



# Advocates for Children of New York

Protecting every child's right to learn

## Testimony for the Joint Legislative Public Hearing on the 2015-2016 Executive Budget Proposal: Elementary and Secondary Education

February 3, 2015

Thank you for the opportunity to speak with you today. My name is Randi Levine, and I am Policy Coordinator at Advocates for Children of New York (AFC). For more than 40 years, Advocates for Children has worked to promote access to the best education New York can provide for all students, especially students of color and students from low-income backgrounds. Every year, we help thousands of New York City parents and students navigate the education system.

As discussed below, we urge the Legislature to:

1. Increase funding for Pre-K statewide and support New York City's plan to make Pre-K truly universal;
2. Increase funding for Career and Technical Education (CTE);
3. Increase funding to support English Language Learners (ELLs) and immigrant students;
4. Reject the Executive Budget special education waiver proposal;
5. Modify the Executive Budget charter school proposal to ensure that charter schools serve high-needs populations;
6. Support the Executive Budget proposal to establish regional rates for Special Education Itinerant Teacher (SEIT) services; and
7. Increase education funding overall.

### **1. Increase Funding for Pre-K Statewide and Support New York City's Plan to Make Pre-K Truly Universal**

AFC has long championed expanding high-quality, full-day pre-kindergarten programs to serve every child. By the time they enter kindergarten, children from lower socioeconomic backgrounds lag significantly behind children from higher socioeconomic backgrounds in academic skills. High-quality early childhood education programs are proven to help fill this gap. Rigorous research has shown that, compared to children left out of high-quality early childhood education programs, low-income children who participated were less likely to be retained a grade in school, be placed in a special education class, drop out of school, rely on public assistance, or be arrested for a violent crime. As a result, these programs result in substantial cost savings to schools, government, and taxpayers.

The Pre-K funding in the final 2014-2015 budget allowed New York City to take a

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substantial step toward reaching universal Pre-K for every four year old. However, the job is not done in New York City and is far from done in the rest of the State. New York City needs at least an additional \$70 million to implement its plan to allow every four year old to attend Pre-K during the 2015-2016 school year. For school districts outside New York City, the 2014-2015 budget included only \$40 million for the new full-day Pre-K program—not nearly enough funding to meet the demand. Furthermore, the new full-day Pre-K funding in the 2014-2015 budget required school districts to front the money, creating a barrier for school districts that could not wait seven months to begin receiving reimbursement from the State.

While we support the \$25 million for Pre-K for three year olds included in the 2015-2016 Executive Budget, we are disappointed that the budget does not increase funding for Pre-K for four year olds. We urge the Legislature to keep the promise of universal Pre-K by increasing funding for Pre-K for four year olds, to ensure that the funding is available to school districts upfront, and to prioritize serving high-needs school districts and children.

In addition, we are pleased that the Executive Budget includes \$3 million for QUALITYstarsNY. This investment will support early childhood education programs in meeting quality standards that promote children’s learning and development.

**We ask the Legislature to keep the promise of making full-day Pre-K universal by investing at least an additional \$70 million for full-day Pre-K in New York City and at least an additional \$150 million for full-day Pre-K for school districts outside New York City, and to include at least \$3 million for QUALITYstarsNY in the final budget.**

## **2. Increase Funding for Career and Technical Education Programs**

Career and Technical Education (CTE) programs have the potential to improve student engagement and contribute to improved graduation outcomes and college or career readiness. Currently, 24 percent of students in New York State fail to graduate in four years, and CTE holds the possibility of creating alternative pathways to a high school diploma for many of these young people. The Board of Regents’ 2015-2016 Proposal on State Aid to School Districts recommends expanding CTE enrollment with an additional investment of \$66 million to support CTE programs in the large cities and other districts that do not belong to BOCES and \$23 million to support BOCES CTE programs. In addition, the Board of Regents’ Proposal includes \$50 million for a CTE construction fund from the \$4.8 billion that the State received in



legal settlement funds. Unfortunately, the Executive Budget does not include any new funding to support CTE programs.

While we support increased funding for CTE programs, we have identified barriers to CTE instruction for English Language Learners (ELLs) and students with disabilities, although these students could benefit greatly from having CTE options. It is critical that new funding for CTE programs ensure that these programs are accessible to all students, including ELLs and students with disabilities.

