



# Advocates for Children of New York

Protecting every child's right to learn

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## **Testimony submitted for the Joint Legislative Public Hearing on 2014-2015 Executive Budget Proposal: Education**

**January 28, 2014**

Advocates for Children of New York (AFC) appreciates the opportunity to provide written testimony concerning the education proposals in the 2014-2015 Executive Budget. Since 1971, AFC has worked to promote access to the best education New York can provide for all students, especially students of color and students from low-income backgrounds. Every year, we help thousands of New York City parents and students navigate the education system. As a result, we are well-positioned to comment on these proposed changes.

### **1. Increase Funding for Universal Pre-K Statewide and Support New York City Plan for Rapid UPK Expansion**

AFC has long championed expanding high-quality, full-day pre-kindergarten programs to serve every child. By the time children enter kindergarten, children from lower socioeconomic backgrounds lag significantly behind children from higher socioeconomic backgrounds in academic skills. High-quality early childhood education programs are proven to help fill this gap. Rigorous research has shown that, compared to children left out of high-quality early childhood education programs, low-income children who participated were less likely to be retained a grade in school, be placed in a special education class, drop out of school, rely on public assistance, or be arrested for a violent crime. As a result, these programs result in substantial cost savings to schools, government, and taxpayers.

In 1997, the New York State Legislature passed legislation calling for half-day Universal Pre-Kindergarten (UPK) classes for all 4-year-old children over a five-year period. More than fifteen years later, our state is far from meeting the promise of universal pre-kindergarten. We are serving only around half of the four-year-olds in the state, and the vast majority of the children who participate in UPK have access only to half-day classes. Half-day classes do not meet the needs of working families and do not allow children to reap the benefits of high-quality full-day pre-kindergarten classes.

We applaud Governor Cuomo for calling to make full-day pre-kindergarten truly universal. We share his aspiration. However, the funding in the Executive Budget is woefully inadequate to achieve this goal. Governor Cuomo's plan includes only \$100 million for full-day pre-kindergarten for 2014-2015 for the entire state. Far from declaring "mission accomplished," the state must increase this investment.

**We ask the Legislature to invest at least \$225 million in state funding for 2014-2015 to expand full-day UPK.**

In addition, Mayor de Blasio has a plan to expand UPK rapidly in NYC so that we can offer the program to every child. AFC gets calls from parents whose children are missing out. We are especially concerned about the number of preschoolers from immigrant homes and preschoolers living in temporary housing who enter kindergarten without having participated in a high-quality preschool program. Children have only one opportunity to go to preschool. With the harder Common Core standards and higher expectations for children at every grade level, we cannot afford to wait any longer. Mayor de Blasio's plan would create a dedicated funding stream to pay for pre-kindergarten. By generating new revenue, the plan would ensure that the city could make pre-kindergarten universal without diverting state funding that could be used for other important educational programs at a time when school districts around the state are struggling. Even if the Legislature invests \$225 million in full-day pre-kindergarten programs for the state for 2014-2015, this funding will not meet New York City's need to make pre-kindergarten universal. Because the Executive Budget does not include enough funding to provide a high-quality full-day pre-kindergarten program to every four-year-old child, we must support other funding plans to accomplish the goal of truly universal pre-kindergarten.

**We ask the Legislature to support Mayor de Blasio's plan to rapidly expand UPK in NYC.**

**2. Amend Preschool Special Education SEIT Reform Proposal**

Special Education Itinerant Teacher (SEIT) services allow special education teachers to work with preschoolers with disabilities in general education preschool classrooms, such as UPK or Head Start classes. SEIT services are essential to including preschoolers with disabilities in general education preschool classrooms and allowing them to benefit from UPK and other preschool programs, so that they are not segregated in separate special education classes. Based on a child's Individualized Education Program (IEP), a SEIT comes to the child's preschool program for a set number of hours per week.

Currently, the state pays highly varying rates to different SEIT providers even within the same region. This reimbursement system is not logical or cost-efficient. AFC supports the proposal for the State Education Department to set regional rates for SEIT services. However, the state must ensure that the rates are adequate to provide high-quality services. In determining rates, the State Education Department should take into account the costs of supervision and training, in addition to the cost of paying certified special education teachers to travel to preschools to work with children with disabilities. The rates should also include an annual cost of living adjustment so that New York can recruit and retain qualified preschool teachers who get results for children.

We are concerned about the proposal to pay SEIT providers based on preschoolers' actual attendance. We appreciate the notion that taxpayers should pay only for services actually provided. However, we must recognize the reality that all preschoolers, and particularly preschoolers with disabilities, have absences from preschool. To accept an assignment, a SEIT must agree to provide services at set times on certain days each week. If a SEIT travels to a

Head Start center or a UPK class and finds that a child is absent, the SEIT cannot then accept an alternative assignment for that day. We do not dock public school teachers' pay when their students are absent. We are concerned that this proposal provides an incentive for SEITs to take cases where children are more likely to have stellar attendance, leaving behind children with more significant disabilities or health conditions and children living in foster care or homeless shelters. We would suggest a compromise such as partial payment when a child is absent.

