



**TESTIMONY**  
**Joint Legislative Hearing of the New York State**

**ASSEMBLY WAYS AND MEANS COMMITTEE**  
**&**  
**SENATE FINANCE COMMITTEE**

**On Executive Budget Proposals for Education**  
**SFY 2022-2023**

January 26, 2022. The Coalition to Support Birth<sup>2</sup>Five Special Education (Birth<sup>2</sup>Five) is comprised of preschool special education programs (4410) in the Capital Region, Central NY, and Western NY.

We appreciate the opportunity to submit testimony regarding the proposals included in the 2022-23 SFY Executive budget related to lower education and more specifically special education.

Birth<sup>2</sup>Five would first like to thank the Legislature for its support of tuition rate growth parity. By unanimously approving legislation last year you voiced your support for equitable funding for all students. While the legislation was ultimately vetoed, we are encouraged that Governor Hochul's executive budget directs an 11 % COLA – trend factor – to the tuition rates of school age and preschool special education providers.

While this investment appears large it will only truly support the schools if accompanied by a commitment to comprehensive tuition rate methodology reforms and an ongoing commitment to growth on par with school aid growth.

Birth<sup>2</sup>Five recommends the following be included in the enacted budget to ensure that the state's investments actually impact programs.

**Establish a Hold Harmless for Enrollment Reductions due to COVID-19 and Workforce Challenges**

In the 2021-22 enacted budget, language was included to allow for the tuition rate of 4410 programs be held harmless for enrollment losses of 5% or greater for the 2020-21 (SY) – the

initial year of the pandemic. This acknowledged the impact of the pandemic on the system's ability to provide timely special education evaluations and referrals.

However, the 2021-22 tuition rate methodology issued by the Division of the Budget only allowed for a hold harmless for enrollment losses of 7% or greater. By increasing the range, some schools who have experienced losses will not be held harmless. Instead, they will see their tuition rate reduced for no fault of their own.

**We recommend that the Legislature include language to hold harmless 2021-22 tuition rates for enrollment losses of 5% or more.**

### Eliminate Reconciliation and Commit to Reforming the Tuition Rate Methodology

The tuition rate methodology's reconciliation process fails to accommodate annual fluctuations on enrollment and spending. As such, any reduction negatively impacts tuition rates in perpetuity. When program's tuition rate is reduced on reconciliation due to programmatic change a 4410 is allowed to seek a waiver. However, because so many 4410s seek waivers annually the New York State Education Department is unable to keep up with requests. Many programs wait years for a decision on a single waiver. As they wait, they are unable to receive the tuition rate they need to support their program. This constant underfunding places many of our preschool special education programs at risk.

Ending the reconciliation process for a period of 5 years whereby the State commits to reforming the tuition rate methodology will provide our programs short term relief as a new methodology is developed and implemented.

**We recommend that the Legislature include the following in the enacted budget:**

- 1. language to eliminate the reconciliation process for 5 years;**
- 2. support NYSED's proposal for \$1.25 million to model new tuition rate methodology;**
- 3. and commit to stakeholder engagement in the development of a new tuition rate methodology with concrete deliverables on reforms within 5 Years.**

### Conclusion

Thank you for the opportunity to submit testimony. Please reach out to us should you have questions regarding our recommendations for the 2022-23 state enacted budget.