

Comments of
The New York State Alliance for
Children with Special Needs

Presented to the

Senate Standing Committee on Education
Senate Standing Committee on New York City Education
Senate Standing Committee on Budget and Revenue

In Association with Public Hearings

To Review How School Districts are Spending Foundation
Aid Increases and American Rescue Plan Funds

Greenberg Traurig, LLP
54 State Street
Albany, New York 12207
Phone: 518-689-1421 Fax: 518-689-1499
CONTACT: Pamela A. Madeiros, Esq.

Preface

The New York State Alliance for Children with Special Needs is comprised of five regional alliances and coalitions representing approximately 150 early intervention, pre-school and school-age special education programs throughout the state - - the New York City Coalition for Children with Special Needs, the Long Island Coalition for Young Children with Special Needs, the Hudson Alliance for Children with Special Needs, the Capital Region Alliance for Children with Special Needs, the Western Central Coalition for Children with Special Needs and the New York State Alliance for Children with Special Needs – School Age -- and the children and families served through these programs.

Alliance members and representatives are recognized partners with the State Education Department, municipalities and school districts in the successful implementation of IDEA and the development of sound public policies to assure the meaningful participation of families, clinicians and teachers in the decision-making process which makes vital special education services available to eligible families in the most cost-effective manner possible. Alliance members and representatives have, since the transferal of special education programming from the Family Court System to the New York State Department of Education, served on innumerable special education work groups, task forces and advisory panels to inform discussions around clinical guidelines, regulations, reimbursement, provider approval, registration of provider entities and Medicaid compliance. Members of the Alliance most recently assisted the State Education Department in conducting its analysis of preschool special education tuition reimbursement as a member of the Preschool Special Education Fiscal Advisory Workgroup and worked in partnership with the Department as an invited member of the ESSA Non-Public Work Group and the SCIS Workgroup. Our members have also assumed leadership responsibilities in partnership with the Office of Early Learning and specific Department initiatives designed to enhance integration and collaboration among all early education sectors.

That these past several months have challenged even the best of us is a profound understatement. That our school-age and preschools special education programs rose to that challenge is an even greater understatement. While the public sector enjoyed the flexibility of reopening after mandated closure at a much more relaxed schedule, the non-public special education sector, and the preschool special education programs more specifically, were compelled to reopen, to “pivot”, to be “nimble” according to a schedule not of their choosing and within days’ notice by the Executive. The programs were privileged “first responders” even as their access to vaccinations regulated their staff below that essential designation.

Specific Comments

While funding for the non-public special education sector is not generally considered within the context of Foundation Aid or the American Rescue Plan Act (ARP), the historic 2021-22 State Budget commitment to public education increasing Foundation Aid by 7.6% stands in sharp contrast to the historic underfunding of non-public special education. The Legislature sought to address this disparate funding through the passage of S.6516 (Mannion) / A.8013 (Benedetto) which would align trend factor increases for the non-public special education school with increases in public sector funding. This alignment of increases would allow non-public

programs serving district students with disabilities a mere measure of the fiscal resources enjoyed by their colleague districts as they struggle to remain in operation after years of 0 or nominal increases.

The Alliance commends the Legislature for its support of our programs as evidenced through the several 2021-22 State Budget provisions around PPP, fiscal stabilization reserve funds, fund retention and protection against underenrollment and urges continuation and expansion of each of these protections in the 2022-23 State Budget.

We echo the concerns voiced by Senators Mayer, Liu, Mannion and others that while the ARP funds are available to respond to students' academic, social, and emotional needs and to address the disproportionate impact of COVID-19 on our most vulnerable populations, including children with disabilities, there are no specific directives as to the application of funds within that specific allocation. The Alliance respectfully requests districts be encouraged, if not directed, to allocate a specific portion of the ARP funds received to the needs of special education students served both in district and by the non-public special education sector. We believe this "set-aside" approach is wholly consistent with ARP requirements governing lost instructional time, summer enrichment programs and after school programs, for example. It has been our experience that when district "funds may be used broadly", the nonpublic special education sector rarely enjoys the benefits of that discretion. We therefore implore the Legislature to guide the districts' use of these vital federal relief funds towards the State's 4201, 853 and 4410 special education programs through a set-aside to address unprecedented staff shortages, for example, which threaten the fiscal viability of our schools.

Accordingly, in response to the inquiry of how the State's investment in public education is being applied at the local level to meet the needs of students with disabilities, as non-public partners of districts, we must advise that more must be done to assure direct funding to our programs.

PAM/maf
Attachments
CLOSED 53365718v1