We oppose the proposal to allow NYC to set its own rates that are equal to or lower than the regional rate set by the state for NYC. The purpose of the regional rate proposal is to eliminate the variability of rates paid within a region. Why, then, would the state make an exception for NYC, allowing the city to pay SEIT providers at varying rates? This proposal would merely leave services to the lowest bidder in NYC, allowing large agencies that provide low-quality services to undercut the regional rate set by the State Education Department.

We are concerned about giving NYC the authority to set its own rates that are lower than the regional rate when NYC has not taken steps within its current authority to maximize efficiency in SEIT services. For example, state regulations permit a SEIT to be assigned to a group of children. Yet, NYC assigns individual SEITs to each child even if two children in the same preschool classroom both need a SEIT and could be served well together. We would suggest that NYC implement the regional rate and work on reforming the SEIT assignment process before the state allows it to pay providers less than the regional rate.

We are particularly concerned given the aftermath of NYC's RFP for related service providers. A couple of years ago, the NYC DOE put out an RFP for related service providers, such as speech therapists and counselors. The DOE created several tiers of related service providers, and the DOE attempts to assign a lower-cost first-tier provider before assigning a provider from a lower tier. Unfortunately, we have received complaints from parents about the quality of services from the first-tier agencies, which include mega-agencies with large numbers of poorly supervised providers. We have also heard from parents that, under the new RFP, the DOE has been unable to find providers to go to preschools in certain low-income neighborhoods.

At a time when the city and state are looking to expand Universal Pre-Kindergarten, SEIT services are essential.

**We ask the Legislature to support setting regional SEIT rates, but oppose making an exception to allow NYC to undercut these rates.**

### **3. Reject Special Education Waiver**

AFC opposes the proposal to allow school districts, approved private schools, or boards of cooperative educational services to seek waivers from important protections contained in N.Y. Educ. Law §§ 4402 and 4403 and their implementing regulations for students with disabilities. Sections 4402 and 4403 contain important protections regarding the duties of school districts, including (1) provisions regarding IEP teams and annual and triennial reviews (which already include waiver provisions for individual students); (2) policies regarding functional behavior

assessments, behavior intervention plans, transitions and class sizes; and (3) notifications required before changes in placement, including placement in residential programs and interim alternate educational settings. All of these provisions provide important rights to students with special education needs. A waiver provision this broad will erode students' rights and have an adverse effect on children and youth with disabilities, particularly those who are low-income, and, ironically, may not even result in any cost savings.

In addition, the notice provision and process for approval for the waiver are inadequate. The notice provision does not provide for public notice of waiver requests, but leaves it up to the local school district, approved private school, or board of cooperative educational services to determine which parents will be impacted and to give them notice in a form to be determined by the Commissioner. This process leaves too much room for error and for districts to limit notice too severely, with parents who are in fact affected by the proposed waiver having no chance to submit their opposition. If any waiver proposal moves forward, notice should be made public as well as mailed to individual parents, so that all parents, parent advocates, and educators have an opportunity to comment on any proposed waiver. We are also concerned that the current proposal allows the Commissioner to approve a waiver proposal without approval from the Board of Regents, giving the Commissioner power to singlehandedly authorize school districts to remove important protections for students with disabilities.

**We urge the Legislature to reject the special education waiver proposal.**

#### **4. Support Increased Funding for After-School Programs**

After-school programs give students a safe, educational place to go after the school bell rings while many parents are working. These programs provide enrichment to students and ultimately result in positive educational and life outcomes.

We are pleased that the Governor's budget includes an increase in funding for after-school programs, totaling \$720 million over a five-year period. The increased investment includes \$160 million in 2015-2016. We urge the Legislature to invest at least \$9 million in 2014-2015 to build infrastructure to prepare for the expansion of after-school programs.

**We urge the Legislature to invest in after-school programs, starting with an investment in infrastructure this year.**

#### **5. Support Proposals to Address Discrimination**

AFC supports the Executive Budget proposal to authorize the Division of Human Rights to accept and respond to complaints from public school students. In 2012, AFC joined with other organizations to submit an amicus brief supporting the authority of the Division of Human Rights to accept these complaints. Unfortunately, the New York State Court of Appeals held that the law did not cover public school students. It is imperative that the Legislature amend the

law to clarify that public school students are protected against discrimination by the Division of Human Rights.

AFC also supports the Executive Budget proposal to amend the Dignity for All Students Act (DASA) to require school officials to determine whether an incident of harassment, bullying, or discrimination is part of a larger pattern of behavior against a particular class of people; to mandate reporting of such patterns to the State Education Department, State Police, and Division of Human Rights; and to require the State Education Department, upon receiving such a report, to develop intervention protocols for the school district to implement to end the harassment, bullying, or discrimination.

**We urge the Legislature to enact these proposals to address discrimination against public school students.**

## **6. Education Funding**

We also note our disappointment with the inadequate and inequitable funding levels for education in the Executive Budget. We urge the state to fulfill its commitment to our schools pursuant to the Campaign for Fiscal Equity lawsuit.

Thank you for the opportunity to submit written comments. If you have any questions, please do not hesitate to contact me or our Policy Coordinator, Randi Levine, at 212-822-9532 or [rlevine@advocatesforchildren.org](mailto:rlevine@advocatesforchildren.org).

Respectfully submitted,

A handwritten signature in cursive script that reads "Kim Sweet".

Kim Sweet  
Executive Director