

**New York State Senate Joint Public Hearing on Foundation Aid and American
Rescue Plan Act Funds
October 5, 2021**

We would like to thank the New York State Senate Committees on Education and NYC Education for holding this important hearing on how school districts are spending Foundation Aid increases and American Rescue Plan (ARP) funds, and for inviting INCLUDEnyc to testify. My name is Lori Podvesker, and I lead INCLUDEnyc's disability and education policy work. INCLUDEnyc has helped New York City families navigate the complex special education service and support systems for almost 40 years.

We testify today on behalf of the young people with disabilities and their families we directly work with, and the more than 320,000 students living in NYC who receive special education support and services in New York City, ages 3-21. NYC school-age students with Individualized Education Plans (IEPs) account for sixty-four percent of all students with disabilities living in New York State.

Prior to the pandemic, we have long known inequities within our public school systems, including an access and achievement gap between general education students and students with disabilities throughout the state, and New York City. For the 2016 cohort, there was a 27% difference in the four year August graduation rate in [NYS](#) among these two groups of students, and a [32% difference in NYC](#). But now more than ever is the time for NYSED and the NYC DOE to ensure we do all that we can to support our kids with catching up academically with appropriate supports and services, and their overall social and emotional well being. There needs to be more transparency from the City, including details from the City on how comprehensive recovery related programs and services will work, and how related outcomes will be tracked and measured.

Last Spring, Chancellor Porter led boro-based forums and heard directly from parents about their biggest concerns on reopening and this school year. However, there was no citywide event that targeted parents of students with disabilities, despite funds being earmarked to meet the specific needs of historically underserved student groups who were among the most affected by COVID, and students with disabilities in NYC accounting for more than [20%](#) of the entire student population in public schools.

During this past summer, the City launched a new initiative in response to the pandemic, called Summer Rising. It was open to all students and was a combination of academics and recreational and social activities. Some students with disabilities were

unable to access them due to a lack of appropriate support and program staff. While many others, especially students with 12-month IEPs with citywide specialized program (District 75) recommendations, could not participate due to the City not providing school bus services at the end of day from the enrichment programs to students' homes. A few weeks into Summer Rising, the City announced travel reimbursements for students with disabilities and living in temporary housing. But it was too late for many eligible families who had long made summer plans, and/or couldn't pick up their child from the program at 6pm each day. This was not in alignment with guidance from the U.S. Department of Education stating students with disabilities must be included and have equitable access to all ARP funded programs.

Shortly before the first day of school, the NYC DOE shared guidance with school administrators on the City's special education academic recovery plan. While all students with IEPs will be offered additional sessions of individual or group specialized instruction and related services, based on their individual needs and school determinations, this is separate from compensatory education and all missed services that need to be made up. Also, this guidance implies that the NYC DOE does not view these services legally in parity with IEP recommended services. Therefore, it is unclear whether students with disabilities are entitled to receive these services, despite them being additional IEP mandated services.

As a result, we urge both of these committees to explore how students receiving these additional special education services and their families have protections under the federal special education law, the Individuals with Disabilities Education Act (IDEA) as these services are not funded by the same mechanisms. Academic Recovery Plan services are intended to supplement IEP services, not supplant them. We are concerned that the City has yet to release details on how transportation will be provided to and from these new after school and Saturday programs.

We are also concerned how special education recovery related data will be collected and used for accountability purposes. Our concerns are based on the following:

- Long standing issues with NYC's current special education data management system, SESIS, and its inability to effectively communicate with other NYCDOE applications and systems such as ATS and STARS
- How will ARP funded programs account for individual educational progress is typically measured by the extent in which IEP goals are met
- The City has not yet shared the criteria it will use to account for the delivery of special education academic recovery services

Thank you for taking the time to consider these important matters. We look forward to partnering with you to improve equity and access for all students with disabilities in New York City.

Respectfully submitted,

Lori Podvesker

Director of Disability and Education Policy