

Tuition Rate-Setting Methodology Redesign Study

Description of the Tuition Rate-Setting Methodology Redesign Study:

The New York State Education Department (NYSED) is conducting a comprehensive study of alternative tuition rate-setting methodologies for approved providers operating school-age programs receiving funding under article 81 and article 89 of the education law and providers operating approved preschool special education programs under section 4410 of the education law. This study will consider alternative approaches to reimbursement to ensure students with disabilities receive education and related services in accordance with their individualized education programs (IEPs).

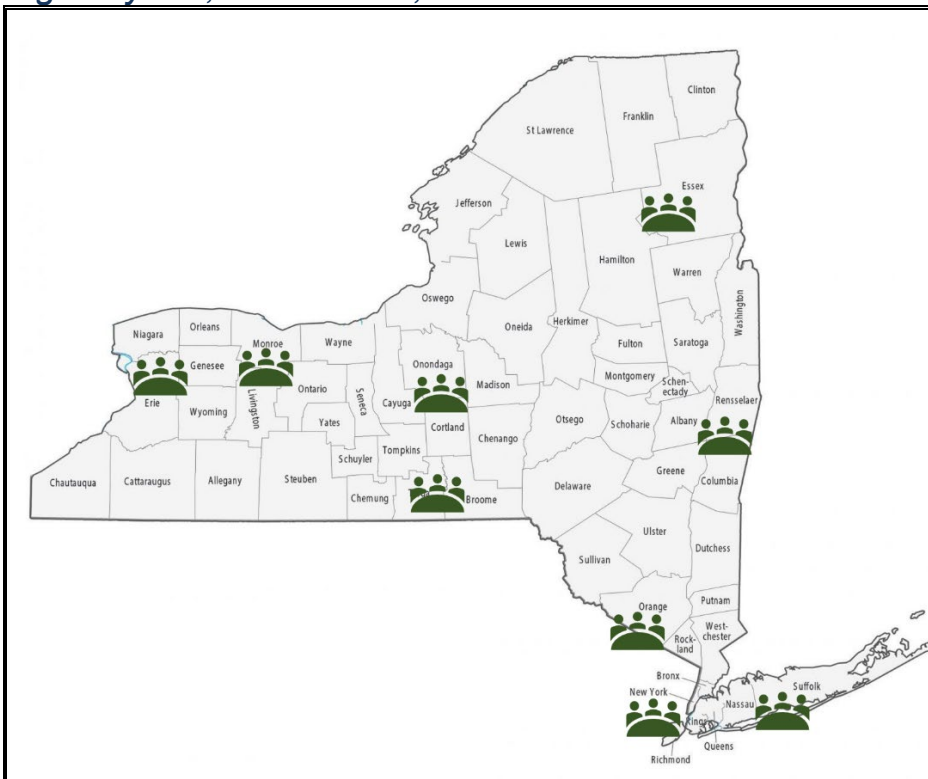
Description of Stakeholder Engagement Activities & Results:

To assist NYSED with its study, and to obtain valuable perspectives on the existing tuition rate-setting methodology, a series of stakeholder engagement meetings were conducted in the Fall of 2023 to receive initial feedback on how to best support programs serving students with disabilities.

The feedback consisted of stakeholder meetings, emailed comments from stakeholders, poll responses, and survey responses. Stakeholder groups that provided feedback included community members, educators, families, school administrators (including finance), school district representatives, county representatives, representatives of provider advocacy organizations, and other interested stakeholders. Although NYSED participated in these sessions as a facilitator and listener, the purpose of the sessions was to seek input from stakeholders external to New York State government.

Soliciting Public Input:

Eight Hybrid, One Virtual, and One In-Person Stakeholder Meetings Held Statewide








To allow for both in-person and virtual participants, NYSED partnered with the following entities to host meetings across the state:

- Broome-Delaware-Tioga BOCES
- Erie BOCES (Erie 1)
- Franklin-Essex-Hamilton BOCES
- Monroe-Orleans Counties (Monroe 2-Orleans)
- Onondaga-Cortland-Madison BOCES
- Orange-Ulster BOCES
- Rensselaer-Columbia-Greene BOCES (Questar III)
- Suffolk BOCES (Western Suffolk)
- New York City Department of Education

The initial input stakeholder meetings included an overview of the Tuition Rate-Setting Methodology Redesign Parameters, including preliminary data around historical reimbursement to inform discussion in breakout sessions and in a whole-group discussion. Polls were open throughout each meeting to collect feedback on each parameter, as well as to collect questions to include in topical surveys that NYSED will issue in the future.

