

Testimony before the New York State Legislature Joint Budget  
Hearing on the Governor's Executive Education Budget

Submitted by  
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On behalf of the Coalition of Provider Associations

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*Coalition Of Provider Associations*

## Testimony

Good afternoon. My name is Christopher Treiber and I am the Associate Executive Director of Children's Services for The Interagency Council of Developmental Disabilities Agencies, Inc. (IAC). IAC is a member of The Coalition of Provider Associations or COPA, a Statewide group of five associations - the Alliance of Long Island Agencies, Inc. (ALIA), Cerebral Palsy Associations of New York State (CP of NYS), the Developmental Disabilities Alliance of Western New York (DDAWNY), the InterAgency Council of Developmental Disabilities Agencies, Inc. (IAC), and the New York Association of Emerging and Multicultural Providers (NYAEMP). We have unified our effort to maintain and improve services and supports for children and adults with developmental disabilities and their families through over 250 not-for-profit providers serving over 100,000 New Yorkers with I/DD, educating over 15,000 special education students and employing more than 120,000 dedicated professionals with combined annual operating budgets of nearly \$5.2 billion.

On behalf of COPA special education providers, I would like to thank the New York State Legislature for holding this public hearing and for the opportunity to provide testimony here today. The COPA membership includes more than 100 preschool special education and 853 state approved non-public schools. Our schools serve more than 15,000 children each day at hundreds of school sites across New York State. The children who attend our members preschool and school-age programs are public school children. They are the children of your constituents. Many of these children have been diagnosed with autism spectrum disorder, cerebral palsy or other developmental disabilities. They are placed in our education programs only after a determination has been made by a local Committee on Special Education or Committee on Preschool Special Education that there is no other appropriate educational setting available in a local public school. Therefore, there is no other educational option for these students. New York State has a legal responsibility under the federal IDEA to provide a "free and appropriate public education" (FAPE) to all children regardless of disability. Our programs help the state meet the federal mandate. Our 4410 and 853 schools serve

many of New York States most vulnerable children, yet these schools have not been provided with funding necessary to meet this challenge. In the Education Overview of the Governor's Executive Budget, there is a declaration "As budgets are statements of values and priorities, it is clear New York's highest priority is the education of its children". We see no evidence that children with developmental disabilities who attend the 4410 and 853 programs are a priority for New York State.

Since 2012, state aid to school districts has increased by 42%. However, during the same time period, 853 programs have received a 22% increase and our preschool special education providers have received an 8% increase in tuition. Our schools have suffered for many years without any tuition increases and only in the last few years have they received very small increases.

The impact of the growth freeze, and the limited tuition increases are threatening the fiscal viability of these critical programs. Based on CFR data from fiscal year 2015/2016 preschool special education providers state-wide lost more than 34 million dollars and school-age 853 providers lost more than 22 million dollars. The total fiscal losses for these programs state-wide are more than 56 million dollars. Financial losses of this magnitude are unsustainable for non-profit providers. In fact, in the past four years, 61 preschool special education programs have closed across New York State. Thirty-one of them were located in New York City impacting thousands of children.

**We are requesting that 853 and 4410 programs receive minimum tuition increases that are comparable to the increases provided to school districts; 3.6% in the FY 2020 proposed budget.**

The lack of adequate funding is having a significant impact on our preschool and school-age providers' ability to hire and retain certified teachers and certified teacher assistants. Our 4410 and 853 schools are facing a dire staffing crisis that is having a significant negative impact on the children they serve.

In order to document the impact this staffing crisis is having on our children, COPA surveyed our membership to determine two key indicators: annual teacher and teacher assistant turnover and vacancy rates for our preschool and school-age providers. In order to determine the turnover rates our survey asked our special education providers to identify how many certified special education teachers and certified teacher assistants they should have based on the number of classes in operation as of June 1, 2018. Then we asked how many certified special education teachers and teacher assistants have left their school from July 1, 2017- June 1, 2018.

