



# **Testimony of BOCES of New York State**

## **Joint Budget Hearings on Elementary and Secondary Education**

**Submitted by Daniel White, District Superintendent of Monroe 1 BOCES**

**on behalf of the**

**BOCES of New York State**

**February 1, 2024**

Good morning, Chairpersons Krueger, Weinstein, Mayer and Benedetto, and other Members of the Senate and Assembly. I am here today on behalf of BOCES of New York State, the entity representing the Superintendents of the 37 Boards of Cooperative Educational Services (BOCES) of New York State. Thank you for allowing us the opportunity to provide some important information about the current state of New York's education system as well as how the proposed 2023-24 Executive Budget Proposal would impact the State's 37 BOCES, and the nearly 700 school districts and their students that the BOCES of New York State serve.

BOCES were created by the Legislature in 1948 "for the purpose of carrying out a program of shared educational services in the schools for the supervisory district and for providing instruction in such special subjects as the commissioner may approve." There are 37 BOCES located throughout the State. With the exception of the Big Five, all but 4 public school districts are components of BOCES. It is important to note, however, that BOCES collaborate with many of the Big 5 districts to serve students. Over 100,000 students participate in BOCES' programs on a daily basis throughout the State. One of BOCES missions is to prepare a diverse student population for roles in the global economy and to provide services and initiate collaborations designed to close gaps in student achievement.

BOCES are the premier example of inter-municipal collaboration in New York State that works. For the past 75 years, local school districts have been able to use BOCES to provide a wide range of educational programs and services through an organizational structure that is a model of inter-district cooperation. In addition, BOCES are able to leverage the strengths of multiple school districts and provide a wide variety of services that individual school districts, especially small, high-need districts, could not themselves efficiently provide. These include but are not limited to:

- Enrichment programs;
- Special education programs;
- Career and Technical education programs;
- Behavioral health services;
- Technology services (through the Regional Information Centers);
- Professional Development; and
- Central business offices.

### **School Aid**

This year's Executive budget proposal includes approximately \$35.306 billion in school aid. While in the aggregate this is a statewide increase of \$825 million or 2.4 percent, we were surprised to discover that the proposal included two significant changes to the Foundation Aid formula, one of which would result in 337 districts across the state facing the prospect of year-to-year cuts in Foundation Aid. The proposal that causes these cuts is the provision to amend the "hold harmless" provision in the formula which has historically ensured that districts receive at least as much aid as the year before. The second seeks to amend the calculation of inflation, artificially suppressing that number from 4.1% to 2.4%, and as such, artificially suppressing formula-generated foundation aid awards for every district in the state.

BOCES shares the gratitude of our components for the work all of you, in partnership with the Executive, did to fully fund Foundation Aid last year so, we shared the surprise

and confusion of many that the proposal seems to back away from that accomplishment just one year later.

BOCES of New York State does not hold the position that the Foundation Aid formula should be static and recognize that the changing demographics and enrollment patterns of the state may require a fresh look at the factors used to generate and distribute Foundation Aid. However, a successful reexamination will require two important components. First, it must be holistic and look at all inputs including student need, district wealth, the impact of the tax cap, changing educational requirements and the cost to educate a successful student, and many others – not, as proposed, simply looking at enrollment and inflation.

Second, if systemic changes are going to be considered, there must be a thoughtful plan for how they are implemented. School district budget development is already well underway. Districts being threatened with substantial cuts - in some instances more than 10% of their total budget - cannot absorb them without dramatic cuts. Approximately 80% of district budgets are used to support staff salary and benefits. The only way to offset some of these proposed reductions would be to engage in dramatic program cuts - and programs are mostly made up of people.

BOCES of New York State requests that these changes be rejected, and that the formula be allowed to run as written. We further recommend that the state support a full and comprehensive review of the formula and **all** of the inputs, as both of your houses suggested and supported in your legislative budget proposals last year. We further recommend that, whatever changes that may yield, the state and districts have time to properly plan and prepare for adjustments, not be forced into a position where dramatic changes have to be made suddenly in a way that negatively impacts students and staff.

We do acknowledge and appreciate that the Executive proposal would fully fund expense-based aid and ask that the final budget include this funding as well. Although BOCES do not receive these aids (including BOCES Aid, which is paid to our component

districts as a reimbursement for their payment for BOCES services), we strongly support this funding.