**We urge the Legislature to include the Board of Regents' Proposal to invest \$50 million in a CTE construction fund and an additional \$89 million to provide increased support for CTE programs in the final budget. We also urge the Legislature to ensure that these programs are accessible to all students.**

### **3. Increase Funding to Support English Language Learners and Immigrant Students**

Over half of New York City's school-age children come from immigrant families. At any given time, approximately 150,000 students, or nearly 15% of the total NYC student population, are classified as English Language Learners (ELLs). The most recent graduation data showed that only 32.5% of NYC's ELLs and 31.2% of ELLs statewide graduated with a high school diploma within four years.

The Board of Regents' 2015-2016 Proposal on State Aid to School Districts recommends an additional investment of \$86 million to serve ELLs through a variety of approaches including matching teachers with training and certification in bilingual education with content area teachers; improving instructional practice aligned with the Common Core Standards; and providing professional development. Additionally, the Board of Regents' Proposal recommends \$10 million in new funding for districts to address the recent arrival of unaccompanied immigrant students. Unfortunately, the Executive Budget does not include any new funding to support English Language Learners. New York State cannot continue to leave these students behind.

**We urge the Legislature to adopt the Board of Regents' Proposal to invest an additional \$96 million in the 2015-2016 budget to provide increased support to English Language Learners and immigrant students.**



#### **4. Reject Special Education Waiver**

AFC opposes the proposal to allow school districts, approved private schools, or boards of cooperative educational services to seek waivers from important protections contained in N.Y. Educ. Law §§ 4402 and 4403 and their implementing regulations for students with disabilities. Sections 4402 and 4403 contain important protections regarding the duties of school districts, including (1) provisions regarding IEP teams and annual and triennial reviews (which already include waiver provisions for individual students); (2) policies regarding functional behavior assessments, behavior intervention plans, transition to adulthood, and class sizes; and (3) notifications required before changes in placement, including placement in residential programs and interim alternate educational settings. All of these provisions provide important rights to students with disabilities and their families. A waiver provision this broad would erode students' rights and have an adverse effect on children and youth with disabilities, particularly those who are low-income. Importantly, there has been no showing that this provision will result in significant cost savings for districts or remove actual barriers to serving students with disabilities more effectively.

In addition, the notice provision and process for approval for the waiver are inadequate. The notice provision does not provide for public notice of waiver requests, but leaves it up to the local school district, approved private school, or board of cooperative educational services to determine which parents will be impacted and to give them notice in a form to be determined by the Commissioner. This process leaves too much room for error and for districts to limit notice too severely, with parents who are in fact affected by the proposed waiver having no chance to submit their opposition. If any waiver proposal moves forward, notice should be made public as well as mailed to individual parents, so that all parents, parent advocates, and educators have an opportunity to comment on any proposed waiver. We are also concerned that the current proposal allows the Commissioner to approve a waiver proposal without approval from the Board of Regents, giving the Commissioner power to singlehandedly authorize school districts to remove important protections for students with disabilities.

**We urge the Legislature to reject the special education waiver proposal.**



## **5. Modify Charter School Proposal to Ensure that Charter Schools Serve High-Needs Populations**

We are pleased that, in his budget address, Governor Cuomo highlighted the need to ensure that charter schools provide opportunities for high-needs populations. We share this goal. AFC gets calls from families of students with disabilities who enrolled their children in charter schools believing that these schools would provide their children with an excellent education, only to have the charter schools suspend or expel their children or encourage them to leave.

Unfortunately, the legislation proposed in the Executive Budget would not accomplish the goal of ensuring that charter schools serve high-needs populations. The proposed legislation requires that charter schools report bi-monthly on the number of students with disabilities, English Language Learners (ELLs), and students eligible for free or reduced price lunch enrolled in their schools.

First, the legislation does not require charter schools to report these data for incoming students until October 1<sup>st</sup>. While this date may make sense for ELLs who are identified once they begin school, charter schools should be required to report on the number of students with Individualized Education Programs (IEPs) who win a seat through the lottery and who enroll in the school. Waiting to report until October 1<sup>st</sup> gives charter schools a free pass to encourage students with disabilities to refrain from enrolling or to expel or encourage them to leave prior to October 1<sup>st</sup> and does not advance the goal of ensuring that charter schools serve high-needs populations.