### **Turnover Rates**

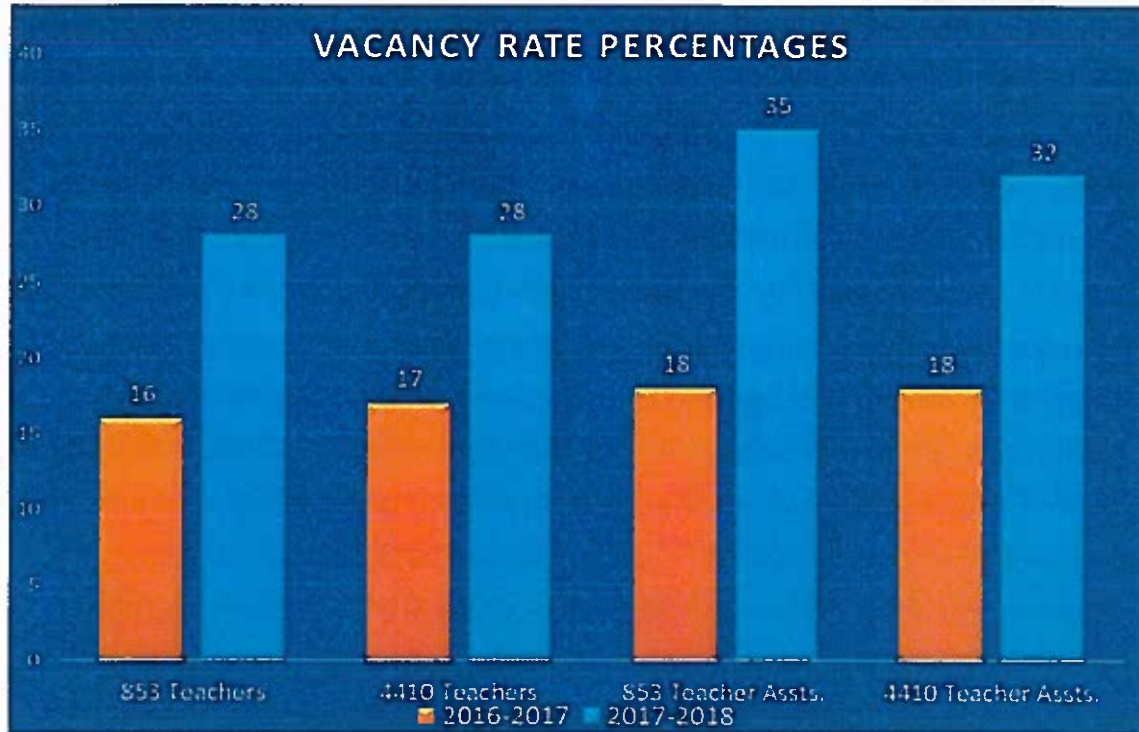
We determined that in our 853 schools the teacher turnover rate for 2017- 2018 was 31%. Four 853 schools had turnover rates above 40%. One school had a teacher turnover rate as high as 57%. This school lost 16 of their 28 teachers in less than one year. The turnover rate for teacher assistants was 25%. One 853 school lost 11 of their 14 teacher assistants in less than one year.

The turnover rate for 4410 Preschool Programs was 26%. There were three 4410 Preschools with teacher turnover rates above 50% All three preschool programs lost half of their teachers in less than one year. The turnover rate for teacher assistants in our preschool programs was 23%. Three preschools had teacher assistant turnover rates above 40% and one preschool lost 17 of their 28 teacher assistants in less than one year. We know that these turnover rates are reflective of 4410 and 853 programs statewide, and reveal a system in crisis.

### **Vacancy Rates**

As concerned as we are about the turnover rates, the increasing vacancy rates for certified special education teachers and certified teacher assistants threatens the future viability of these programs. To determine the vacancy rates in our 4410 and 853 programs the survey asked our schools to identify how many positions for certified special education teachers and certified teaching assistants were vacant as of June 1, 2018. The following chart illustrates the increasing vacancy rates in our certified teacher and teacher assistant positions over the past two and a half years. The

vacancy rates for certified teachers in both our 4410 and 853 schools have risen from 16% and 17% to 28%. This represents an average increase of more than 65% in the past two years.



The vacancy rates for certified teacher assistants has increased dramatically also, from 18% up to 32 and 35%. Our schools have been constantly advertising for vacant certified teacher and certified teacher assistant positions to no avail. The majority of our schools report that they are no longer receiving any resumes or applications for available positions despite significant recruitment efforts.

Many of our programs are currently operating classrooms utilizing program administrators and supervising teachers who have teaching certifications but should be performing administrative roles at the schools. Education Directors have told us that the majority of teaching staff that have left their schools have gone to work for local school districts many of whom have been aggressively recruiting staff who work at our 4410 and 853 programs. The teaching staff leave not because they want to or are unhappy but because economically, it offers a better life to their families.

It is extremely difficult for any young child when their teacher leaves in the middle of the school year but for children with developmental disabilities, this lack of appropriate transition can be heartbreaking and detrimental to their social and emotional well-being.

Despite the inherent, unequal treatment of teaching staff and special education students in these schools, it was long ago recognized that there would never be salary parity with school districts but at one time, the salary differential was at least manageable and allowed providers to maintain staff. This situation has now drastically changed; school districts across New York State are able to pay teachers significantly more than our 4410 and 853 providers. Based on salary data that we received from the New York State Education Department, we confirmed that school districts can pay their teachers, on average, 40% more than our approved preschool and school-age providers do. Public school districts can pay their certified teachers, on average, \$25,000 to \$45,000 dollars more than our schools can, for the same certification and qualifications and with a school year of 10 months instead of 12, with a far superior benefits and pension package. In fact, the salary differential increased by 35% in NYC, 40% on Long Island and up to 60 % in the Mid-Hudson region when comparing average teacher salary data from 2006-2009 and 2010-2013. This significant salary disparity presents a major challenge for our education programs in the recruiting and retention of certified teaching staff. Certified Teacher Assistants in our 4410 and 853 schools are not minimum wage workers yet many are paid minimum wage while teacher assistants in school district classrooms are paid considerably more. Certified teacher assistants need to pass a state certification exam and take specialized courses before they can work in our classrooms. They are responsible for the lives of young children with significant developmental delays and fragile medical conditions.

