



Coalition Of Provider Associations



The Coalition of Provider Associations, or COPA, which consists of five associations – the Alliance of Long Island Agencies, Inc. (ALIA), Cerebral Palsy Associations of New York State, Inc. (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) – have joined together to offer comments and recommendations on the Education section of the 2019-2020 Executive Budget proposal.

STATE EDUCATION DEPARTMENT – SPECIAL EDUCATION

- Teacher Compensation in 4410 Preschools and 853 School-Age Programs
- Parity in Funding Increases Between 4410 and 853 Schools and State Aid for School Districts
- Interim Plus Rates
- County Responsibility for 4410 Costs
- Special Education Waivers
- Teacher and Teacher Assistant Turnover, Vacancy and Salary Data Collection
- Regents Funding Request for Special Education Data Collection



COPA members operate schools providing special education services to preschool children ages 3-5 (known as 4410 schools) and school-age students, ages 5-21 years, (known as 853 schools) for their local school districts. 4410 and 853 schools are approved private special education schools, chartered by the Board of Regents, that serve students whose local school districts and BOCES are unable to educate because of the severity of their disabilities. 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 sites across New York State. The children who attend our members' preschool and school-age programs are public school children, many of whom have been diagnosed with autism spectrum disorder, cerebral palsy or other developmental disabilities and 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 this federal mandate. Our 4410 and 853 schools serve New York State's most vulnerable children but have not been provided with the funding necessary to meet this challenge.

Our schools had suffered for many years without any increase in tuition and only in the last few years have they received very small increases. Since 2012, state aid to school districts has gone up by 42%, but during the same time period 853 programs have received just 22% and our preschool special education providers have received only an 8% increase in tuition! This inequity in funding has a significant negative impact on our preschool and school-age providers' ability to hire and retain certified teachers and certified teacher assistants. Staff recruitment and retention is now a crisis for 853 and 4410 schools to the great detriment of the children they serve.

**To make matters worse, despite that fact that the NYS Legislature has allocated funds each year to cover the cost of Minimum Wage increases, 4410 and 853 providers have not received one dollar to cover these increased costs. SED must immediately distribute the funds allocated to pay for three years of minimum wage increases.*

✓ **NEW YORK STATE MUST ENSURE THAT EVERY STUDENT IN 4410 AND 853 SCHOOLS HAS A CERTIFIED SPECIAL EDUCATION TEACHER BY INCREASING TEACHER RECRUITMENT AND RETENTION FUNDING**

Our 853s and 4410s are unable to pay our teachers, who must meet the same certification requirements as public school teachers, anywhere near what a local school district pays, which has caused our staff recruitment and retention crisis. The average teacher turnover rate in our 853 schools last year was 31% with some schools significantly higher. For our 4410 schools, the average teacher turnover rate was 26%. As concerned as we are about the turnover rates, the increasing vacancy rates for certified special education teacher and certified teacher assistant positions threatens the future viability of these programs. The average vacancy rates for certified special education teachers in both our 4410 and 853 schools have risen from 16% and 17% to 28%. This is an increase of more than 65% in the past two years. The majority of our schools report that they no longer receive 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 (like training and supervising new teachers). Education Directors have told us that the majority of teaching staff who have left their schools have gone to work for local school districts, many of which have been aggressively recruiting our staff. The teaching staff aren't leaving because they are unhappy but because economically, the increased salary and benefits provide a better life for their families. They are often required to leave abruptly to fill school district teaching positions or be passed over for the job. 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.

We are not asking for salary parity between 4410 and 853 schools and school districts but, prior to 2009, the salary differential was smaller and the vacancy and turnover rates were at least manageable. *Now, based on salary data that we received from the New York State Education Department, we have confirmed that school districts across New York State pay their teachers, on average, \$36,000 more than our approved preschool and school-age providers can, for the same certification and qualifications. Their school year is 10 months, versus our 12, with a far superior benefits and pension package.*

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. Ironically, because of the funding methodology which reconciles income with expenses, surpluses caused by teacher and teacher assistant vacancies lead to reductions in tuition for schools already suffering from this funding inequity. Schools must be held harmless in this downward spiraling fiasco.

We are pleased that the Division of the Budget (DOB) and SED agreed to include \$8 million intended to assist approved special education schools with recruitment and retention of teachers, directly into the prospective rate without going through the previous cumbersome contract process. While this funding has been helpful, the per-teacher distribution is minimal in comparison to the need. Therefore, we ask that an additional \$15 million be added. As stated above, while this influx of funds will assist in the recruitment and retention of teachers, it will not address the certified teacher assistant, paraprofessional and therapy staff shortages, but we believe it is a reasonable first step in assuring that students placed in these schools by school districts will have qualified teachers available to provide the instruction mandated by the students' IEP's.

- **Recommendation:** Provide \$15 million in new funding to allow 853 and 4410 providers to narrow the increasing gap between their teachers' compensation and that of the public schools so that they can continue to provide FAPE for New York's students with the most severe disabilities.

Cost: \$15 million

✓ **PROVIDE 4410 AND 853 SCHOOLS WITH A TUITION INCREASE COMPARABLE WITH GENERAL EDUCATION**

4410 Preschools

As mentioned above, in 2009 SED imposed a freeze on tuition increases for preschool special education programs. This freeze had remained in effect for six years and has pushed many preschool providers to the brink of extinction. For the past four years, the State Education Department requested 4% increases for these schools but only 2% was approved. SED's Rate Setting Unit acknowledges that it does not reimburse these programs for all their approved costs and expresses serious concerns about the resulting funding gap. 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.

