



3

**TESTIMONY OF NYC SCHOOLS CHANCELLOR DENNIS M. WALCOTT
ON THE PROPOSED 2012-2013 STATE EXECUTIVE BUDGET BEFORE THE STATE
ASSEMBLY WAYS & MEANS COMMITTEE AND SENATE FINANCE COMMITTEE**

January 23rd, 2012

Good morning, Chairs Farrell and DeFrancisco, Education Committee Chairs Nolan and Flanagan, and all the members of State Assembly and State Senate here today. Thank you for this opportunity to discuss Governor Cuomo's proposed 2012-2013 Executive Budget and Reform Plan. Seated with me are Veronica Conforme, the Department's Chief Operating Officer; Mike Tragale, our Chief Financial Officer; and Lenny Speiller, our Director of Public Affairs.

As you will hear in more detail tomorrow from Mayor Bloomberg, the Governor's budget includes several important and much needed reforms that will help set our State on the right track – particularly with regard to education.

Chief among these initiatives are a scheduled increase in education aid, implementing a strong and meaningful teacher evaluation system, fully funding State tests and assessments – particularly January Regents exams, and enacting real pension reform. These proposals are the right proposals for the State, and we urge the Legislature to adopt them.

We are also encouraged by the Governor's commitment to mandate relief, which will help local school districts like ours eliminate outdated and onerous financial and operational burdens that undermine and deter us from our core mission of providing a high-quality education to our students.

The Governor also proposes several changes to the 3020-a process, which governs disciplinary procedures for teachers accused of incompetence or misconduct. The Governor's intent is laudable, and we share his belief that the process is in need of reform. And while we support some of the proposed changes, others give us pause, particularly the cost shift from the State to local parties.

But, by and large, Governor Cuomo's budget moves the ball forward on many critical education priorities facing our State. We look forward to partnering with you and the Governor on those proposals, working collaboratively on areas where we think the budget can be improved, and offering other legislative initiatives that will help improve the quality of education.

With this as an overview, let me review each of these proposals, and their impact, in greater detail.

First, the Governor's budget includes a much needed increase in state education aid. As you know from your own districts, the difficult fiscal realities we have faced as a state over the past several years have forced superintendents, schools and principals to make tough decisions with regard to school staffing and programming. This is a situation made even more challenging in New York City given our enrollment growth in recent years. The proposed increase in education aid will begin to provide some much needed breathing room for our schools and administrators.



In total, the State's budget includes an increase of \$224 million for New York City schools: \$135 million in general restoration and \$45 million in expense-based aids like student transportation and special education. The remaining \$44 million is actually building aid for long-term capital projects, which while welcomed and will certainly go to good use, should really be kept separate from operating aid.

And while I recognize that we continue to face economic uncertainties this year, I would do our students a disservice if I did not urge both the Executive and the Legislature, as you look towards this budget and those that follow, to move more aggressively towards full implementation of the Campaign for Fiscal Equity settlement. Many members of this Legislature, led by Assemblywoman Nolan, were ferocious advocates in getting the State to recognize the need to correct years of chronic underfunding of high-needs districts. Our students deserve their fair share, and they are still waiting for this inequity to be addressed.

The Governor has rightly said that with more money, there should be improved results and performance. We couldn't agree more, and under the reforms we have put in place over the last ten years – including increased accountability – we are seeing improved results. Thanks to these reforms, and most importantly, the hard work of our students, parents, teachers and principals, year after year we continue to see steady and significant gains that outpace the rest of the State and other urban school districts across the country.

Prior to our Administration, graduation rates were stagnant for decades at a deplorable 50 percent. Today, two-thirds of our students are graduating within four years – all while standards have been continually raised. The biggest gains have been made by black and Hispanic students, whose graduation rates are up more than 50 percent since 2005. Clearly though, we still have a long way to go to make sure all our students graduate college- and career-ready. As Mayor Bloomberg said recently during his State of the City address, "We have only climbed halfway up the mountaintop, and halfway isn't good enough... and the climb gets steeper the higher you go."

That's why we need to continue to keep the pedal to the metal, which brings us to our next point – making sure we have an effective teacher in every classroom. The only way we can accomplish this goal is by implementing a fair, rigorous and meaningful teacher evaluation system that is linked to strong professional development for our teachers.

When teachers succeed, students succeed. Research clearly and unequivocally shows that the most important factor in a child's education is having a high-quality teacher. A recent study by Harvard and Columbia economists demonstrated that students with effective teachers are less likely to become pregnant, more likely to go to college, and more likely to get higher-paying jobs. Ineffective teachers have the opposite effect.

