



**THE STATE EDUCATION
DEPARTMENT**

THE UNIVERSITY
OF THE STATE
OF NEW YORK
ALBANY, NY 12234

EXECUTIVE DEPUTY
COMMISSIONER

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Mandatory Full-Day Kindergarten

THE ISSUE:

Kindergarten is not currently mandatory for children in New York State, nor is it required that all public schools to offer kindergarten. In the 2018-19 school year, there are three school districts in the entire State offering only half-day kindergarten, which together serve approximately 1,000 children.

Kindergarten plays a pivotal role in preparing children for reading and other academics, and research suggests that early childhood education can provide critical preparation for school success and reduce the need for remediation in later years. According to the National Education Association's Full-Day Kindergarten Facts:

- Longitudinal data demonstrate that children in full-day kindergarten classes show greater reading and mathematics achievement gains than those in half-day classes;
- Full-day kindergarten can produce long-term educational gains, especially for low-income and minority students;
- In full-day kindergarten classrooms, teachers have more time to get to know students and identify and address their learning challenges early—saving money and resources over the long term and increasing the odds that children will be successful later in school; and
- Research shows that five-year-olds are more than ready for a longer school day—and do better in a setting that allows them time to learn and explore activities in depth.

The Board of Regents recommends requiring full-day kindergarten in all school districts across the State to ensure all of our youngest learners are on a trajectory toward success in school, consistent with the recommendations of the Regents Early Childhood Work Group's Blue Ribbon Committee.

THE SOLUTION:

The Regents recommend that all public school districts be required to offer full-day kindergarten for all children by the 2020-2021 school year.



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Improving Teacher Recruitment for Preschool Special Education Programs

THE ISSUE:

Approved preschool special education programs, including Multidisciplinary Evaluation (MDE), Special Education Itinerant Services (SEIS), Special Class in an Integrated Setting (SCIS) and Special Class (SC) programs are required to employ staff who are appropriately certified or licensed for the instructional, supervisory or professional duties and functions they perform. Increasingly, recruiting and retaining appropriately qualified staff is becoming more challenging and the need to conduct job searches for open positions is becoming more frequent.

Currently, the Education Law authorizes BOCES to enter into contracts with approved private schools serving students with disabilities (853 schools) to provide data processing services for pupil personnel records and other administrative records. This provision has allowed the 853 elementary and/or secondary schools to contract with BOCES for teacher recruitment services.

One example of a BOCES recruitment service is the Online Application System for Education (OLAS). OLAS allows school districts and 853 schools to post unlimited job openings, search through a pool of over 135,000 registered applicants, and filter lists to identify candidates that are best qualified for available positions.

Although 853 programs serving school-age students in the elementary or secondary grades are able to contract with BOCES for staff recruitment services, current law does not extend this authority to approved private preschool special education programs.

THE SOLUTION:

Amend the Education Law to allow approved preschool special education programs to enter into contracts with BOCES for data processing services for pupil personnel records and other administrative records. This would allow preschool special education providers to access OLAS or other similar BOCES recruitment services.



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Tenure and Seniority Protections for Bilingual and ESOL Teachers/Teaching Assistants

THE ISSUE:

Due to the many fiscal challenges of the state, many districts have been forced to reduce their workforce. By statute, when the position of a teacher/teaching assistant is abolished, the teacher or teaching assistant having the least seniority in the system within the tenure area of the position abolished must be discontinued. An unintended consequence is that as districts hire new bilingual teachers and teaching assistants to serve expanding populations of English language learners (ELLs) and subsequent layoffs are made due to fiscal constraints, districts may be forced to lay off the more junior bilingual or English to Speakers of Other Languages (ESOL) teachers or teaching assistants that they need.

For example, if a district with dual language elementary school programs (with bilingual students) has teachers who hold certification in the early childhood area and in bilingual education and they need to lay off a teacher in the elementary tenure area for budgetary reasons, they must lay off the teacher with the least seniority. Even though the district is required by law to provide bilingual education to its ELLs, the result may be that the qualified bilingual teacher must be laid off while their position is filled by an elementary teacher who may well not be certified to teach bilingual education. If the teacher who fills the position is not certified to teach that position, the only recourse the district has is to bring a section 3020-a proceeding to terminate the teacher for not being qualified.

If a single bilingual tenure area were established, which would require statutory change at the elementary level, abolition of a position in that tenure area could have a similar anomalous result. For example, the least senior teacher may be the only teacher available in the district who is fluent in Chinese, and the teacher retained may be a bilingual teacher fluent in another language. Further, if multiple language-specific tenure areas were established, which would also require statutory change at the elementary level, the result would be very narrow tenure areas with limited protection for teachers. Similar situations may arise in the case of teaching assistants.

