

Testimony before the New York State Legislature
Joint Budget Hearing on the Governor's Executive Education Budget
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Submitted by
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On behalf of the Alliance of Long Island Agencies, Inc. (ALIA), Cerebral Palsy Associations of New York State (CP of NYS), the Developmental Disabilities Alliance of Western New York (DDAWNY), the InterAgency Council of Developmental Disabilities Agencies, Inc. (IAC), and the New York Association of Emerging and Multicultural Providers (NYAEMP).



Testimony

Good afternoon my name is Christopher Treiber and I am the Associate Executive Director of Children's Services for The Interagency Council of Developmental Disabilities Agencies, Inc. IAC my testimony here today is on behalf of a Statewide group of five associations - the Alliance of Long Island Agencies, Inc. (ALIA), Cerebral Palsy Associations of New York State (CP of NYS), the Developmental Disabilities Alliance of Western New York (DDAWNY), the InterAgency Council of Developmental Disabilities Agencies, Inc. (IAC), and the New York Association of Emerging and Multicultural Providers (NYAEMP). We have unified our effort to maintain and improve services and supports for children and adults with developmental disabilities and their families through over 250 not-for-profit providers serving hundreds of thousands of New Yorkers with I/DD, educating over 15,000 special education students and employing more than 120,000 dedicated professionals with combined annual operating budgets of nearly \$5.2 billion.

On behalf of the IAC and the five statewide associations of special education providers, I would like to thank the New York State Legislature for holding this public hearing and for the opportunity to provide testimony here today. Our membership includes more than 100 preschool special education and 853 state approved non-public schools. Our schools serve more than 15,000 children each day at hundreds of school sites across New York State. The children who attend our member preschool and school-age programs are **public school children**. They are the children who live in your neighborhood and would have gone to the local elementary school or pre-k for all had they not had a disability. They are the children of your constituents. Many of these children have been diagnosed with autism spectrum disorder, cerebral palsy or other developmental disabilities. They are placed in our education programs only after a determination has been made by a local Committee on Special Education or Committee on Preschool Special Education that there is no other appropriate educational setting available in a local public school. Therefore, there is no other educational option for these students. New York State has a legal responsibility under the federal IDEA to provide a "free and appropriate public education" (FAPE) to all children regardless of disability. Our programs help the state meet the federal mandate. Our 4410 and 853 schools serve many of New York States most vulnerable children, yet these schools have not been provided with funding necessary to meet this challenge

For the second straight year In the Education Overview of the Governor's Executive Budget, there is a statement "As budgets are statements of values and priorities, it is clear New York's highest priority

is the education of its children”. We see no evidence that children with developmental disabilities who attend the 4410 and 853 programs are a priority for New York State.

Since 2012, state aid to school districts for education has increased by 46%. However, during the same time period, 853 programs have received a 26% increase and our preschool special education providers have received a 10% increase in tuition. Our schools have suffered for many years without any tuition increases and only in the last few years have they received very small increases. This chart illustrates the freeze in the funding

Annual Tuition Growth Factor for 4410 and 853 Programs 2004 - 2019		
FY	Growth Factor	
2004-2005	2.70%	
2005-2006	3.40%	
2006-2007	3.90%	
2007-2008	4%	
2008-2009	3.40%	
TOTAL	17.40%	
2009-2010	0.00	
2010-2011	0.00	
2011-2012	0.00	
2012-2013	0.00	
FY	4410	853
2013-2014	0.00	3% Direct Care
2014-2015	0.00	3.80%
2015-2016	2%	4%
2016-2017	2%	4%
2017-2018	2%	4%
2018-2019	2%	3.4%
2019-2020	2%	3.6%
Total	10%	25.8%

Based on data from the NYSED Rate Setting Unit Website
http://www.oms.nysed.gov/rsu/Rates_Methodology/MethodLetters/home.html

InterAgency Council 2019

The impact of the growth freeze, and the limited tuition increases are threatening the fiscal viability of these critical programs. In the past five years 61 preschool special education programs have closed across New York State. 31 of them in New York City impacting thousands of children and forcing school districts to find new placements.