Bottom line, if we're really committed to providing high-quality teachers in every classroom, we need to know who our effective teachers are and how to help teachers reach their full potential. That means we need to be able to assess each teacher's effectiveness in the classroom



fairly and accurately, and support those teachers that need guidance, support and training on best practices.

Now we have thousands of extraordinary teachers in New York City, and we want all our teachers to be successful. I was a teacher myself and have tremendous respect for the craft and commitment needed to do the job well. However, teaching is a tough job, and it's not for everyone. So, if we've provided support and professional development, and a particular teacher is still not making the grade, we need to be able to move them out. Any other course of action is not fair to our students and their families who entrust their children to our care every day.

In New York City we have taken great steps to attract, reward and retain great teachers. We've expanded professional development and raised their base salaries by 43 percent. And as Mayor Bloomberg outlined in his recent State of the City address, we are proposing to do even more by offering new teachers that graduate in the top tier of their class up to \$25,000 towards repaying their college loans; giving teachers that are rated highly effective for two consecutive years a \$20,000 pay hike; and implementing the Turnaround model at 33 low performing schools slated to receive federal School Improvement Grants, which will allow school-based committees to retain their effective teachers and replace ineffective ones, based on merit.

But we also desperately need a real, rigorous teacher evaluation system – one that takes into account measurable improvement in student performance and principal assessment. As we all know, when the State submitted its federal Race to the Top application, we made a commitment to implement a teacher evaluation system in short order. To date, no district has done so. Now, not only is \$700 million in federal Race to the Top money on the line, but more importantly, the success of our students is on the line. This would be the right thing to do even if there wasn't a single dime attached to it.

The Governor is right to demand that a teacher evaluation system be put in place this year, and to set firm consequences if it doesn't happen. I applaud him for helping to lead the charge on this issue.

The City has aggressively pursued an agreement with our local union, the United Federation of Teachers (UFT), and we are still hopeful that we will be able to reach an agreement. But unfortunately to date, the UFT has insisted on conditions that would weaken teacher accountability and make it even more difficult to remove ineffective teachers.

The major issue of disagreement is that the UFT wants an additional outside arbitrator to hear appeals of teachers who receive a rating of ineffective or developing. This would add a new burdensome procedural layer that is a major departure from current appeals process and result in months of delay.

Teachers already have multiple layers of due process review, and State Education Department (SED) guidance supports our existing appeals process. If a principal rates a teacher as unsatisfactory, a teacher has the right to challenge it pursuant to the terms of our existing collective bargaining agreement with UFT. The Department's Office of Appeals and Review hears testimony



from both sides and makes a recommendation to the Chancellor for a final decision. To be clear, less than three percent of all teachers are given an unsatisfactory rating in a given year, so it's not surprising that the overwhelming majority of those would be upheld upon appeal – they are cases of serious incompetence.

Further, tenured teachers who are brought up on 3020-a charges are given the opportunity to have a neutral arbitrator hear evidence and make a binding decision. Why would we need yet another layer of arbitration before we can even begin the process to remove an ineffective teacher? The short answer is we don't, and we shouldn't.

All that said, I'm still optimistic. We've worked together with the UFT on many issues in the past and there is no reason why we shouldn't be able to find common ground again. We can get this done, we need to get it done, and we will get it done. Our children deserve no less.

Part and parcel with teacher evaluations is the need for accurate, meaningful assessments for our students. This week students across the State will take their Regents examination, but as you may recall, that almost didn't happen. Last year, SED made the difficult decision not to offer the January exams to high school students due to budget cuts. This would have been disastrous for our students, and students across the State, as taking the Regents exams in January is often the difference between graduating and not graduating.

In New York City alone, over 150,000 Regents exams were administered last January. Nearly 2,400 city students graduated in the following months because they took the January Regents. January test-takers also represent some of the City's most vulnerable populations, including students who have returned to school after dropping out, students with disabilities, English language learners, overage and under-credited students.

The total cost of administering the January exams statewide was a mere \$1.5 million, and in our judgment, the benefits of continuing the exams far outweighed the cost. So, the City stepped up and recruited private donors to make one-time contributions that would underwrite the cost of the exams for the entire State. Thankfully, this year, the Governor has committed the funds to ensure the continuation of all existing Regents exams. It's the right decision, and I applaud him for it.

Returning to our discussion on teacher quality, the Governor's budget also includes several proposals to reform the 3020-a disciplinary process for teachers charged with incompetence or misconduct.