THE SOLUTION:

The Department proposes enactment of legislation to require districts, in the event of an abolition of a position, to excess the teacher/teaching assistant with the least seniority in the tenure area of the position abolished, except where the retention of a less senior teacher/teaching assistant fluent in a specific language is necessary for the school district to provide required bilingual/ESOL instruction.



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Mandate Relief and State Aid Claims Flexibility

THE ISSUE:

Given the continuing constraints on revenue at the federal, state, and local level, mandate relief is vital in order to preserve funding for critical priorities. While many mandates were originally enacted to enhance the rights, protections, and performance of students and the fiscal accountability of school districts, not all mandates have produced their intended results. It is imperative that a thoughtful and targeted series of changes be made to repeal outdated mandates that have grown too burdensome and costly, and are not essential to improving results for students.

In addition, Education Law provisions affect when adjustments to State aid payments are made, the timing of additional aid payments, and the recovery of aid overpayments. After an established date, if a school district owes money back to the State, it is collected immediately. However, if funding is owed to a school district, the aid claim is placed in a first-come-first-served queue that is funded by an annual appropriation. Given the size of the current queue, school districts will continue to face significant delays in receiving payment from the State for any new claims barring additional annual funds provided for this purpose.

The Regents have acted within the scope of their authority to make regulatory changes to help unburden school districts while maintaining appropriate safeguards and protections for students, parents, and communities, but statutory relief is also necessary.

THE SOLUTION:

Legislation proposed by the Department would eliminate or reduce a significant number of statutory mandates and provide greater flexibility relating to transportation, educational management, and special education services.

Additionally, the legislation would authorize the Commissioner to exercise administrative discretion in order to provide relief to school districts by expanding the funds available to pay claims in the first-come-first-served queue. Where a district owes funds to the State due to an overestimated claim, rather than having those funds flow back into the general state aid fund to offset costs, the funds would be applied to aid claims due in the queue. Coupled with the annual State appropriation, the total funds available would significantly reduce the current waiting period for districts, and over time would fully pay off the queue.

The following provisions will be new this year:

- Forgive penalties associated with the late filing of Final Cost Reports for all school district construction projects approved by the Commissioner before July 1, 2011.
- Allow districts to lease space outside of the district in certain emergency situations.



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Tuition Rate Setting Methodology for Special Act School Districts & 853 Schools

THE ISSUE:

Tuition reimbursement for Special Act school districts and approved private schools serving students with disabilities (853 Schools) is based on a rate methodology that is established by the Department and approved by the Division of Budget (DOB). Based on stakeholder input following the Special Education Financial Advisory Workgroup meetings in May of 2013, the Department developed recommendations to address the lack of predictable growth to fund increasing program costs at the Special Act school districts and 853 Schools and provide them with the ability to utilize reserve funding for unplanned or emergency expenditures.

Annually since November of 2013, the Board of Regents has adopted as legislative priorities the creation of a statutory index for establishing tuition reimbursement growth for 853 Schools and Special Act school districts and the authorization for these schools to establish general reserve funds. Although tuition rate increases have been administratively adopted each year since 2013, linking annual tuition growth to the growth in General Support for Public Schools would offer a significant measure of predictability and certainty to Special Act and 853 budgets. Reducing the reliance on Revenue Anticipation Notes, short-term borrowing, and tuition rate waivers to fund unplanned or emergency allowable costs would provide significant financial relief through the creation of a general fund reserve.

THE SOLUTION:

The following legislative proposals seek to address the financial stability of the 853 Schools and Special Act school districts and enable them to better provide educational and related services to the students they serve:

- **Create a statutory index for establishing the growth in annual tuition rates.** The current growth in tuition rates is established administratively and is not based a predetermined statutory index. Legislation previously proposed by the Department would establish a statutory growth index based on state personal income growth. Instead, for 2019-20, the Department recommends that a statutory growth index be linked to the growth in General Support for Public Schools. This measure would establish predicable and timely tuition increases and allow for improved budget planning.
- **Authorize providers to establish a general reserve fund.** Special Act School Districts and 853 Schools have historically relied on lines of credit to pay for unplanned or emergency expenditures until tuition revenue is received. Authorizing these schools to accumulate a small percentage of tuition revenue in a general reserve fund would reduce the reliance on private borrowing and enable schools to better respond to unanticipated events. Administrative parameters would be developed by the Department to specify the amount that may be deposited in reserve and to identify the allowable uses for the funds in addition to corresponding reporting requirements to ensure appropriate oversight.