The five Tuition Rate-Setting Methodology Redesign Parameters are included in Chapter 56 of the Laws of 2023. These five parameters outline the framework for the alternative tuition rate-setting methodology proposals and are required components for redesign recommendations. In alignment with these requirements, feedback was provided by stakeholders on supporting programs in a manner that is fiscally sustainable, not reliant on tuition waivers or appeals, based on standardized parameters and criteria, phased-in over time, and ensures that tuition rates for all programs are calculated no later than the beginning of each school year.

Five Tuition Rate-Setting Methodology Redesign Parameters	
	1. Fiscally Sustainable
	Fiscally sustainable for approved programs, school districts, counties, and the state
	2. Not reliant on waivers/appeals
	Substantially restrict or eliminate tuition rate appeals
	3. Methodology Parameters
	Establish predictable tuition rates calculated based on standardized parameters and criteria, including, but not limited to, defined program and staffing models, regional costs, and minimum required enrollment levels as a percentage of program operating capacities
	4. Phase-In Approach
	Include a schedule to phase in new tuition rates in accordance with the recommended methodology or methodologies
	5. Timely Rates
	Ensure tuition rates for all programs can be calculated no later than the beginning of each school year

Stakeholder Meetings

Hybrid, virtual, and in-person meetings were held to discuss the Tuition Rate-Setting Methodology Redesign Parameters:

Sept. 29th – Southern Tier
 Preschool: 9:00 - 11:00 AM
 School-Age: 1:00 - 3:00 PM

Oct. 4th – Long Island
 Preschool: 9:00 -11:00 AM
 School-Age: 1:00 - 3:00 PM

Oct. 6th – Central Region
 Preschool: 9:00 -11:00 AM
 School-Age: 1:00 - 3:00 PM

Oct. 11th – North Country
 Preschool: 9:00 -11:00 AM
 School-Age: 1:00 - 3:00 PM

Oct. 12th – Capital Region
 Preschool: 9:00 -11:00 AM
 School-Age: 1:00 - 3:00 PM

Oct. 26th – Finger Lakes
 Preschool: 8:30 -10:30 AM
 School-Age: 11:30 – 1:30 PM

Nov. 2nd - Western Region
 Preschool: 9:00 -11:00 AM
 School-Age: 1:00 - 3:00 PM

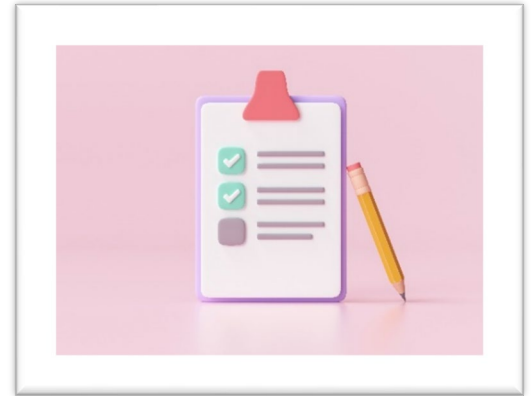
Nov. 6th - Hudson Valley
 Preschool: 9:00 -11:00 AM
 School-Age: 1:00 - 3:00 PM

Nov. 9th - New York City
 Preschool: 9:30 -11:30 AM
 School-Age: 12:30 - 2:30 PM

Nov. 15th - New York City
 Preschool: 9:30 -11:30 AM
 School-Age: 12:30 - 2:30 PM

Online Surveys

Two online surveys were available to stakeholders: the Tuition Rate-Setting Methodology Redesign Stakeholder Survey – For Preschool Stakeholders and the Tuition Rate-Setting Methodology Redesign Stakeholder Survey – For School-Age Stakeholders. From September 2023 through December 2023, a total of 463 stakeholders completed the online surveys, of which the Preschool Stakeholder survey received 287 responses and the School-Age Stakeholder survey received 176 responses. The online surveys sought stakeholder feedback for the same questions provided to stakeholders who attended the hybrid and or virtual stakeholder meetings.



Feedback on Tuition Rate-Setting Redesign Methodology Parameters:

Following the collection of stakeholder feedback from the hybrid and virtual stakeholder meetings, polls, and online surveys, NYSED reviewed stakeholder responses to identify common themes among preschool and school-age stakeholders in the five Tuition Rate-Setting Methodology Redesign Parameters. This report summarizes the themes from the analysis of stakeholder feedback.

