



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 2025-2026

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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 that are unable to be met directly by the public school district of residence.

SUPPORT FOR STUDENTS WITH DISABILITIES IN 853 SCHOOLS

We appreciate the support that the Regents, SED, the Governor and the Legislature have demonstrated for students with disabilities over the last several years in providing investments in our schools so we can deliver educational opportunity to our students deserve. The Coalition advocates for continued and predictable rate growth through the administrative rate process called the tuition rate methodology. One-time investments will not strengthen the fiscal viability of our schools. The Coalition supports the Board of Regents recommendation to provide annual growth to special education schools that reflects the year-to-year increases in costs of operating programming. The proposal would align the growth factor in the tuition rate methodology with the Consumer price index, preliminary estimated at 3.1% for the upcoming fiscal year.

The New York State Coalition of 853 Schools

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TUITION RATE METHODOLOGY REFORM

The Coalition has long advocated for reforms to the special education tuition rate methodology. We are thrilled the Legislature and Governor have fully supported the study to design a new rate-setting methodology, and will continue to actively engage in the process with the State Education Department.

WORKFORCE

Highly qualified teachers and clinicians are essential for the success of students with disabilities. However, like all schools, 853 schools struggle with recruiting and retaining certified teachers and professional therapeutic clinicians. 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. The average reported vacancy rate among 853 schools for special education teachers was a staggering 36%, and the average vacancy rate for certified teaching assistants was 30%.

Staffing challenges at our schools impact the quality of services that our schools are able to provide to our students, and also the number of students we are able to serve. In a survey of 853 providers in the Fall of 2023, 50 classrooms that had been approved by the New York State Education Department and included in the provider's approval letter were reported to be closed due to lack of staffing. This leads many of our members to deny enrollment to students that they would otherwise serve and can lead students to remain on waitlists for services.

To address these challenges, the Coalition recommends investing \$15 million in the following three proposals:

- The Coalition recommends increasing the Excessive Teacher Turnover Prevention Program (ETTP) by \$5 million. Currently funded at \$8 million, the program provides financial support for our schools to increase the compensation for their certified teachers in recognition of their commitment to working with students with disabilities.
- Expand the list of staff who are eligible to receive enhanced compensation under the ETTP program. As noted above, currently ETTP supports certified teachers. However, schools are also facing significant shortages in teacher assistants, teacher aids and licensed clinicians (OT, PT, Speech, etc.). The Coalition recommends investing another \$5 million in ETTP targeted at these staff positions as they are critical to the successful implementation of student Individualized Education Plans (IEPs).
- The Department of Labor's Teacher Residency Program seeks to partially or fully fund master's degrees for teachers who are enrolled in a registered residency program. The program is designed to establish a pipeline of quality certified teachers. To further encourage teaching candidates to work in school-age approved special education schools, the Coalition recommends a targeted investment of \$5 million to support teacher residents specifically enrolled in programs within 853 schools.

These investments 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.

CAPITAL FUNDING

The current tuition rate methodology does not allow for appropriate reimbursement for the costs of maintenance and renovation projects in order to ensure safe, comfortable and accessible facilities for our students. The Executive Budget proposal includes continued and dedicated capital funding for other similar settings, like state operated schools, 4201 schools, and special act school districts. Unfortunately, no such dedicated funding stream exists to support 853 school buildings.

The Coalition recommends the creation of an 853 Schools Infrastructure Capital Investment Fund modeled after the Not-for-Profit Infrastructure Capital Investment Fund. The purpose of the fund would be to make investments in capital projects that improve the quality, efficiency, and accessibility school age special education schools. Targeted investments would include renovations or modification of existing educational or therapeutic spaces; improvements that would provide for sustainable, efficient spaces that would result in overall energy and cost savings; accessibility renovations; and health and safety projects. The Coalition recommends a state investment of \$60 million, which be distributed through a Request for Proposals (RFP) process administered by the Dormitory Authority of New York State (DASNY).

SUPPORTING FAPE-22

The Second Circuit Court of Appeals' decision in *A.R. v. Connecticut Board of Education* found that pursuant to state obligations under the Individuals with Disabilities Education Act (IDEA), school districts must to provide a "free appropriate public education" (FAPE) to resident students with disabilities until they reach the age of 22, unless they have obtained a high school diploma.

SED has indicated through an Opinion of Counsel, that the case applies to New York schools, meaning that public schools in New York are required provide special education and related services to resident students with disabilities until their 22nd birthday. The guidance recommended, but did not require that districts continue services through the end of the school year in which the student turns 22. However, New York State Law provides state funding to students only through the end of the school year in which the student turns 21.

Aligning state law to this court decision's requirements is critical to supporting districts as they serve students with disabilities. The Coalition supports the Board of Regents' State Aid proposal to provide \$65.4M in state support for the special education and related services to resident students with disabilities necessary for the continuation of a Free and Appropriate Education for the full school year in which they turn 22.

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 critical investments in this year's budget that will better assist us in delivering the education and related services our students are entitled to and deserve.

Thank you.