Last May, Senator Flanagan held a hearing on this very issue and helped shine a bright light on the need for reform. In my testimony, I noted that the City, in partnership with the UFT, has made notable improvements in recent years. Together, we ended the so-called "rubber rooms," where teachers sat doing nothing at a cost of about \$30 million a year to the taxpayer.

As part of our agreement, teachers are now assigned to administrative duties, and we adhere to strict timetables for completions of investigations and hearings. As a result, we were able to



move through a backlog of over 700 cases. Previously, some 3020-a cases took many months, and at times even years, to be completed.

While we're certainly in a better place than we were before, as I also noted in my testimony then, given the confines of State law, 3020-a remains a long, arduous and expensive process that often results in inconsistent and irrational outcomes. The Governor's budget takes some steps to address this. In particular, we support the proposals that permit SED to set maximum rates paid to arbitrators, limit the number of study days by arbitrators, and disqualify arbitrators for failing to comply with statutory timelines.

We do, however, strongly oppose the proposed cost shift of arbitrators from the State to school districts. Some argue this provides all parties with an incentive to resolve the cases in a more expeditious manner, and that may be the case for the union or the individual, but school districts already have a significant monetary incentive to move these cases quickly – we pay these employees' salaries, and their substitutes, until the matter is resolved. Again, these are individuals we are charging with incompetence and misconduct. We want those dollars to be used to pay high-quality teachers.

It should also be noted that there is no need in New York City—which has by far the most 3020-a cases in the State, simply because we have by far the largest workforce of any school district—to create a financial incentive for us to meet the 3020-a timelines. Part of our agreement with the UFT to eliminate the rubber rooms was a joint commitment to adhere to statutory timelines. And since we entered that agreement, we are completing 3020-a hearings, with few exceptions, within the mandated 60 day timeline.

We also have concerns that requiring both parties to agree to a stenographer prior to the commencement of arbitration hearings could also be used as a tactic to delay the process as well as prevent parties from having a full record of the proceedings.

Still, as I shared last May, I think we can do much more to improve the process by enacting into law three common-sense proposals: strengthening the legal standard for upholding disciplinary actions to "arbitrary and capricious" rather than "just cause," allowing New York City cases to be handled by judges at the Office of Administrative Trials and Hearings (OATH) rather than arbitrators, and modeling disciplinary proceedings on Article 78. These measures would provide a fair process that would reduce costs to the State and result in more consistent, rational and speedier outcomes, shortening the process from 105 days to 30 - 45 days.

Finally, we applaud the Governor's commitment to pursue aggressive mandate relief – and that starts first and foremost with pension reform. In 2003, pension costs were four percent of the Department's budget; this year they are 12 percent – totaling nearly \$3 billion – with costs projected to rise even higher in the future. This is simply unsustainable.

The Governor's proposal would maintain benefits for current employees, enact sensible reforms to create a new Tier VI for future employees, and provide those individuals with more retirement options while reducing costs.



Also, by passing Senate bill 5528, Albany can further consolidate the Board of Education Retirement System, or BERS, into two of the City's existing pension funds – the New York City Teachers Retirement System (TRS) and the New York City Employees Retirement System (NYCERS). Transferring employees to TRS and NYCERS, based on pedagogical and non-pedagogical status, would not change any of the benefits current employees receive, but it would streamline our pension system and save on administrative costs and overhead.

There are other common-sense measures the Legislature could enact that would also provide meaningful mandate relief for the City.

For example, we could provide special education families with the ability to voluntarily opt-out of yellow bus service, and instead get reimbursed for transporting and accompanying their own child to school. This would provide more options to parents, reduce travel times for students and create savings for school districts. In the City, we estimate this will save us \$5 to \$10 million per year.

And let's provide financial relief in the form of State loans, grants and scholarships to college-bound immigrant students by passing the New York State Dream Act. Our doors are open to all students who live in our City, and we certainly can't blame children for the actions of their parents who brought them here illegally. Our teachers are investing in these students every day, and let's keep on investing in them so they can take the next step in their educational journey.

In conclusion, I look forward to working with the Legislature and the Governor on many of the bold reforms outlined in the Executive Budget, and stand prepared to do everything I can to help.

If at the end of this year, the State can look back and say it increased education aid, implemented a meaningful teacher evaluation system, fully funded State assessments, enacted 3020-a and pension reform, provided meaningful mandate relief, and expanded opportunity for our children, you will have much to be proud of, and our State will have gone a long way towards improving the quality of education for our students. I can think of no nobler or more important task.

With that, I want to thank you again for the opportunity to testify today, and I am happy to take your questions.