Fiscally Sustainable:

The redesign of tuition rate-setting methodology must ensure that programs, school districts, counties, and the state are fiscally sustainable.



Common Feedback from Both Preschool and School-Age Stakeholders:

Both survey participants and meeting participants were asked how the tuition methodology study should approach the required parameter of fiscal sustainability. Stakeholders strongly emphasized that providers are struggling with overall fiscal viability which is impacting program quality and availability. Stakeholders agreed that alternative methodologies must ensure that tuition rates cover the actual costs of program expenses for mandated services.

Preschool and school-age stakeholders identified several key considerations for the tuition methodology study's approach to fiscal sustainability. The majority of stakeholders provided the following for consideration:

- Approved programs are providing a free appropriate public education (FAPE) and therefore should have parity in funding with public school districts;
- Methodology should allow programs to provide competitive salary and benefits including compensation for certified and licensed professionals comparable to public schools;

- Methodology should allow for adequate funding to cover all operating expenses associated with IEP mandates inclusive of staff compensation, staff training, supplies/resources, utilities, insurance, and building improvements to maintain compliance with regulations;
- Methodology should prioritize the timeliness and predictability of rates so that providers can budget and spend accordingly to maximize their funding (overspending/underspending has negative effects on rates);
- Methodology should adjust or eliminate the non-direct care cost screen to allow for spending on necessary non-direct expenses, such as one-time equipment purchases, that would otherwise go unfunded if they exceed the limit on non-direct care spending;
- Methodology should accommodate enrollment fluctuations, which are often unavoidable and currently cause volatility in tuition rates; and
- Tuition rates should be set prospectively without a reconciliation process that takes back funds when a provider underspends. This would allow for more consistent funding and savings that could be used as needed for allowable expenses in subsequent years.

Participants of the stakeholder meetings and survey were asked to identify what data and information needs to be included in the study regarding fiscal sustainability. Suggestions included conducting a review of vacancy rates for professional and paraprofessional staff, a review of the salary and compensation packages for all program staff and an analysis of current/real time review of the acuity of student need.

Not Reliant on Waivers:

The redesign of tuition rate-setting methodology must substantially restrict or eliminate tuition rate appeals.

Common Feedback from Both Preschool and School-Age Stakeholders:

According to the stakeholder feedback, the most common reasons a program requests a waiver are due to fluctuations in enrollment, changes in staffing, physical plant/facility needs and student IEP needs. Additional common reasons mentioned include: to meet regulatory requirements/mandates, to fulfill obligations for alternative education, security, software, insurance and staff recruitment/retention.



Many stakeholders shared feedback describing a multitude of ways the new methodology could reduce the reliance on waivers and appeals. Specific suggestions on how the new methodology should approach this parameter included the following:

- Methodology should be designed around a reimbursement system that aligns tuition rates with actual costs of service;
- Methodology should ensure rates reflect regional differences in costs;
- Methodology should provide a continuous cost-of-living structure/steady trend factors;
- Methodology should not require programs to offset other revenue;
- Methodology should accommodate enrollment fluctuations;
- Tuition rates should align with students' level of need;

- Methodology should allow for greater flexibility between non-direct and direct care costs to enable providers to address one-time facility, software, and security needs, for example, that might otherwise cause their tuition rates to hit a non-direct care screen;
- Tuition rate reconciliation should only occur after a multi-year period, not annually;
- The allowable surplus percentage should be increased;
- Waivers should not be needed for costs related to IEP mandates or health and safety requirements; and
- Tuition rates should be timely, so that providers can budget and spend accordingly.

Stakeholders were asked to identify specific limited scenarios that may continue to require a waiver or appeal. The majority felt that a national emergency/disaster, unplanned physical plant renovations, or implementing specialty program configurations or an IEP with significant and unplanned level of services and supports may continue to need a waiver. Providers cited examples of the methodology used by the Office of Children and Family Services (OCFS) that allow for different categories of spending with more flexible limits that reduce the need to request a waiver.

Methodology Parameters:

The redesign of tuition rate-setting methodology must establish predictable tuition rates that are based on standardized parameters. These parameters include program and staffing models, regional costs, and minimum required enrollment.

