



**THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK**

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**Written Testimony of Commissioner Dr. Betty A. Rosa  
New York State Education Department  
Joint Legislative Elementary and Secondary Education Budget Hearing- January 26, 2022**

Good morning, Chairs Krueger, Weinstein, Mayer, and Benedetto, and members of the Senate and Assembly here today. My name is Dr. Betty A. Rosa, and I am the Commissioner of Education. I am joined by Executive Deputy Commissioner Sharon Cates-Williams, Senior Deputy Commissioner Dr. James N. Baldwin, Chief Financial Officer Phyllis Morris, Assistant Commissioner of the Office of Student Support Services Kathleen DeCataldo, and Senior Policy Advisor for Higher Education Dr. Laura Glass. I also want to thank Chancellor Young and our Board of Regents, who are watching today.

The Regents and the Department have two strategic priorities that drive everything we do. The first is our commitment to creating equity for all students to prepare for college, careers, and civic engagement – regardless of background, zip code, first language, or ability. Our second strategic priority is to fundamentally change how we approach our mission, shifting our focus from compliance to support as part of the statewide teaching and learning community.

However, the Department needs to hire and maintain appropriate staffing levels to achieve both priorities. A strict hiring freeze since April 2020 made this even more challenging, and it was only suspended this past fall. To illustrate this point, the Department's Full-Time Equivalent (FTE) level decreased from 3,200 FTEs in 2008-09 to 2,500 FTEs in 2021-22, a decrease of 700 FTEs or 22%. During this same period, the Department's responsibilities grew exponentially without funding for additional staff to meet our increased responsibilities. In response to the Division of the Budget's October 2021 "call letter," the Department requested 302 positions to rebuild our staffing capacity.

We are pleased the Executive Budget includes funding for 134 of these positions. These include:

- \$235,200 for the Department's Office of Innovation and School Reform to support school districts (East Ramapo, Hempstead, Wyandanch, and Rochester) with Commissioner appointed monitors;
- \$196,920 for the Department's Office of Native American Education to support the educational needs of Native American students;
- \$657,484 for the Department's Office of Religious and Independent Schools to support the work of ensuring compliance with statutorily required substantial equivalence determinations;
- \$1.85 million for the Office of Education Finance to appropriately resource the oversight and administration of over \$30 billion in annual state aid funds;
- \$905,514 for the Department's Office of Student Support Services to support oversight and technical assistance to grantees and to oversee the Dignity for All Students Act (DASA);
- \$292,612 to administer Diversity, Equity, and Inclusion (DEI) initiatives;
- \$1.9 million for the Department's Office of Early Learning to administer and oversee close to \$1 billion annually in pre-kindergarten programs;

- \$470,031 for the Department's Rate-Setting Unit to manage provider fiscal audits and reduce the tuition waiver backlog; and
- \$80,364 for the Department's Office of Access, Equity & Community Engagement Services (OAECES) to administer the Early College High School and P-TECH programs.

However, more funding is needed to meet the Department's needs in critical areas – such as staff to support all areas of the Department in information technology, human resources, communications, and office of counsel, as well as in curriculum and instruction, and facilities planning, among others. Also, an administrative set-aside of funds is imperative to support the success of any newly created programs.

Of course, there are several proposals in the Executive Budget we are pleased with, including: the continued phase-in of the Foundation Aid formula; full funding of all expense-based aids without changing current law aid formulas; an increase of \$700,000 to expand the Readers Aid program; and much-needed capital funding for our three Nation Schools and our State Schools for the Deaf & Blind, a priority of the Regents.

We also would like to highlight a few proposals of concern that need thoughtful consideration during the budget negotiation process.

First, regarding the proposal to transfer administration of the over \$1 billion federal and state child nutrition programs to the Department of Agriculture & Markets, we do not see how the shift would produce any efficiencies or result in better service to children and none have been shared with us or the public and as such, we must strongly oppose it. The Department (SED) administers five heavily regulated federal Child Nutrition Programs (CNPs) and several other related federal and State Initiatives that generate \$1.4 B in federal and state funding directly to schools. It is important to note that we receive no state administrative funding for these activities. The transfer of CNP administration from SED would require an extensive, lengthy, and very complicated federal waiver process requiring demonstration of and assurances that student access to meals would not be affected and reimbursements to schools would not be delayed. This waiver request would require documentation of a substantial challenge that the transfer is intended to address.

SED's Child Nutrition program is nationally recognized for successfully administering these complex and evolving programs to schools, with whom it has direct relationships, to ensure children are provided essential nutrition during the school day. For 20 years, SED has custom built and enhanced a unique web-based application to manage all aspects of the CNPs, which cannot be transferred to another agency. The application pulls real-time data from SED's school reference database (SEDREF) and integrates with multiple internal and external systems to generate and authenticate prompt eligible payments without adding cumbersome data use agreements. Should program administration be transferred to another state agency, the receiving agency would be required to spend funds to build a claims processing and payment system, leading to gaps and delays in payments to public and non-public schools needed to meet the critical nutrition needs of their students.