Imagine the public outcry if funding to public schools were frozen for 6 years or even 4. If children were sitting at home because there were no available public-school seats!

We are requesting that 853 and 4410 programs receive minimum tuition increases that are comparable to the increases provided in the FY 2021 enacted budget to school districts of 3.0%.

The lack of adequate funding is having a significant impact on our preschool and school-age provider's ability to hire and retain certified teachers and teacher assistants. Our schools are facing a dire staffing crisis that is having a significant impact on special education providers in New York State and the children they serve.

In order to document the impact this staffing crisis is having on our children we surveyed our membership in August of 2019 to determine an annual turnover rate for our preschool and school-age providers.

In our 853 schools - serving students with disabilities ages 5-21 with the highest needs in New York State

- The teacher turnover rate was 25%.
- Three 853 schools had turnover rates above 40%.
- The turnover rate for teacher assistants was 28%.
- One 853 school lost 41 teacher assistants in less than one year!

In our 4410 Preschool serving preschool students with developmental disabilities ages 3-5

- The turnover rate for 4410 Preschool Programs was 21%.
- Fifty percent of the IAC preschool programs had a turnover rate over 25%.
- The turnover rate for teacher assistants in our preschool programs was 23%.
- Three preschools had teacher assistant turnover rates above 40%
- One 4410 preschool lost 17 of their 28 teacher assistants in less than one year.

School-Age 853 program

Vacancy Rates

61% of our 853 schools reported having certified teacher vacancies and 77% of the schools reported having certified teacher assistant vacant positions.

The vacancy rates in our 853 programs increased dramatically from a low of 16% in 2016 to vacancy rates over 27% for the past two years for certified teacher positions. Certified Teacher Assistant vacancy rates have shown some improvement and have decreased to a rate of 15%.

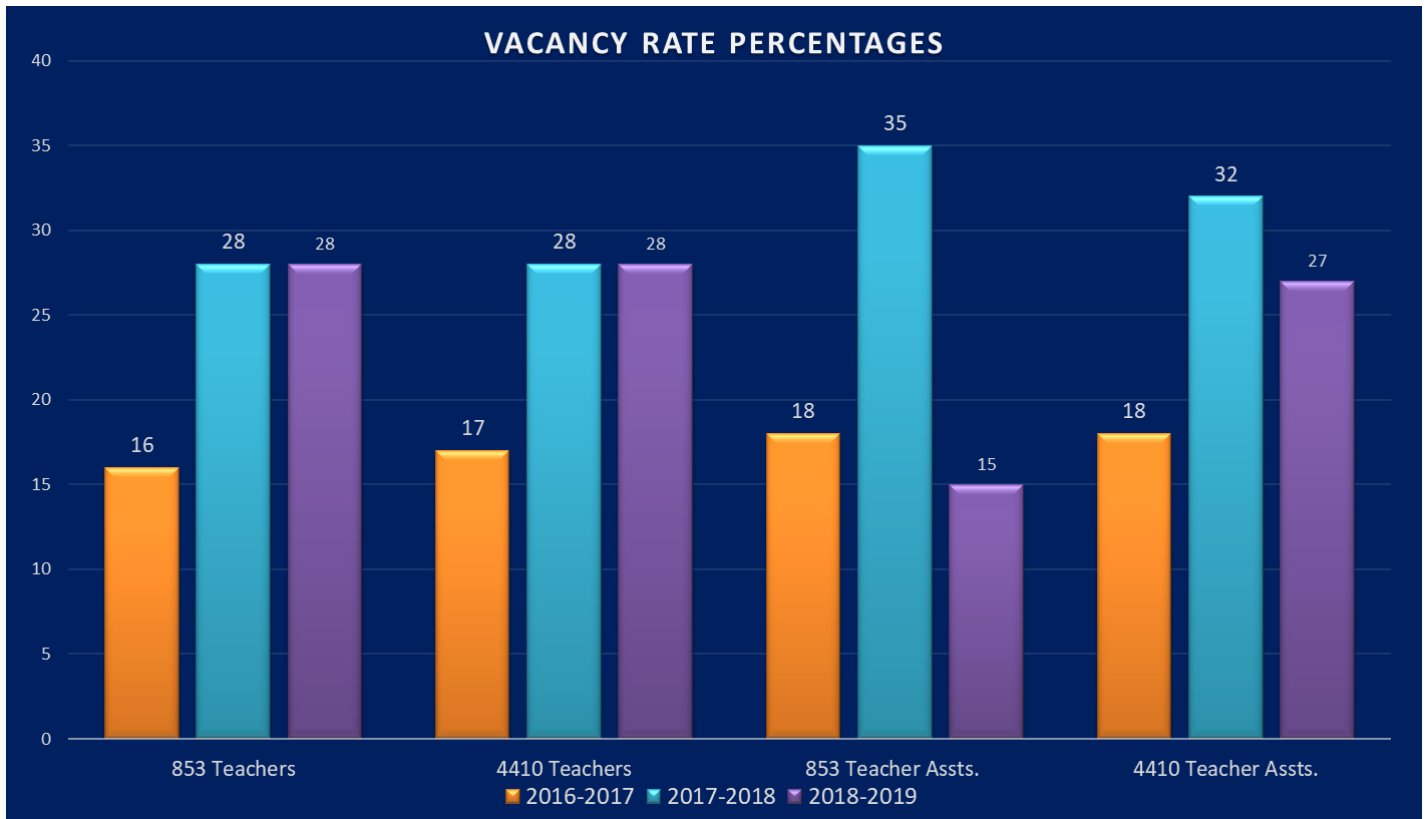
Preschool Special Education 4410 Programs