Common Feedback from Both Preschool and School-Age Stakeholders on General Methodology Parameters:

In general, both preschool and school-age stakeholders believe that tuition rates should be evaluated prospectively, total cost screens should be eliminated, and facility and physical plant expenses should not be under the nondirect care parameter. Stakeholders would like to see more flexibility between direct care vs. nondirect care cost screens and more flexibility when using state or federal grant funding or other outside revenue to avoid a reduction in reimbursement. Stakeholders also suggested that the study examine the methodologies of other New York State agencies that reportedly use regional rates, take student acuity into account when setting rates, and use a cost-based approach to rate setting (e.g., Office of Mental Health (OMH), OCFS, and Office for People with Developmental Disabilities (OPWDD)).



Common Feedback from Both Preschool and School-Age Stakeholders on Staffing Parameters:

Both preschool and school-age stakeholders feel that parameters must include reimbursement to ensure staff coverage and should allow for the cost of substitute positions based on the number of staff on leave (e.g., FMLA), staff absences, staff turnover, and training requirements of regular staff. Staff in approved programs (both preschool and school-age settings) require substantial professional development and training due to the increased behavioral needs of students. Additionally, preschool programs licensed by the New York State Office of Children and Family Services or New York City Department of Health (NYC DOHMH) have mandated trainings associated with their license. The four professional development days built into the school calendar are not enough and the additional training needs to be allowed in the rates.



Common Feedback from Both Preschool and School-Age Stakeholders on Related Services:

Stakeholders would like more flexibility in their staffing models and related service delivery models to better meet student needs. Currently, the standard of providing 10 related service sessions per day does not allow for collaborative planning, consultation with classroom staff, or the ability to provide makeup sessions. It is also not realistic due to transition/set-up time or unanticipated student delays. Stakeholders overwhelmingly responded that 10 related service sessions per day was not reasonable. 8 sessions per day was a more acceptable and achievable standard with some responding that 6-8 sessions per day would allow for the flexibility programs are seeking.

Common Feedback from Both Preschool and School-Age Stakeholders on Referral Review Staff:

The intake (review of referral) process is not currently reflected in programs' tuition rates as a separate category of expenses or distinct position title codes. Stakeholders identified the following staff participate in the intake process: school psychologists, social workers, principals, administrators, teachers, related service providers, and IEP coordinators. The time associated with review of referrals and intake varies depending on the program and the complexity of services to be provided and coordinated and the time of year in which referrals are sent (i.e., annual review results in an increase in referrals). Survey responses indicated that combined, referrals may take between 10 - 30 hours per student, including the combined staff time needed to review the student's information, discuss internally the program's ability to meet the student's needs and coordination of services, observe the student, and communicate with parents and school district staff.

Common Feedback from Both Preschool and School-Age Stakeholders on Behavioral Support Staff:

Stakeholders identified that students' social, emotional, and behavioral needs have increased. Stakeholders overwhelmingly agreed that all approved programs serving students with disabilities should have staff resources to implement proactive and preventative strategies that utilizes data to inform instruction and the allocation of services to maximize achievement for all students and support students' social, emotional and behavioral needs from a culturally responsive and strength-based perspective. Foundational resources must be included in all programs with additional tier 2 and tier 3 supports allocated to programs with higher levels of behavioral support needs.

According to stakeholders, documentation that could support a need for additional behavior support staff could include consideration of one or more of the following:

- Acuity of student need;
- Data derived from behavior and incident reports;
- IEP mandates;
- Number of students with a behavior intervention plan (BIP);
- Data on the number of students who receive tiered behavioral support and interventions;
- Level of schoolwide and classroom-based management support provided in the program; and
- Cross-license or collaboration with a specialized day or residential program licensed by the Office of Mental Health, Office of Children and Family Services, Department of Health, and/or Office for People with Developmental Disabilities.

Common Feedback from Both Preschool and School-Age Stakeholders on Regional Costs:

To ensure appropriately certified and/or licensed staff and to ensure adequate supervision and program administration, stakeholders identified that salaries need to be competitive with the school districts in the region and need to include the regional cost of living factors. Tuition rates also need to factor the costs for the recruitment, retainment, and training of staff. To ensure adequate and safe facility and physical plant space, regional costs need to consider the cost of rent, cost of maintenance/updates and repair, cost of security upgrades, and age of building.