Second, given that incoming students are often evaluated and identified as having disabilities as the school year progresses, it will be nearly impossible to draw any conclusions based on the proposed data reporting requirements. A charter school could expel students with disabilities or encourage them to leave and still report a stable or increased number of students with disabilities over the course of the year as additional students are evaluated and classified as students with disabilities.

Third, data reporting alone does not cause charter schools to serve more high-needs students. In 2010, the Legislature amended the Charter Schools Act to require charter schools to meet or exceed targets for the enrollment and retention of ELLs, students with disabilities, and students eligible for free or reduced price lunch, comparable to the percentages of these groups served in local district schools. Yet, as recently as January 2015, the Board of Regents reauthorized charter schools although they did not come close to meeting these targets. For example, only 3.8% of students at Hellenic Classical Charter School were ELLs compared with 20.5% of students in the community school district; only 2.8% of students at Lefferts Garden Charter School



were ELLs compared with 12% in the community school district; only 1.8% of students at Imagine Me Charter School were ELLs compared with 12% in the community school district; and 0% of students at Rochdale Early Advantage Charter School were ELLs compared with 13.8% in the community school district. All of these schools received short-term or long-term renewals.

Fourth, reporting the number students with disabilities and ELLs at a school does not provide any information about whether or not these students are receiving the programs and services they need and are being well-served.

**We recommend that the Legislature modify the Executive Budget charter school proposal.** Any charter school reporting legislation should:

- a) Require charter schools to report the number of English Language Learners, students with disabilities, students eligible for free or reduced price lunch, and students in temporary housing who were offered a seat through the charter school lottery, who enrolled in the charter school, and, on a bi-monthly basis, who continue to attend the school. Require charter schools to report separately on the number of students identified during the school year as falling into one of these categories.
- b) Require charter schools to report suspension and expulsion data on a bi-monthly basis. Data should be disaggregated by race and by the number of students with and without disabilities and should include the number of Manifestation Determination Reviews held for students with disabilities. State law should also require charter school authorizers and the Board of Regents to consider suspension and expulsion data, as well as student attrition data, in charter school renewal applications.
- c) Require charter schools to report on the programs that they are providing to students with disabilities and ELLs.

**We also urge the Legislature to look beyond charter school reporting requirements.** We would be pleased to work with the Legislature to develop meaningful reforms to ensure that charter schools serve high-needs populations and do not expel or push out these students. The Legislature should not increase the maximum number of charter schools without addressing these issues.

## **6. Support Preschool Special Education SEIT Regional Rate Proposal**

Special Education Itinerant Teacher (SEIT) services allow special education teachers to work with preschoolers with disabilities in general education preschool classrooms, such as Pre-K or Head Start classes. SEIT services are essential to including



preschoolers with disabilities in general education preschool classrooms and allowing them to benefit from Pre-K and other preschool programs, so that they are not segregated in separate special education classes. Based on a child's Individualized Education Program (IEP), a SEIT comes to the child's preschool program for a set number of hours per week.

Currently, the State pays highly varying rates to different SEIT providers even within the same region. This reimbursement system is not logical or cost-efficient. AFC supports the proposal for the State Education Department to set regional rates for SEIT services. However, the State must ensure that the rates are adequate to provide high-quality services. In determining rates, the State Education Department should take into account the costs of supervision and training, in addition to the cost of paying certified special education teachers to travel to preschools to work with children with disabilities. The rates should also include an annual cost of living adjustment so that New York can recruit and retain qualified preschool teachers who get results for children.

**We ask the Legislature to support the Executive Budget proposal to set regional SEIT rates.**

## **7. Increase Education Funding**

We note our disappointment with the inadequate and inequitable funding levels for education in the Executive Budget. In addition, we are troubled that Governor Cuomo's proposed education funding increase is contingent on the adoption of all of his education proposals. We urge the state to fulfill its commitment to our schools pursuant to the Campaign for Fiscal Equity lawsuit.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have.