Vacancy Rates

68% of our 4410 preschools reported having certified teacher vacancies and 73% of the preschools reported having certified teacher assistant vacant positions.

The vacancy rates in our 4410 programs have also increased dramatically from 2016 from 17% to 28% in 2018 and remains exactly the same at 28% for the second year in a row for certified teacher positions. Based on the data provided by the 19 preschool programs that reported having certified teacher vacancies we have calculated that these programs alone have 100 vacant certified teacher positions. Certified Teacher Assistant vacancy rates have improved slightly from a high last year of 32% down to 27% this year but have not decreased anywhere near the low vacancy rate of 18% two years ago.

These new survey results are documenting what we have been warning our elected officials would happen if our special education programs continued to be severely underfunded. Vacancy rates stagnating above 27% for the past two school years for certified special education teachers are a very clear sign that our education providers are no longer able to recruit certified special education.



We know that these turnover and vacancy rates are reflective of 4410 and 853 programs statewide and reveal a system in crisis. The situation has become increasingly critical for some programs that have had to close classrooms and are unable to respond to increased regional need due to a lack of certified teachers. Many of our programs are currently operating classrooms utilizing program administrators and supervising teachers who have teaching certifications but should be performing administrative roles at the schools. Education Directors have told us that the majority of teaching staff that have left their schools have gone to work for local school districts many of whom have been aggressively recruiting staff who work for our 4410 and 853 programs. It is extremely difficult for any young child when their teacher leaves in the middle of the school year but for children with developmental disabilities this lack of appropriate transition can be heartbreaking and detrimental to their social and emotional well-being.

Board of Regents Non-State Aid Request

The New York State Board of Regents in their Non-State Aid Proposal call for the legislature to address the teacher shortages in Approved Private Schools serving students with disabilities and special act school districts. The Regents state that *“These teacher shortages are adversely impacting the recruitment and retention of qualified staff to serve students with disabilities who are placed in approved special education programs, including the approved private schools serving students with disabilities (853 Schools), Special Act School Districts, and approved private preschool Special Class and Special Class in an Integrated Setting programs. Teachers working in these schools earn on average 40% less in salary than comparable teaching staff in public school districts. The teacher shortage experienced in various regions, combined with the salary differential, has caused teacher recruitment and turnover to become a significant problem, eroding the ability of programs to maintain qualified faculty in schools serving some of the students with the greatest educational needs.”*

