



# Advocates for Children of New York

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## **Testimony for New York State Senate Education Committee Hearing To Review How School Districts Are Spending Foundation Aid Increases and American Rescue Plan Funds**

October 5, 2021

Thank you for the opportunity to speak with you today about how the New York City Department of Education (DOE) is spending its Foundation Aid increase and federal COVID-19 relief funding. My name is Randi Levine, and I am the Policy Director at Advocates for Children of New York (AFC). For 50 years, Advocates for Children has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. Every year, we help thousands of New York parents and students navigate the education system. We focus on students whose needs are often overlooked, such as students with disabilities, English Language Learners, students who are homeless, students facing discipline, and students with involvement in the child welfare or juvenile or criminal justice systems.

Over the past year, Advocates for Children has heard from hundreds of New York City families whose students were not getting the support they needed due to disruptions in education caused by the pandemic. We heard from families whose children had to wait months for an iPad, who did not have sufficient connectivity for their iPads to work or didn't have a quiet space for remote learning, whose assignments were provided only in English, or whose special education services simply didn't translate over a screen. These groups of students were often overlooked and underserved before the pandemic – and the inequities have only grown worse over the past 18 months.

Following this unprecedented disruption in public education, we deeply appreciate the State Legislature's leadership in committing to a three-year phase-in of full Foundation Aid funding and providing school districts with the full amount of funding allocated by Congress in the two most recent federal COVID-19 relief packages – the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) and the American Rescue Plan Act (ARP). Every dollar is needed, and it's important to ensure every dollar is spent wisely.

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We appreciate that New York City is using this funding to pay for some important initiatives including bringing schools to 100% Fair Student Funding, hiring hundreds of additional social workers, addressing the shortage of preschool special education classes and promoting the inclusion of preschoolers of disabilities, providing special education services, identifying needs for additional literacy support in the early grades, and developing new culturally responsive and sustaining curriculum. At the same time, we worry that there is still inadequate detail about how the funding will be used, inadequate funding for key priorities, and too much discretion left to individual schools that already have their hands full reopening schools and keeping school communities safe. While we are concerned that there is inadequate funding in a number of areas, including restorative practices, where the DOE allocated a mere \$12 million in federal relief funding, direct mental health services, and evidence-based literacy curriculum and intervention, we will focus our limited time today on the question posed by the Committee of how the funding is being used to meet the specific needs of students with disabilities, English language Learners, and students experiencing homelessness—students who were hit particularly hard by the closure of schools.

### ***Students with Disabilities***

The DOE has allocated more than \$200 million in federal COVID-19 relief funding for FY 22 for what they are calling “recovery services” for students with disabilities. The DOE will be providing funding to each DOE school to create a program either after school or on Saturdays to provide small-group instruction; speech, occupational, and physical therapy; and counseling to students with disabilities. Schools are being told to develop individual recovery plans to determine which of these services students will receive. While we appreciate that the DOE has allocated funding to provide services for students with disabilities, we have concerns about the sufficiency of these services to address the educational disruption since March 2020 and about the implementation, which is being left to each school at a time when they are being tasked with many additional responsibilities. With our limited time today, I will highlight just a few of our concerns and recommendations.

First, students with disabilities have a legal right to compensatory services. The DOE must provide students with disabilities with the full compensatory services they have a legal right to receive to address their lack of meaningful progress during COVID-19 – even if those services do not match the recovery services being offered by individual schools. As the State Education Department made clear, each school district must ensure that Individualized Education Program (IEP) teams make individualized determinations as to whether and to what extent compensatory services are needed for students with disabilities as a result of the educational disruption caused by COVID-19. While the DOE’s recovery services will certainly be helpful to many students, for some students they will not be sufficient to make up for what happened during the pandemic, and some students will need additional or different support than the recovery services offered by their school. For example, some students will need a different type of service such as bilingual services; hearing, vision, or mental health services; or a literacy intervention program. Other students may need a different number of sessions than the school is able to offer with the staff it has available after school or on Saturdays. For other students, their school’s after-school or Saturday recovery services schedule may not be



feasible, whether because of their disability, schedule, physical needs, or otherwise. For students in juvenile detention facilities, no plan to provide recovery services yet exists. Furthermore, recovery services are available only to students attending DOE schools, but the DOE has a legal obligation to provide compensatory services to students with disabilities regardless of the type of school they attend – including students in charter schools, preschools, and state-approved non-public schools.

The DOE must issue clear guidance about the need for IEP teams, which include school staff and parents, to determine whether each student with a disability needs compensatory services beyond the recovery services their school is offering and, if so, ensure that students receive those services in a timely manner. Families should not be forced to file administrative hearings in an already overburdened and delayed special education hearing system in order to get the compensatory services to which they are entitled in cases where recovery services are insufficient or inaccessible.

