executive Budget does not include any new funding to support ELLs. New York State cannot continue to leave these students behind.

**We urge the Legislature to negotiate a budget that includes an additional \$100 million to provide increased support to English Language Learners.**



b) **Invest \$4.43 million for accurate assessments for English Language Learners**

With the growing number of ELLs in New York State, teachers and school districts do not have all the necessary tools to accurately understand how these students are performing. Assessments are particularly needed to test students on their content knowledge of a particular subject (e.g., math or science) rather than on their command of the English language, which is already assessed through a separate test.

In order to determine the progress and achievement of ELLs in a meaningful way, New York must translate all required assessments into the most common home languages of ELLs. While translations of Grades 3-8 math tests and the Regents tests are already available in five languages, these languages no longer completely align with the languages most commonly spoken and read by students today, and additional translations are needed. The Board of Regents' 2018-2019 State Budget Priorities recommends \$1 million to fund translations of all required assessments in the eight most common home languages of ELLs. However, the Executive Budget does not include any funding to translate assessments.

While the State's ELLs speak more than 200 languages, Spanish is the home language of 62.7 percent of ELLs across the State. Developing a Spanish Language Arts test would allow school districts the option of administering this assessment when it would best measure the progress of Spanish-speaking ELLs in bilingual classes. The assessment would be aligned with the curriculum taught in bilingual classes and would help assess the progress that native Spanish speakers are making in Language Arts. The Board of Regents' 2018-2019 State Budget Priorities recommends \$3.43 million for this purpose. However, the Executive Budget does not include any funding for a Spanish Language Arts test.

**We urge the Legislature to negotiate a budget that includes the Board of Regents' recommendation for \$4.43 million for the translation of assessments and the development of a Spanish Language Arts test in order to help schools meaningfully determine the progress and achievement of English Language Learners.**



#### **4. Reject the Executive Budget special education waiver proposal.**

AFC opposes the Executive Budget proposal to allow school districts, approved private schools, or boards of cooperative educational services (BOCES) to seek waivers from important protections contained in N.Y. Education Law §§ 4402 and 4403 and their implementing regulations for students with disabilities. Sections 4402 and 4403 contain important requirements, including (1) provisions regarding IEP teams and annual and triennial reviews (which already include waiver provisions for individual students); (2) policies regarding functional behavior assessments, behavior intervention plans, transition to adulthood, and class sizes; and (3) notifications required to parents before changes in placement, including placement in residential programs and interim alternate educational settings. All of these provisions provide important rights to students with disabilities and their families. A waiver provision this broad would erode students' rights and have an adverse effect on students with disabilities, particularly those who are from low-income backgrounds. Importantly, there has been no showing that this provision will result in significant cost savings for districts or remove actual barriers to serving students with disabilities more effectively.

In addition, the notice provision and process for approval for the waiver are inadequate. The notice provision does not provide for public notice of waiver requests, but leaves it up to the local school district, approved private school, or BOCES to determine which parents will be impacted and to give them notice in a form to be determined by the Commissioner. This process leaves too much room for error and for districts to limit notice too severely, with parents who are in fact affected by the proposed waiver having no chance to voice their opposition. If any waiver proposal moves forward, notice must be made public as well as mailed to individual parents, so that all parents, parent advocates, and educators have an opportunity to comment on any proposed waiver. We are also concerned that the current proposal allows the Commissioner to approve a waiver proposal without approval from the Board of Regents, giving the Commissioner power to singlehandedly authorize school districts to remove important protections for students with disabilities.

With the current political climate in Washington, we need the State to stand firm on rights for students with disabilities, not enact legislation that would take these rights away.