We support the 2020-21 Board of Regents Budget Request of \$4 million dollars in new state funding to:

1. Address Teacher Shortages in Approved Private Schools – 4 Million in new state funds:

- 2 Million in new Teacher Pipeline funding to be used as a competitive pilot for a “grow your own educator” The pilot would require the recruitment of as diverse pool of prospective teachers.
- 2 Million to support a loan forgiveness program for staff providing instruction and related services at 853 school, Special Act School Districts and private preschool Special Classes and Integrated Classes.

We have always recognized that there would never be parity with the school districts and 4410 and 853 programs in terms of teacher salaries but at one time, the salary differential was at least manageable and allowed providers to maintain staff. This situation has now drastically changed, and it is very clear that the school districts across New York State are able to pay teachers significantly more than our 4410 and 853 providers. Based on salary data that we received from the New York State Education Department we confirmed that school districts can pay their teachers on average \$30,000 dollars to \$45,000 dollars more than our approved preschool and school-age providers do. The school districts teacher salary is based on a 10-month school year while our 4410 and 853 schools are paying their teachers on average \$20,000 to \$40,000 dollars less based on a 12-month school year

The teaching staff in our schools are deeply caring and committed and professionals who work hard every single day to ensure that the children in our schools receive a free and appropriate education. When they leave our schools, it is not because they want to or that they are unhappy but because economically it offers a better life to their families. This chart “A Tale of Two Teachers” illustrates the dilemma faced by many of our current teachers if offered a position by a local school district.

A Tale of Two Teachers



- I teach in a 4410 or 853 State Approved Special Education program
- I am a certified special education teacher with 5 years experience
- I get paid \$51,000 dollars a year*
- I work 12 months a year
- I have to pay for my medical insurance and I have no pension.
- My average fringe benefit is worth 23 % of my annual salary*



- I teach in a public school Special Education program
- I am a certified special education teacher with 5 years experience
- I get paid \$87,000 dollars a year*
- I work 10 months a year
- I will get lifetime medical insurance and a full pension.
- My fringe benefit is worth is 63.89% of my annual salary*

*Data provided by the New York State Education Department

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We are requesting that the legislature help address the recruitment and retention crisis that our 4410 and 853 schools are experiencing by increasing the current Teacher Recruitment and Retention Funds. In additional we are requesting that a new separate fund be created by the legislature that would be for addressing the recruitment and retention of Certified Teacher Assistants.

Certified Teacher Assistants in our 4410 and 853 schools are not minimum wage workers yet many are paid minimum wage while teacher assistants in school district classrooms are paid considerably

more. Certified teacher assistants need to pass a state certification exam and take specialized courses before they can work in our classrooms. They are responsible for the lives of young children with significant developmental delays and fragile medical conditions.

4410 Preschools

The past two years the New York State Education Department has recommended 4% tuition increases for these schools but only 2% was approved. One of the reasons that DOB was not able to approve SED's recommended increases is the funding methodology itself. 4410 preschool services are reimbursed 40.5% by the counties, with the state picking up the balance of the cost. With the counties' tax cap equivalent to CPI growth (.6 and .8% for the past two years), approving 4% increases on 4410 tuition rates would have constituted nearly the entire allowable spending growth. We believe that New York State should re-evaluate the current funding methodology structure that requires the counties to pay 40.5% of preschool costs and consider capping the counties at current costs.

The Need for a New Tuition Rate-Setting Methodology

- We support the NYS Board of Regents goal to design a new tuition rate methodology.
- We support SED's initiative to eliminate rate reconciliation for the 2020-2021 school year and their goal of establishing a more predictable and timely tuition rate for 4410 and 853 providers.