A final funding consideration impacts the funding of special education services. A recent decision of the Second Circuit Court of Appeals has determined that that the entitlement to free appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA) and supporting state laws require districts continue to educate students until they graduate or until they reach the age of 21 years and 364 days (i.e. until their 22nd birthday). Prior interpretations of federal law held that the students were entitled to stay in school until their 21<sup>st</sup> birthday. Current state law allowed New York's students to stay in school and districts to be aided for those students through the end of the school year in which they turn 21. Without changes to State law, districts are obligated to provide the services, with no funding to support the work. Moreover, there is great concern that if students turn 22 and are allowed to finish the school year, it could be considered a gift of public funds.

***Recommendations:***

- Allow the current law Foundation Aid formula to run.
- Fully Fund Expense Based Aids
- Fund a comprehensive study of the Foundation Aid Formula and its future.
- Amend state law to allow school districts to retain and be funded for special education students through the end of the school year in which they turn 22.

**Workforce**

School districts and BOCES, like all employers, are facing critical workforce shortages. Statewide, there are shortages in candidates to fill key staff positions such as teachers, mental health professionals, and bus drivers. In instances where those positions have been filled, too many individuals are choosing to leave for other employment and opportunities. There is no single solution to this problem. Steps must be taken to both attract people to train to enter these professions, and to create incentives for them to remain once they enter. Financial barriers to entry in these professions are real. Higher education for teachers, administrators, and mental health professionals can be a

deterrent to young people in deciding to enter these fields. Inability to work while engaged in long and intensive - sometimes unpaid - training periods, can also act as a barrier. Meanwhile, lack of staff can jeopardize the ability of schools to provide programs for students.

To address these issues, we encourage the state to take steps not only to bring people into professions where there are shortages, but to help encourage them to stay in these roles. These incentives could include offering scholarships and loan forgiveness. Further, the state could and should take steps to eliminate administrative barriers to certification and licensure, and encourage willing retirees to stay in the workforce while longer term solutions are established.

Another barrier to recruiting and retaining employees is the complicated and outdated civil service system. We recognize that eliminating competitive exams entirely may not be constitutionally permissible. However, to the extent that tests must be used, they should be reviewed to ensure that they accurately reflect the knowledge and skills associated with the job title and that they lack cultural bias. In addition, we encourage the test to maximize the use of training and experience exams whenever possible.

Inconsistent practices and policies across different county civil-service agencies and state civil service can limit growth, opportunity, and entry into the field. Ensuring better consistency and collaboration in titles and scoring could create security in that if opportunities in other parts of the state emerge, there will not be a different set of hiring and promotion rules.

Too often, needed positions go unfilled because the required test is not offered for an extended period. Test offerings should be reviewed against vacant positions and adjusted on a rolling basis. When tests are offered, it sometimes takes months for them to be scored and canvas lists provided. This can have a chilling effect on applicants' willingness to accept offers that could, in the end, only be short term positions.

Whether because tests are not offered in time, because scores are not available, or because no one on a canvas list accepts, there will always be a need for provisional employees to be hired. Once a prospective employee has committed to public service and a public employer has invested the resources in training them, if the employee has performed well, there should be a path to retain this employee without returning to a test score or canvas list, sometimes years later. What better demonstration of merit could there be than successful performance in a role? High-performing, dedicated civil servants should know that their jobs are secure. An alternative pathway for these employees should be established. We tell our students throughout their academic careers that achievements are more than a single test score – the same should be true in professional careers.

While there is a need to bring new individuals into the workforce, it is also important to keep them once they enter. Reforms to the probationary process could help with that. In addition, de-emphasizing the import of promotion exams while emphasizing performance and commitment could help further stabilize and diversify the civil service workforce.

***Recommendations:***

- Support the Executive proposal to expand loan forgiveness for Mental Health providers.
- Establish and expand scholarship and loan forgiveness programs for teachers, other educators and additional mental health professionals who commit to remaining in New York.
- Extend the ability of public-sector retirees to work in BOCES and school districts without waivers or pension penalties.
- Support the Executive proposal to repeal the COVID-19 sick leave requirements.
- Modernize civil service hiring and promotion rules.