Common Feedback from Both Preschool and School-Age Stakeholders on Enrollment:

Stakeholders identified that flexibility is needed when considering minimum enrollment parameters as enrollment will naturally fluctuate based on when students are placed. The current methodology fails to recognize that fixed costs remain constant despite changes in enrollment. Instead, stakeholders recommend that programs be fully funded when enrollment is within an operating capacity threshold (similar to methodology used by OCFS). The enrollment thresholds should consider regional trends over several years responsive to student needs.

In order to create necessary flexibility in the enrollment parameter, stakeholders responded that the study must consider the following:

- The study should review current and past enrollment trends by program type to provide a comprehensive picture of capacity and demand;
- Programs should be held harmless when seats are required to be reserved for incoming early intervention students in January or reserved for students/individuals requiring residential placement (e.g., individuals who have exited the education program but remain in the residential program); and
- For preschool inclusive classrooms, the parameter must accommodate fluctuating enrollment in both special education and general education.

Feedback on Inclusive Classrooms

Inclusive classrooms require additional coordinated efforts by educators, related service providers, and administrators to ensure all children receive a high-quality learning opportunity responsive to their individualized needs. Stakeholders emphasized that expenses associated with these efforts, including partnerships between special education and general education teams, must be fully recognized in the new methodology. These include expenses for staff training and time dedicated to universal design, implementation of positive and proactive behavioral strategies, and coordination of program administration.



Preschool stakeholders identified unique fiscal challenges to operating special class integrated services (SCIS) programs:

- Preschool special education programs incur costs and fees when partnering with a separate regular early childhood education program that must be factored into reimbursement;
- The special education programs and supports for preschool students with disabilities in a regular early childhood setting must be adequately funded to meet student needs;
- Inclusive classrooms should reflect a continuum of needs and not group students solely based on similarity/intensity of need;
- Enrollment of children without IEPs in the classroom needs to be much greater than those with IEPs to better reflect natural proportions and allow for additional children to be identified throughout the school; and
- Reimbursement must adequately reflect the expenses associated with compliance with dual license requirements (e.g., OCFS/DOHMH license and NYSED approval).

Phase-In Approach:

The redesign of tuition rate-setting methodology must include a schedule to phase in new tuition rates.

Common Feedback from Both Preschool and School-Age Stakeholders:

Many stakeholders emphasized they would prefer higher rates to be phased in immediately with some indicating it should be spread out over a few years, whether a positive or negative impact, to allow programs to adjust. In the event a program rate would decrease under the new methodology, programs would not be able to sustain existing capacity without a hold harmless to existing rates. A large fiscal impact may require a longer phase-in; however, NYSED communicated its commitment to continue taking short-term measures to improve reimbursement while the longer-term methodology changes are being implemented over time.



Timely Rates:

The redesign of tuition rate setting methodology must ensure tuition rates for all programs can be calculated no later than the beginning of each school year.



Common Feedback from Both Preschool and School-Age Stakeholders:

Stakeholders shared that timeliness and predictability of rates along with reimbursement aligned with operating expenses was extremely important for budget planning purposes. Stakeholders indicated that July 1st was considered the start of the school year and therefore rates should be issued by this date for 12 month or 2-month programs. 10-month programs would need rates issued by at least September 1st. While the issuance of rates on the first of July/September would align with the start of the school year, stakeholders requested that the rates be calculable/predictable and that the approved methodology be communicated in the previous Spring, similar with the timeline school districts use to plan their budget cycle, to allow approved programs the same planning time.

Stakeholders described that the issuance of timely rates assures greater fiscal stability through the ability to properly budget (including staff compensation, program investments, account for inflation, make informed financial and organizational decisions). Predictability of reimbursement benefits programs in the following ways:

- Allows for programs to recruit and retain staff;
- Allows budget to reflect true rates;
- Allows programs to invest in staff and program quality; and
- Improves ability to retroactively bill districts and counties.

Conclusion:

NYSED would like to thank all stakeholders who participated in the initial input stakeholder engagement. The meetings, poll and survey submissions provided lived-experience and field experience that is a required and integral aspect of the Tuition Rate-Setting Methodology Redesign Study. This feedback will be shared and discussed in the context of the project to ensure the study is responsive to the communicated needs of students, families, providers, school districts, counties, and the state.

NYSED would also like to thank the participating BOCES and the New York City Department of Education for hosting the public hybrid meetings to ensure feedback from a diverse group of stakeholders throughout New York State.