Salary Parity Agreement In New York City - A Major Accomplishment but a Nightmare for 4410 preschool Special Education programs

While this agreement is a significant accomplishment for the teachers in the early childhood CBO's in NYC, we are reminding elected officials that the consequence of this agreement will have a devastating impact on our special education preschool programs and their ability to retain certified special education teachers. Early Childhood Special Education Teachers in 4410 programs are not included in this salary parity agreement and the result is that the majority of teachers in our schools are now the lowest paid early childhood teachers in NYC. We will remind these elected officials that based on the 2019 NYC Mayors Budget Report 4410 preschool special education providers educate 87% of all of the preschool students with IEP's in NYC but our teachers and programs have been

forgotten. The salary increases that will take place over the next two years will make it virtually impossible for our 4410 providers to retain certified teachers.

Certified teachers at early childhood education programs in NYC (with the exception of 4410 teachers) will receive the following salary increases over the next three years:

Increase Schedule	With Master's Degree	With Bachelor's Degree
10/1/19	\$53,581	\$48,372
10/1/20	\$62,295	\$55,651
10/1/21	\$68,652	\$61,070

We are calling on the New York State Legislature to work with elected officials in New York City to address this exclusion and to provide the funds to ensure that teaches in 4410 preschool special education programs receive the same pay raises as all other early childhood teachers in New York City.

We are submitting this testimony to alert the New York State to the serious impending crisis facing our special education providers and the significant impact it could have on the children with disabilities and families who depend on these critical services.

On behalf of our children and families we must ask why? Why did New York State believe that it was acceptable to provide no tuition increases to preschool special education providers for 6 years and no tuition increase for our 853 school-age programs for 4? Why did anyone think that there would be no consequences for this fiscal neglect?

The consequence of governments inadequate funding of 4410 and 853 schools is very clear:

- Our schools no longer have the ability to attract and retain certified special education teacher and teacher assistants.
- Children with the highest levels of special education needs are being taught by inexperienced and brand-new special education teachers. Any remaining experienced special educators are being aggressively recruited by the local school districts.
- The turnover and vacancy rates for certified special education teachers and Assistant teachers have skyrocketed.

- Special Education Integrated Classes (SCIS) have closed across NYS at an alarming rate.
- Our 4410 and 853 programs now operate with a sense of insecurity fearing that on any given day they may lose more teachers or teacher assistants. They are faced with the possibility of continued high teacher and teacher assistant vacancy rates and no viable options to fill those positions.
- Many of our programs are currently operating classrooms utilizing program administrators and supervising teachers who have teaching certifications but should be performing administrative roles at the schools. This means that there are no experienced educators to supervise and mentor the new teachers.
- In the past four years 61 preschool special education programs have closed state- wide – 31 of them in NYC alone.

Last week Advocates for Children of New York published a report entitled ***Waiting for a Seat - The Shortage of Preschool Special Education Class Seats in NYC.***?"

https://www.advocatesforchildren.org/sites/default/files/library/waiting_for_a_seat.pdf?pt=1

The report projects that New York City will need between 1,000 and 2,000 preschool special education seats in the next few months to prevent preschool students with disabilities from sitting at home. Is this a warning for the rest of New York State that what is happening in New York City will be seen across New York State?

The ultimate question for each elected official is: How will they answer to the mother of a three-year-old who was recently diagnosed with autism and cannot find a preschool special education seat that their child desperately needs. We have been warning that this crisis was on the horizon. We believe it has now arrived. Our Education providers are struggling with the question of how much longer they can sustain their education programs given the significant fiscal losses and their inability to recruit and retain certified teachers and teacher assistants. We have a number of large preschool special education providers who serve more than 500 children who are debating the answer to this question. What would happen if one of these large providers made a decision to close their program? Imagine this crisis in addition to the projected regional need. Is New York City or New York State's local school districts prepared to find preschool special education seats for all of these children?

We would like to know why children who attend preschool special education programs and 853 programs are not given the same financial resources as children who attend their local public schools when their parents pay the same taxes! Why are the children who attend these special schools not afforded the same rights as a child in a public school to a certified special education teacher? New York State will be held accountable by the children and families who depend on these critical services and will need to provide answers to these questions.