853 Schools

School-age 853 providers have faced a similar financial crisis due to the impact of a four-year tuition freeze. The financial losses reported by 853 providers are also considerable. Although the fiscal impact on 853 providers has been softened somewhat in the past five years by annual financial adjustments, significant challenges remain. Similar to 4410s, 853 schools struggle to recruit and retain teachers, clinicians, teacher's aides and other staff who are hired by their local districts where their pay and benefits are significantly higher, the school year is 10 months rather than 12 and the children have fewer needs and behavioral issues. As a result, when they leave 853 schools for jobs in public schools, they receive \$30,000 to \$40,000 salary increases and better benefits including pension and summers off. New York State must invest in 853 schools in order to continue to fulfill the federal requirement of a free and appropriate public education for children with the most significant disabilities until they are 21 years old.

- **Recommendation:** Provide 4410 preschools and 853 school-age programs, which educate kids that school districts and charter schools can't or won't serve, with a comparable increase because *all children in New York State deserve an appropriately funded, quality education.*
Cost: No additional cost

✓ **ESTABLISH INTERIM PLUS RATES**

In the last few years, the State Education Department's tuition rate processing time has significantly increased to the point where some providers are waiting over two years for their rates to be approved. While they are waiting, the current system denies them the ability to receive approved increases. In many cases, the reason they are waiting for approval is that a tuition waiver was requested due to insufficient funding to cover the cost of educating the children currently enrolled. While SED has experienced processing time delays due to a backlog of work on various initiatives, these administrative issues should not prevent adequate funding for schools.

To correct this unfair situation, we request that Interim Plus rates be required. For schools with interim rates, approved growth plus Excessive Teacher Turnover Prevention funds and Minimum Wage dollars should be added to the current interim rate (a carryforward of the last prior certified rate). The State has an obligation to reimburse these schools properly for educating our children and Interim Plus rates are an appropriate vehicle. It is absolutely necessary for our programs to receive these intended and essential increases while the Department works to improve its processing time.

- **Recommendation:** Include budget language requiring "Interim Plus Rates" so 4410 and 853 providers can get the tuition increases that have been already approved over the past four years.
Cost: Funds previously approved

✓ **CAP COUNTY RESPONSIBILITY FOR THE EDUCATION COSTS OF 4410 PRESCHOOLS AT THE CURRENT SPENDING LEVEL**

As has already been noted, while our 853 schools have been afforded modest growth over the past five years, our 4410s have received only four 2% increases. One of the reasons that DOB would not approve SED's requests to provide 4% or higher increases over the past four years is the funding methodology itself. Counties pay 40.5% of the cost of preschool special education, with the State picking up the balance of the cost. With the counties' tax cap equivalent to the lesser of 2% or the CPI%, approving 4% increases on 4410 tuition rates would have constituted nearly the entire allowable spending growth for counties. For this reason, and the fact that education costs should be the responsibility of the State rather than the counties in the first place, we request that counties' responsibility for 4410 preschool costs be, at least, capped at the current spending level.

- **Recommendation:** Cap the county costs for 4410 preschool education at the current spending level.
Cost: No additional cost

✓ **CONVENE AN SED WORKGROUP TO EXAMINE SPECIAL EDUCATION WAIVERS**

The Governor's budget would allow school districts, approved special education providers, BOCES and approved private schools to apply to SED for waivers from State imposed requirements as long as they are not in conflict with federal standards. We believe that an ability to waive any State requirement (such as class size, parents' right to choose evaluators, functional grouping of students in classrooms, timely implementation of IEPs and the Burden of Proof standards, among others) would have serious negative consequences for special education students. There are certain changes, however, that could be made while maintaining the integrity of special education services, including waivers to enhance student achievement and opportunities for placement in regular classes and programs consistent with federal law.

- **Recommendation:** Require that SED convene a workgroup to evaluate specific proposals that will offer mandate relief while ensuring that high quality services are maintained for our children.

Cost: No additional cost

✓ **REQUIRE SED TO COLLECT AND PUBLISH TEACHER AND TEACHER ASSISTANT VACANCY AND TURNOVER DATA**

In recognition of the need to provide data to inform funding decisions, COPA members have been collecting and publishing data on teacher and teacher assistant turnover and vacancy rates for 3 years. We have also been collecting Teacher salary data and comparing our salaries, to the best of our ability, with school district salaries, highlighting the wide disparity between teachers in 4410 and 853 schools and those who are employed by school districts across the state. While we know our data is reliable, we understand that for DOB to make a data driven decision, data should be official, e.g., collected and published by the New York State Education Department. This official data will be most helpful if it enables a true comparison of vacancy and turnover rates and differences in salary for new and seasoned teaching staff. It is imperative that SED collect data both on vacancy and turnover rates, and on hire-in and 5-year salaries for Teachers and Teacher Assistants in various school programs across the State so that the huge compensation gap which fuels an alarmingly increasing vacancy and turnover problem in 4410 and 853 schools can be addressed.

- **Recommendation:** Require SED to collect and publish data on Certified Teacher and Teacher Assistant vacancy and turnover rates, and salary comparison data for new hires and teaching staff who have been employed for 5 years.

Cost: No additional cost

✓ **SUPPORT THE REQUEST BY THE BOARD OF REGENTS FOR FUNDING FOR A SPECIAL EDUCATION SERVICES DATA MANGEMENT SYSTEM**

We believe that this data system would improve 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 DOB and allow SED to respond in a timely fashion to the need for additional service requests around the state.

- **Recommendation:** Fund the Regents request for additional funding for a Special Education and Related Services Data System.

Cost: \$3.46 million

For further information, contact:

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