SED currently transfers \$750,000 in state funding annually to Agriculture & Markets to develop the state farm to school initiatives and collaborates with Agriculture & Markets on the 30% NYS Initiative and administration of Farm to School NYS Grants to schools. Schools' participation in farm-to-school programs is voluntary and is not a requirement for participation in federal CNPs.

Another concern is the Executive Budget proposal that would provide authorization to waive late building final cost reports and transportation contract penalties. Overall this is a very welcome change and has been a longtime Regents priority proposal. However, the concern is that it would repay districts only after \$288 million in old claims are first repaid and fails to include any funds for these claims. Without funding appropriated for these claims, districts will never receive these funds.

Additionally, the Executive Budget proposes creating a temporary professional permit allowing applicants to be employed as teachers or other school professionals in a public school, under the appropriate supervision of a certificate holder in the same profession, while their certification status is pending approval from the Department. Although the proposal requires applicants to submit a “written attestation under penalty of perjury” that they have met all requirements for certification, many applicants believe they have met the requirements when they have not done so.

This could mean that, under this proposal, a candidate who is unqualified to teach would be able to continue to teach for a potentially lengthy period of time, resulting in many students having teachers who are not qualified to teach. The proposal states that the temporary permit would expire in one year, upon issuing a certificate or upon notice that their certificate application is disapproved. For many candidates, their permit will expire in less than one year when their application is disapproved. This situation likely places school districts in the very difficult position of finding an educator in the middle of the school year and disrupting student learning.

This proposal would also create a new type of certificate, which adds another layer of complication to the certification process and will surely lead to increased questions from applicants. This would increase the workload of the Office of Teaching Initiatives (OTI) staff and take them away from other activities, such as processing certificate applications. IT staff would have to spend a significant amount of time building the temporary permit in the TEACH system, preventing them from continually improving the functionality of TEACH to streamline the processing of certificate applications. In 2021, OTI staff disapproved over 29,100 teacher certification applications, as these applicants did not meet certification requirements.

Finally, the Executive Budget proposes allowing an individual holding an expired certificate, who has remained otherwise qualified to hold such certificate, to be employed in a teaching capacity or other professional capacity in a public school upon notification to the Commissioner and payment of the applicable certificate fees. This provision would expire and be deemed repealed on June 30, 2024. This proposal does not require the individual to have met any of the requirements for the next level certificate nor state when the individual needs to obtain the next level certificate (e.g., holds an Initial certificate and applies for the next level Professional certificate). Section 401(2) of the State Administrative Procedures Act (SAPA) already ensures that individuals with expiring certificates can maintain their certification status. For example, educators who hold an expiring Initial certificate and apply for the Professional certificate on or before their Initial certificate’s expiration date would continue to be certified under this statute. OTI staff also expedites applications of individuals who apply for a Professional certificate and have an Initial certificate expiring within one month. Staff consistently review these applications before the expiration date of the Initial certificate.

The Department also requests that the Legislature support additional investments for critical initiatives to further ensure equity for all. Below are some examples of the requests as a complete list can be found on our website here: [2022-2023 Non-State Aid Budget and Legislative Priorities \(nysed.gov\)](https://www.nysed.gov/2022-2023-Non-State-Aid-Budget-and-Legislative-Priorities).

First, to support equity and access to Departmental information, publications, and guidance for all New Yorkers, \$1.6 million is being requested to increase the capacity for translation of materials. Funding for this under resourced, but critically important, service will increase the ability of parents and students who do not speak English as their primary language to fully engage in the larger educational community.

The Department also requests \$5 million to increase the number of certified educators of color under the Teacher Opportunity Corps (TOC) II program. All students must have access to teachers who are trained to address their diverse learning needs, and the teaching workforce should be as diverse as the student population being served by our schools. Under this expansion, the Department projects to increase the number of current TOC II programs across the state from 17 to over 30 and increase the number of students served from 544 to up to 1,451.

The inflexible, unresponsive tuition rate-setting system for special education providers is threatening the financial viability of providers as well as the availability of services to students with disabilities. This is why the Regents seek \$1.25 million to design a new tuition rate-setting methodology for preschool and school-age special education providers. Further, creating a statutory index to provide an annual funding increase commensurate with the growth in General Support for Public Schools would ensure parity across all providers and offer equity in funding for all students with disabilities. While the Executive Budget states rates will be administratively allowed to grow by 11% in the 2022-23 school year, this would only address a single school year and does not address fundamental, structural issues with the methodology.

Finally, the Department asks you to restore the \$20 million cut to public library construction and provide an additional \$11 million per the Regents' request. Public libraries need to have the capacity to accommodate new technologies and provide the knowledge resources New Yorkers need to be successful in an information-driven global environment. This additional capital funding is needed to allow public libraries to continue to upgrade and modernize their facilities.

Our number one concern continues to be the physical and mental health, safety, and well-being of the children and adults in our schools. Before I end my testimony, I want to thank our staff, who work so hard every day on behalf of students and districts across New York. Thank you, and I look forward to your questions and providing additional information.