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Regional Secondary Schools Advisory Council

THE ISSUE:

In light of fiscal constraints, many school districts are at risk of not being able to meet their fiscal obligations and/or are facing educational insolvency due to cuts to critical personnel and programs. Much of the fiscal and educational pressure on districts is at the secondary level.

School districts across the state need a mechanism to build collaborative secondary school partnerships that will provide greater educational services to better ensure that students graduate high school ready to succeed in college and careers – such as high-quality science, technology, engineering and mathematics programs – through more cost-effective and efficient operational delivery.

Current State law has limited options for school districts to create and sustain high-quality collaborative secondary schools allowing only the creation of central high school districts, regional high schools in Suffolk County and Tech Valley High School in the Capital Region.

While the Department had proposed legislation to this effect for several years, it did not receive traction. An issue of this importance deserves the attention of the educational stakeholders to review, discuss, and seek to resolve any issues related to the components of implementation.

THE SOLUTION:

The Department proposes enactment of legislation to create a temporary advisory council comprised of members of the Board of Regents, the Department, members of the legislature, governor's office, educational stakeholders, and experts in order to:

- Examine the previously proposed legislation and identify barriers and areas of concern;
- Review regionalization models in other states;
- Identify potential models that would work in New York;
- Make recommendations to the Regents, Department, legislature and governor's office in order to seek enactment of any proposed legislation during the following legislative session.



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Education Equity for DREAMers Act

THE ISSUE:

Thousands of public school students in New York are children of undocumented immigrants. The Office of the State Comptroller estimated, in a May 2013 report on the New York State DREAM Act, that 8,300 undocumented students were enrolled in our public institutions of higher education in the Fall 2012 semester, with most enrolled at CUNY (6,546 students).

New York's enlightened policy enables hundreds of thousands of undocumented students to receive education through the state's P-12 public school system; our state recognizes the value of an investment in career and college readiness for these students. It makes economic sense to help these young students become full participants in New York's economy. Yet their futures are undeniably circumscribed by current immigration law since these young people generally derive their immigration status from their parents. If their parents are undocumented, most students have no mechanism to obtain legal residency, even if they have lived most of their lives in the US.

Current state law, while providing undocumented immigrant students with in-state tuition rates at our public colleges and universities, prohibits these students from receiving state financial aid (i.e., general awards, academic performance awards and scholarships). Denying aid means outright denying many of these students access to higher education. Our society and our economic growth depend on a vibrant, well-educated workforce, but right now, hundreds of thousands of New Yorkers may be denied the opportunity to the education they need to fully participate in our economy. Without access to higher education, these students are far too often forced into the shadows of our society and into economic uncertainty.

THE SOLUTION:

The Department's Education Equity for DREAMers Act would:

- Eliminate Education Law provisions requiring students to be a US citizen or permanent lawful resident to receive general awards, including TAP, academic performance awards, scholarships or other financial assistance.
- Allow certain non-residents, including undocumented immigrants, who graduate from New York high schools or obtain their high school equivalency degree to receive general awards, including TAP, academic performance awards, scholarships or other financial assistance.
- Authorize SUNY, CUNY and community colleges trustees to provide state-aid programs, scholarships or other financial assistance to undocumented aliens who graduate from New York high schools.
- Allow non-residents, including undocumented aliens, who graduate from New York State high schools to receive State funds in the higher education opportunity programs.
- Allow undocumented immigrants and their families, who have a taxpayer identification number, to open a New York 529 family tuition savings account.

For more information contact the
Office of Governmental Relations, New York State Education Department, (518) 486-5644



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Increasing Access to College and Affordability for Students through Early College High Schools & P-TECH

THE ISSUE:

Traditionally underrepresented and academically and/or economically at-risk students in postsecondary education benefit from strong, innovative programs designed to increase engagement in their high school education and boost levels of participation in college while also reducing the need for remediation; programs that successfully prepare students for college, careers, and civic life remain a priority of the Regents and the Department. The Smart Scholars Early College High Schools Program (SS-ECHS) and the NYS Pathways in Technology Early College High Schools (P-TECH) Program keep students on track to graduate high school and propel them into rewarding college and career opportunities.