**Increase State Support for Career and Technical Education (CTE) Programs**

BOCES are a major provider of high-quality, cost-effective Career and Technical Education (CTE) programs in New York. Every year, thousands of students statewide

participate in these programs, creating a critical pipeline of future employees for many sectors of our economy. CTE programs are designed and carried out with guidance from business leaders and industry insiders from across the state, in a variety of crucial industries such as healthcare, construction, manufacturing and other valuable trades.

We encourage the legislature to consider further investments in CTE programs. Under the current structure, BOCES aid to component districts for CTE programs (in combination with special-services aid for non-component district and the Big 5) is a significant state investment. However, under current law, districts receive reimbursement against only the first \$30,000 of instructors' salaries. This cap on salary reimbursement was set more than 30 years ago. Today, the average CTE instructor salary statewide is approximately \$67,000. As a result, component districts are faced with choosing between absorbing the difference in cost, which means the remaining financial burden falls to local taxpayers or limiting access to these critical programs. These decisions must be further balanced against the cost to students who opt not to go to a BOCES CTE program and the need to fund those in-district programs equitably. While school district finances appear to be strong this year and next, it is important that we invest in programs for all students.

***Recommendations:***

- Increase the amount of salary that is eligible for BOCES aid to \$60,000 over the next three years.

**Support and Promote Access to Mental Health Services**

The need for access to mental and behavioral health services has never been greater. Now, more than ever, there is a great need to focus on social-emotional learning and wellness in schools. Students must have access to much-needed support services both inside and outside of the school setting. These services are necessary to address the most immediate needs of our students, but to also help them continually develop the self-management skills necessary for success.

BOCES programs serve more than 100,000 students around the state, including those with some of the greatest social-emotional needs. BOCES programs also serve students with significant mental health needs, some of the most severe which can be addressed in a day program. In addition, BOCES across the state run many alternative programs, catering to students with significant disciplinary issues. However, BOCES cannot and do not do this work alone. BOCES work in close partnership with community-based providers to deliver needed services in all settings.

***Recommendations:***

- Support the Executive proposal to expand school based mental health clinics.

**Zero-Emission Bus Transition**

The transition to zero-emission school buses represents a major shift to the delivery of pupil transportation in New York. Districts around the state will need significant administrative and financial support to approach this work. BOCES stand ready to support their component districts approach this work and want to identify barriers and challenges that have already emerged and that the State could help address.

***Recommendations:***

- Make electrification studies eligible for transportation aid.
- Make policy changes to reflect failed bond votes and budget votes needed to support transition.
- Ensure more uniform reporting, and cost controls for needed grid, substation and other non-district infrastructure needs.
- Establish a policy and funding mechanism to charge “out-of-district” buses.
- Establish a central office to coordinate the multiple agencies involved in the transition.

**Extenders:**

The Executive Budget proposal includes the recommendation to extend a number of provisions of State Education Law, several BOCES specific components are also in need of renewal and were not included in the proposal. Sections of law that authorize BOCES to contract with out-of-state districts for certain services. These services include but are



not limited to special education, CTE, professional development and standards development, and support. Providing services to out-of-state schools and students provides a valuable revenue stream to BOCES that allows them to keep costs lower for their component districts and the state. Moreover, students enrolled in these programs are counting on them to be available in the next school year. Out-of-state enrollment is limited and is not allowed if it would displace a New York State student.

Additionally, unlike traditional districts, many BOCES lease instructional space instead of owning it. This is because BOCES are not taxing entities and rely on their component districts for capital project funding. As demand for BOCES programs, especially complex career and technical education and special education programs, grow, BOCES require more space. Current law allows BOCES to lease from other public entities for 10 years and non-public entities 20 years. Lease terms can be extended by an additional 10 years with the approval of the Commissioner. Longer lease terms boost private sector owners' confidence in the investment(s) and encourage them to authorize and support needed improvements. Both provisions expire at the end of the 2024 school year.

***Recommendations:***

- Make permanent the authorization for BOCES to contract with out-of-state school districts.
- Extend the authorization for BOCES to enter 20-year leases with nonpublic entities for an additional five years.

On behalf of BOCES of New York State, I thank you for the opportunity to share our reaction to the Executive Budget proposal and your efforts to build on the proposal to serve all of New York's students. Thank you for considering the perspective of BOCES of New York State as a part of the conversation. I am happy to take any questions at this time.