The consequences of years of inadequate funding and the increasing salary disparity has now resulted in the unfortunate reality that uncertified teachers are now leading classrooms in both 4410 and 853 classrooms in New York State. This troubling fact threatens the viability of these programs and the opportunity for a free and appropriate public education for our most vulnerable students. It is very important to remember that our schools are required by New York State Education Regulations to have a certified

special education teacher in every class and to have certified teacher assistants to maintain New York State and IEP mandated classroom ratios. The children who attend 4410 and 853 programs are entitled to have a certified special education teacher in front of their classrooms every day. The schools who have taken on this mission must be given the resources they need, for the sake of the children and their families.

**We are requesting that the legislature help address the recruitment and retention crisis that our 4410 and 853 schools are experiencing by increasing the current Teacher Recruitment and Retention Funds.**

**COPA appreciates that the Board of Regents recognized the need to increase funding for the Excessive Teacher Turnover Prevention grants in their request for an additional 4 million dollars. We believe this additional funding would start to address the teacher-staffing crisis.**

#### **4410 Preschools**

For the past two years, the New York State Education Department has recommended 4% tuition increases for 4410 schools but only 2% was approved. One of the reasons that DOB was not able to approve SED's recommended increases is the funding methodology itself. 4410 preschools are reimbursed 40.5% by the counties, with the state picking up the balance of the cost. With the counties' tax cap equivalent to CPI growth (.6 and .8% for the past two years), approving 4% increases on 4410 tuition rates would have constituted nearly the entire allowable spending growth. We believe that New York State should re-evaluate the current funding methodology structure that requires the counties to pay 40.5% of preschool costs and consider capping the counties at current costs.

#### **Interim Plus Rates**

A 4410 or 853 program files a tuition rate appeal because it has received insufficient resources to meet the educational needs of the New York State's students that it has already served. In the past few years, due to the inadequate funding many 4410 and

853 providers have filed a tuition rate appeal resulting in significant delays in the State Education Departments Rate Setting Units processing time for these appeals.

Programs that have filed rate appeals are penalized by being denied the approved tuition rate increases allocated to all other approved schools. Thereby, placing these already under resourced schools in greater financial jeopardy and in danger of closure.

**COPA recommends that language be included in the final State Budget that requires DOB to apply all previously approved increases to interim rates to correct this situation.**

**COPA supports the request by the Board of Regents for 3.46 Million dollars for a Special Education Services Data Management System.** We believe that this data system would improve the SED's ability to collect, utilize and disseminate current programmatic and fiscal information relating to programs and services operated by approved providers in New York State. This would be beneficial in their advocacy with the DOB and allow SED to respond in a timely fashion to the need for additional service requests around the state.

COPA is here today submitting this testimony to alert New York State to the serious crisis facing our special education providers and the significant impact it will have on the children and families of New York State. The consequence of government's inadequate funding of 4410 and 853 schools is very clear:

- Our schools no longer have the ability to attract and retain certified special education teacher and teacher assistants.
- Children with the highest levels of special education needs are being taught by inexperienced and brand new special education teachers, in some cases, without certification. Any remaining experienced special educators are being aggressively recruited by the local school districts.
- Our 4410 and 853 programs now operate with a sense of insecurity fearing that on any given day, they may lose more teachers or teacher assistants. They are



faced with the possibility of continued high teacher and teacher assistant vacancy rates and no viable options to fill those vacant positions.

- Many of our programs are currently operating classrooms utilizing program administrators and supervising teachers who have teaching certifications but should be performing administrative roles at the schools. This means that there are no experienced educators to supervise and mentor new teachers with a continued strain on the school's operations.
- Some programs have been left with no other option but to put uncertified staff in the role of teacher in 4410 and 853 classrooms.

Our Education Directors are struggling with many challenging questions:

- How much longer do they continue to operate classrooms without certified special education teachers?
- Do they accept children for their summer program or next school year knowing that they do not have enough certified special education teachers for their classes?
- Should they close down some classrooms due to the lack of certified special education teachers and teacher assistants knowing the children will have no other school option?

The ultimate question that each of our Education providers must confront -- how much longer can they sustain their education programs given the significant fiscal losses and their inability to recruit and retain certified teachers and teacher assistants.

COPA currently has a number of large special education providers who serve more than 500 children who are debating the answer to this question. What would happen if one of these large providers made a decision to close their program? Are New York City or New York State's local school districts prepared to find special education seats for all of

these children? Is New York State or the local school district ready to pay for the increased cost of providing these services if our programs close?

If New York State believes that education of its children is its highest priority, it has a moral responsibility to act and prevent this crisis from continuing. The choices that are made regarding funding for the 4410 and 853 programs in this year's budget will have a profound impact on preschool and school-age special education children in New York State and the families who depend on the critical services these schools provide.

New York State must stand by its pledge that each and every child, regardless of ability, receives a quality education. The points made in this testimony call the commitment to that pledge into question.

Thank you for the opportunity to testify today about the critical issues facing the 4410 and 853 approved schools. I would be happy to answer any questions that you may have.