We are pleased that the Legislature has rejected this proposal multiple times in the past. **We urge the Legislature to protect the rights of students with disabilities by rejecting the special education waiver proposal once again this year.**



**5. Reject the Executive Budget proposal to reduce funding for summer special education programs.**

We are very concerned that the Executive Budget proposes to reduce funding for summer school programs for students with disabilities through a change in the reimbursement methodology. This proposal is estimated to reduce funding to New York City by \$40 million and reduce funding to school districts in the rest of the State by \$30 million for a total loss of \$70 million. Certain students with disabilities have a federal legal right to receive special education programs and services over the summer so that they can avoid substantial regression in between school years. Without these services, much of the progress these students made during the school year would be lost. In our casework, we hear from parents who are struggling to get their children with disabilities the summer programs they need, even under the current reimbursement methodology. Reducing the State contribution for these important programs would be burdensome to school districts and might put children's summer services at risk by serving as a disincentive to including 12-month services in Individualized Education Programs (IEPs) despite the demonstrated need for these services.

**We urge the Legislature to reject the Executive Budget proposal to change the way school districts are reimbursed for summer special education programs and ensure the State does not reduce its contribution to these important programs.**

**6. Increase Foundation Aid by \$1.4 billion.**

The Executive Budget proposal includes an increase of only \$338 million in Foundation Aid for schools, less than 10% of the \$4.2 billion gap between the amount appropriated for the current year and the amount called for in the Foundation Aid formula that the State adopted in 2007 in response to the decisions in the Campaign for Fiscal Equity (CFE) lawsuit. We are disappointed that the proposed Foundation Aid funding falls far short of the amount owed pursuant to CFE and the amount that the Board of Regents has recommended.

**We urge the Legislature to fulfill its commitment to our schools by negotiating a budget that includes an increase of at least \$1.4 billion in Foundation Aid.**



**7. Reject the Executive Budget proposal to cap certain expense-based aid.**

We are very concerned that the Executive Budget proposes imposing a two percent cap on the growth of each district's transportation aid and BOCES aid, as well as a two percent cap statewide on the growth of building aid, starting in the 2019-2020 school year. This arbitrary cap does not account for differences in student populations over time that could change a district's expenses related to transportation and BOCES. For example during the 2016-2017 school year, 148,215 New York students were identified as homeless, a six percent increase from the 2015-2016 school year. Under federal and state law, students in temporary housing have the right to transportation so they can continue attending their original school when they become homeless. A cap on transportation aid would be very burdensome to districts with growing numbers of students in temporary housing and could make it even more difficult for students to get the transportation they need to maintain school stability. Furthermore, the statewide cap on building aid could significantly hinder the funding of school construction projects that are sorely needed to address overcrowding, provide safe and updated facilities, and ensure that students, families, and staff with physical disabilities have accessible schools. The State should not reduce its contribution in these important areas.

**We urge the Legislature to reject the Executive Budget proposal to cap certain expense-based aid.**

**8. Support the Executive Budget proposal to increase funding for after-school programs by \$10 million.**

After-school programs allow children and youth to engage in academic and developmental enrichment activities in a safe environment when the school bell rings at the end of the day. We are pleased that the Executive Budget proposes a \$10 million increase in Empire State after-school grants. This funding would allow the State to serve an additional 6,250 students. We are particularly encouraged to see that the Executive Budget proposes to open eligibility to school districts and community-based organizations located in school districts with high rates of student homelessness. In addition, the factors that the State would consider in awarding the funding include the applicant's program design to meet the specific needs of students, including students who are homeless or students displaced by natural disasters.

**We urge the Legislature to support the \$10 million increase in Empire State after-school grants.**





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## **9. Support the DREAM Act.**

We are pleased that the Executive Budget includes the New York State DREAM Act, which would make New York State residents eligible to receive state financial assistance for college regardless of their immigration status. The DREAM Act would help break down a barrier to college access for students from immigrant families. Particularly at a time when students from immigrant families are facing such fear and uncertainty, New York State should play a leadership role and show its commitment to these students by passing the DREAM Act.

**We urge the Legislature to ensure that the budget includes the DREAM Act.**

We look forward to working with you throughout the budget process. Thank you for the opportunity to testify. I would be happy to answer any questions you may have.