Smart Scholars ECHS are partnerships between high schools and institutions of higher education that allow students to simultaneously obtain their high school diploma and earn up to 60 transferable college credits (and a minimum of 24 college credits) as part of an organized rigorous four-year program toward a postsecondary degree or credential at no cost to the student or the student's family. There are currently 40 ECHS four-year programs to which the Department administers funding. In the 2016-17 school year (SY), 6,596 students were served in grades 9-12. During 2016-17, 1,160 students graduated with a high school diploma, and 112 students graduated with a high school diploma and an associate's degree.

NYS P-TECH projects are partnerships between high schools, institutions of higher education, and businesses that create individual pathways for students to simultaneously obtain their high school diploma, earn an associate's degree, and obtain workplace learning/experience as well as be first in line for a job with the program's STEM industry partner through a six-year integrated model. There are currently 37 NYS P-TECH projects to which the Department administers funding. In 2017-18, NYS P-TECH served 4,222 students in grades 9-12. In 2017-18, 506 seniors from the 16 Cohort I projects met the requirements for high school graduation.

The different models of the SS-ECHS and NYS P-TECH programs provide school districts with the flexibility to choose a model that works best for their students and their unique regional needs; therefore, both of these critical programs need to be supported. However, both programs are funded through multi-year grants that require continuous recruitment for each year of the cycle (five-year cycle for Smart Scholars ECHS and seven-year cycle for NYS P-TECH). Once the grant cycle ends, both programs are left with multiple classes of students (three classes for Smart Scholars ECHS and five classes for NYS P-TECH) for whom there exists no statutory mechanism by which to continue funding.

THE SOLUTION:

The Regents propose enactment of legislation to codify SS-ECHS and P-TECH programs and provide a mechanism for the continuation of successful programs outside of a competitive procurement process, to provide New York State students, including those traditionally underrepresented in post-secondary education, with the opportunity to benefit from programs designed to put them on a path toward long-term success.

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Enhanced Discipline Authority of the Licensed Professions

THE ISSUE:

A 2016 article and a subsequent NYS Comptroller's audit raised concerns regarding the discipline of nurses who pose a public health and safety risk to those in New York, highlighting the real-life consequences of the limitations in current law when it comes to the Department's ability to take swift disciplinary action against licensed professions when there is a public health or safety risk. The Department seeks legislation to modernize its authority over licensed professionals by obtaining disciplinary powers that are comparable to the disciplinary powers that the Commissioner of Health has over physicians, physician assistants, and specialist assistants, including the authority to issue summary suspensions.

THE SOLUTION:

The Department supports legislation that would enhance the Department's discipline authority over all licensed professions it oversees by:

- Authorizing the Commissioner or her/his designee, after an investigation and a recommendation by the professional conduct officer, to order a temporary suspension of practice privileges of a licensee or registered entity in extreme cases where there is an imminent danger to the health and/or safety of the public. The current process to suspend a professional license is lengthy and cumbersome, which could put the public at risk. The proposed change in law would enhance public safety, while at the same time ensuring the due process rights of the licensee or entity;
- Requiring all licensed professionals to report to the Department any moral character issue(s) upon application for licensure. Currently, athletic training, dietetics/nutrition, certified dental assisting and medical physics are the only professions that do not have a moral character requirement upon initial application for licensure. A moral character provision should be added to the statutes for these professions to make the requirement uniform across all licensees, so that the Department can review this information when making licensure determinations; and
- Requiring, at a minimum, that all licensed professionals report to the Department any record of a conviction of a crime in a timely manner. Current law does not require a criminal history background check prior to initial licensure and only requires that licensed professionals report the conviction of a crime upon re-registration every three years (physicians, physician assistants and specialist assistants re-register every two years).



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Expansion of the Reader's Aid Program

THE ISSUE:

Differently abled students participating in post-secondary programs must manage traditional and extraordinary challenges which may become barriers to graduation. Access to requisite instructional information is a critical component to their success. Two years ago, the Board advanced a priority proposal to update the Reader's Aid program by expanding the uses for which the funds could be expended, increasing the per student cap to allow for the purchase of student owned assistive technology and expanding the types of schools that could participate in the program. The Department's bill providing for these statutory changes was signed into law (Chapter 350 of the Laws of 2017).

There remains, however, a student population left out of the program that could be well served by the recently updated Reader's Aid program - those with print disabilities. These individuals would also benefit from the expansion of allowable use of funds for assistive technology.

THE SOLUTION:

The Department proposes legislation that would address the educational needs of a wider range of students as they pursue a broader spectrum of opportunities to meet their educational goals by expanding eligibility within the Reader's Aid program to those with print disabilities.