Second, for students receiving recovery services, the DOE must provide bus service or other door-to-door transportation that does not rely on parents to transport their children. The DOE has not yet provided any detail about how transportation to after-school and Saturday recovery services will work and has previously explained that their bus contracts do not allow for after-school or Saturday bus service. Prior transportation alternatives offered by the DOE have required parents to be available to accompany their child and have required parents to lay out funding for transportation and await reimbursement. A student's ability to receive recovery services must not be dependent on their parent's ability to transport them or to pay for transportation.

Third, the DOE should establish a system for monitoring and accountability that allows the DOE to ensure that all students receive the services they need. Asking each school to develop an individual recovery plan for each student with a disability and to launch new after-school or Saturday services is a big lift. The DOE needs to ensure not only that an individual recovery services plan is developed for each child but that each child actually receives the services outlined in the plan. The DOE must also ensure that IEP teams consider the need for additional compensatory services for each student and that the student then receives any services the child has a right to receive. The DOE should publicly report on these indicators to ensure public accountability. The DOE should also make clear how schools and parents can get help from central DOE in getting needed services in place.

### ***Preschoolers with Disabilities***

We are pleased that the DOE is investing \$22 million in federal COVID-19 relief funding in FY 22, going up to \$88 million in FY 23, to strengthen preschool special education. At the end of the 2019-2020 school year, more than 1,200 preschoolers with disabilities were waiting for seats in legally mandated preschool special education classes in New York City. In FY 23, the DOE plans to launch a contract enhancement that will provide much-needed financial and programmatic support to community-based organizations (CBOs) running preschool special education classes, known as 4410s; bring these programs into the DOE's 3-K and Pre-K for All programs; and address the



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shortage of preschool special education classes. While we are very supportive of this initiative, we are disappointed that the City has not yet committed to providing salary parity to teachers at these programs. Two years ago, the City reached a salary parity agreement to provide 3-K and Pre-K general education teachers at CBOs with the same salary as the starting teacher salary at DOE schools, but excluded 4410 teachers from this agreement, resulting in teachers leaving preschool special education classes and exacerbating the shortage of classes. This year, we have already heard from parents whose children's preschool special education teacher left, leaving their children who have autism with no teacher.

In addition, for the City's preschool special education initiative to work, it is essential to have support and collaboration from the State. In particular, 4410s need assurance from the State that the City's funding will supplement, and not supplant, their existing funding in light of the State's tuition reimbursement methodology.

### ***English Language Learners***

While the DOE allocated small amounts of federal COVID-19 relief funding for initiatives related to ELLs and immigrant students, including \$1.3 million for culturally responsive home language libraries in certain schools and \$7.6 million for a special administration of the New York State Identification Test for ELLs (NYSITELL) and wellness checks, we are deeply disappointed that the DOE did not allocate funding for a comprehensive plan to support ELLs, many of whom were immensely impacted by the pandemic and did not receive their mandated English as a New Language or bilingual instruction over the past 18 months. We, along with our coalition partners, have been calling on the DOE to invest in targeted, intentionally designed academic enrichment, tutoring, and English language instruction for ELLs, including through extended day and Saturday programs for ELLs, as well as a multilingual communications and outreach plan for the DOE to communicate with immigrant families and those whose primary language is a language other than English. The DOE's guidance around use of the broad academic recovery relief allocations provided to schools asks individual schools to design a support plan for ELLs who need additional intervention. However, there is no specific allocation of funding associated with providing this support to ELLs and no specific, intentional program established to meet the unique language and academic needs of ELLs, leaving already overburdened schools with tremendous discretion as to whether and how to support ELLs. As a result, the support ELLs will receive will vary significantly based on the school they happen to attend. We are continuing to urge the DOE to invest in a comprehensive plan to support ELLs and immigrant families.

### ***Students Experiencing Homelessness***

We are disappointed that, of the \$7 billion in federal COVID-19 relief funding the DOE received, the City has not allocated any funding specifically to meet the educational needs of the more than 100,000 New York City students who are homeless, more than 30,000 of whom spend time in shelter each year. Based on the data available, students living in shelter had the worst attendance rate of any student group in New York City during the pandemic. Fortunately, Congress also



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allocated funding in the American Rescue Plan specifically to meet the needs of students who are homeless. The New York State Education Department received almost \$60 million in ARP homeless funds, and while SED has not yet allocated that funding to school districts, New York City is poised to receive tens of millions of dollars, because roughly 70% of the students experiencing homelessness in New York State attend New York City schools. We have joined with 25 organizations calling on the DOE to use this funding to hire 150 community coordinators to work on the ground in shelters to help students reconnect with school, address barriers to school attendance, and help connect students and families with educational supports.

We look forward to partnering with you to ensure that New York City uses its increased state and federal funding as effectively as possible to provide much-needed support to students who have been disproportionately impacted by the pandemic. Thank you for holding this important hearing and for the opportunity to speak with you. I would be happy to answer any questions you may have.