

**Testimony to the SFY2023 Joint Legislative Budget Hearing on Education  
Submitted by Brigit Hurley, Chief Program Officer, The Children's Agenda  
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Thank you for the opportunity to share The Children's Agenda's concerns about New York State's Preschool Special Education program.

Children from 3 to 5 years old with developmental delays or disabilities and their families have a right to preschool special education services that is established in federal law through the Individuals with Disabilities Education Act (IDEA) – Part B. Federal law requires these services to be delivered in a timely manner according to a plan developed by developmental and educational experts along with the family. However, families across New York routinely face illegal waitlists and delays for services.

The FY23 enacted budget should include investments and reforms to increase provider capacity and eliminate disparities based on race, income, geography or disability. The Children's Agenda recommends that New York State take the following steps toward bringing the preschool special education system in line with federal timelines and mandates, in order to best support young children's developmental progress:

1. Provide an 11% increase for preschool special education programs and school-age classrooms serving children with significant disabilities (4410 and 853 classrooms) for the 2022-23 school year, as Governor Hochul has committed to doing through administrative action.
2. Ensure sufficient long-term resources for preschool special education and reduce disparities by allocating \$1.72 million to design a new preschool special education tuition rate-setting methodology and discontinuing the annual reconciliation process to provide interim relief while the rate-setting methodology is redesigned, allowing providers the flexibility to manage resources across a five-year period, as recommended by the Board of Regents.

**Early childhood developmental services and supports can change a child's life, and it can benefit our communities:** Abundant research points to the role that specialized services and instruction can play in reducing the need for more expensive special education services later in life.<sup>1</sup> The architecture of a young child's brain is responsive and highly resilient, and some of its most dramatic changes take place during the first few years of life. Our public policies should align with this evidence pointing to the importance of effective interventions during this time of life.<sup>2</sup>

**Lifting barriers to accessing preschool special education services:** There are a number of key steps in the process of determining eligibility and developing a service plan for eligible children, and barriers along the way can disrupt or delay the delivery of services and/or instruction. Preschool children with developmental concerns are identified by adults such as Early Intervention providers, pediatricians, child care providers, and parents, and are

<sup>1</sup> [https://www.acf.hhs.gov/sites/default/files/documents/e.cd/policy\\_statement\\_on\\_inclusion\\_of\\_children\\_with\\_disabilities\\_in\\_early.pdf](https://www.acf.hhs.gov/sites/default/files/documents/e.cd/policy_statement_on_inclusion_of_children_with_disabilities_in_early.pdf)

<sup>2</sup> [https://www.acf.hhs.gov/sites/default/files/documents/occ/early\\_care\\_and\\_education\\_programs\\_research\\_508.pdf](https://www.acf.hhs.gov/sites/default/files/documents/occ/early_care_and_education_programs_research_508.pdf)

referred to the CPSE system for an evaluation. If a child qualifies for services, a professional team will create a specialized plan (the Individualized Education Program (IEP) to address the identified challenges. The law requires that children receive services in the least restrictive environment that is appropriate to meet their needs. Less restrictive classrooms allow children to learn alongside other children who do not have special needs, which research shows is a benefit to all children in the classroom.<sup>3</sup>

The barriers to timely delivery of evaluations, services and/or instruction are common throughout New York State. Barriers to timely, successful evaluation and, if warranted, IEP development and implementation present risks to the health and well-being of the student and of our communities. There are also challenges for children transitioning from Early Intervention to preschool special education.

**Evidence of the need for reform:** Two recent reports demonstrate concerning issues in New York's support for young children with disabilities.

- A report issued by Advocates for Children of NY last week revealed shortages and racial disparities in New York City's CPSE system, reporting that in the City's preschool special education system, Black and Asian students are less likely to be identified for services than their white peers. Black and Latino children determined to be in need of services were more likely than their white peers to be placed in a segregated classroom that includes only children with disabilities. Children wait for classrooms seats and roughly a third of all preschool children with disabilities were not receiving their mandated services.<sup>4</sup>
- In an analysis conducted by Help Me Grow Long Island (HMGLI) in November 2021 regarding families who received navigation support in seeking developmental evaluations for their preschool children, only 36% were successful in securing an evaluation. All of the evaluated children were found eligible for preschool special education services. This supports the notion that some of the families who sought services but dropped out due to paperwork and other barriers had children who would have qualified and benefited from therapies and special instruction.<sup>5</sup>

We know that pre-COVID program and classroom closures were resulting in delays in providing preschool special education services and instruction. Over the past 5 years, more than 60 preschool special education programs around the State have closed, including more than 30 in New York City. Similar reductions in seats occurred in western NY and the Finger Lakes area. An already precarious situation was exacerbated by the pandemic. In the Rochester-Monroe County area, wait lists for CPSE classroom seats are increasing. All classrooms are full and have waitlists. Some even have waitlists for the 2022-23 school year. There is a longstanding unmet need for bilingual evaluators and teachers of the deaf. Many programs have pointed to the State's insufficient reimbursement rate, making it hard for them to recruit and retain special education teachers and providers and run high-quality programs. Not only are inadequate reimbursement rates forcing programs to close, these low rates are also inhibiting programs' ability to open the additional classes needed. Early childhood supports for

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<sup>3</sup> [https://www.acf.hhs.gov/sites/default/files/documents/ecd/policy\\_statement\\_on\\_inclusion\\_of\\_children\\_with\\_disabilities\\_in\\_early.pdf](https://www.acf.hhs.gov/sites/default/files/documents/ecd/policy_statement_on_inclusion_of_children_with_disabilities_in_early.pdf)

<sup>4</sup> [https://www.advocatesforchildren.org/sites/default/files/library/not\\_yet\\_for\\_all\\_psse\\_data\\_report.pdf?pt=1](https://www.advocatesforchildren.org/sites/default/files/library/not_yet_for_all_psse_data_report.pdf?pt=1)

<sup>5</sup> <https://docsfortots.org/hmg-li-report-centering-the-family-experience/>

vulnerable children should be more accessible than ever given the isolation caused by the pandemic. It will take a number of years to recover from the gaps in services and the losses that children have experienced.

New York must increase reimbursement rates for SFY23 and reform the tuition rate-setting methodology to institutionalize adequate support for these vital investments in New York State's future.