



THE 853 COALITION

*NYS COALITION OF 853 SCHOOLS*  
*Testimony Presented By: John Lopez, President*

Before the:  
ASSEMBLY WAYS AND MEANS & SENATE FINANCE COMMITTEES  
Joint Legislative Budget Hearing On Elementary and Secondary Education  
SFY 2024-2025

Wednesday, February 1, 2024

Thank you for the opportunity to address you today. My name is John Lopez, I am the President of the New York State Coalition of 853 Schools (The Coalition), as well as the Executive Director of Devereux Advanced Behavioral Health's New York Center.

The Coalition represents approved, private, non-profit, school age special education schools, otherwise known as "853 schools." Our schools serve a diverse population of children involved in the foster care, juvenile justice and special education systems, from children with emotional and behavioral issues to children with developmental challenges. Our students are as young as 3 years old with early intervention to young adults, up to 22 years old.

It is important to note that our students are public school students with needs are unable to be met directly by the public school district of residence.

**SUPPORT FOR STUDENTS WITH DISABILITIES IN 853 SCHOOLS**

To begin, I would like to express our membership's appreciation for the legislature's long-standing support of our schools. While the funding for our schools is provided by the state outside of the budget process through an administrative rate process called the tuition rate methodology, it is because of the legislature's support that we have seen that students with disabilities educated in 853 schools have been supported on par with their peers attending public schools.

The Coalition advocates for continued investments in our students with disabilities on par with those provided to their peers in district schools, so we can deliver the educational opportunity

The New York State Coalition of 853 Schools

1 Steuben Place | Albany, NY 12207 | 518.453.1160 | [www.853coalition.org](http://www.853coalition.org)

our students deserve.

### **TUITION RATE METHODOLOGY REFORM**

One-time investments will not strengthen the fiscal viability of our schools, comprehensive tuition rate methodology reform and a commitment to continued growth that demonstrates a commitment to all public school students with disabilities, whether they attend a district school or an 853 school.

Our Coalition has long advocated for reforms to the special education tuition rate methodology, which is currently unable to appropriately support the education and related services our students are entitled to and deserve.

We are thrilled to see Governor Hochul include additional funding in her Executive Budget proposal for the State Education Department to study and design a new rate-setting methodology. The Coalition fully supports the inclusion of the \$1.4 million in the enacted budget and the Governor's commitment to reforming the methodology.

### **INTERIM PLUS RATES**

Again thanks to support from the Legislature, we have seen the administration authorize interim plus rates, which allows our programs who do not have a current school year rate issued—due either to backlogs at SED/DOB or outstanding waiver requests (identification of additional costs beyond those supported by the current methodology)—to receive growth in those rates in the meantime.

However, though growth has been provided over multiple years (11% in 2022-23, and 6.25% in 2023-24), the growth is not compounded for those programs without current prospective rates (historically anywhere between 80 and 100 schools at a given time), but applied for one year only. For these schools, this means that the 11% that was included in their previous interim rate calculation was dropped out before the 6.25% was added. Essentially, instead of seeing a current year rate that is 6.25% higher than last year, they are seeing an approximate reduction in their rate of almost 5%.

It is hard to imagine that the intent behind the historic investments was a rate reduction.

It is critical that we address this issue, as a number of our programs will face another potential rate reduction in the upcoming school year, as we anticipate rate growth will be below the 6.25%

provided last year.

Until we have meaningful tuition rate methodology reform that eliminates the need for waivers, we must see interim plus rates that allow for all of the growth to be included in the rates, so that the investments in our students may be fully realized.

## **WORKFORCE**

Like many other sectors, our schools are facing significant recruitment and retention challenges. The current tuition rate methodology does not support our schools in compensating our teachers and staff at the same or similar level as public school districts.

Our members report issues across the board in hiring appropriately certified teachers, but a number indicate significant issues specifically in recruiting special education teachers, math and science teachers and certified teaching assistants. A number of our providers last year, reported vacancy rates among their teachers nearing or over 25%, and vacancy rates among teaching assistants over 40%.

We must ensure that initiatives to address the school workforce crisis include 853 settings. This will ensure that students unable to be served directly by the public school district of residence, who are placed in 853 schools based on their needs, have equitable access to quality teachers.

## **FEDERAL PAYCHECK PROTECTION (PPP)**

The Paycheck Protection Program (PPP) was a lifeline in helping programs to ensure that they could remain operational despite the uncertainty around them due to the pandemic. Unfortunately, the state is treating the PPP finding as offsetting revenue in the year in which the loan is forgiven for our programs. As a result, schools that accepted these funds will now be penalized through their state-set rates--their rates will be significantly diminished.

Due to language included in the 2020-21 Enacted Budget, the special education sector is the only sector where PPP funding is applied in this manner. While the budget language addressed the negative impact on future rates would not be reduced as a result of the funding, the years in which loan forgiveness was applied would be negatively impacted, with the state recouping those dollars that were intended to sustain programs.

We must ensure that special education providers are not punished for accepting funding meant to sustain their operations. We ask for your assistance in meeting with us to examine solutions

to this critically important issue.

## **CONCLUSION**

Once again, thank you for your support of our students, families, and staff. Your advocacy remains critical today. We look forward to working with you to advance proposals in this year's budget that allow for full investment in our students' needs. Thank you.