



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

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**Written Testimony of Commissioner Dr. Betty A. Rosa
New York State Education Department
Joint Legislative Higher Education Budget February 7, 2022**

Good afternoon, Chairs Krueger, Weinstein, Stavisky and Glick, and members of the Senate and Assembly here today. My name is Dr. Betty A. Rosa, and I am the Commissioner of Education. I am joined by Executive Deputy Commissioner Sharon Cates-Williams, Senior Deputy Commissioner for Education Policy Dr. James N. Baldwin, Chief Financial Officer Phyllis Morris, Deputy Commissioner of the Office of the Professions Sarah Benson, and Deputy Commissioner of the Office of Higher Education Dr. William Murphy. And I want to acknowledge and thank Chancellor Young and our Board of Regents who are watching today.

The Regents and the Department have two strategic priorities that drive everything we do. The first is our commitment to creating equity for all students to prepare for college, careers, and civic engagement – regardless of background, zip code, first language, or ability. Our second strategic priority is to fundamentally change how we approach our mission, shifting our focus from compliance to support, as part of the statewide teaching and learning community.

The severe spending and hiring constraints imposed in April 2020 worsened the impact of a decades-long hiring freeze on the Department's capacity to achieve these priorities.

To illustrate this point, the Department's Full-Time Equivalent (FTE) level decreased from 3,200 in 2008-09 to 2,500 in 2021-22, a decrease of 700 FTEs or 22%. During this same period, the Department's responsibilities grew exponentially, without funding for needed staff. In response to the Division of the Budget's October 2021 "call letter," the Department requested funding for 302 positions to rebuild our staffing capacity.

We are pleased the Executive Budget includes funding for 134 of these positions. These include:

- \$97,210 for added staff in the Department's Office of Access, Equity & Community Engagement Services (OAECES) to administer the "Enhancing Supports and Services for Postsecondary Success of Student with Disabilities and Foster Youth" programs; and
- an appropriation increase of \$7.24 million in the Professions Revenue Fund, including ending the \$2.8 million annual sweep of fee revenues into the General Fund, which will allow the Office of the Professions to hire 59 additional much-needed staff.

However, additional funding is required to meet the Department's needs in critical areas – such as staff to support all areas of the Department in information technology, human resources, communications, and the Office of Counsel, among others. Also, an administrative set-aside of funds is imperative to support the success of any newly created programs and mandates.

There are several proposals in the Executive Budget we are pleased with, including:

- expanding the TAP program to part-time students and restoring TAP for incarcerated individuals;
- funding increases for the Department's access and opportunity programs, which include \$24.2 million for the Liberty Partnerships Program, \$46.9 million for the Higher Education Opportunities Program (HEOP), \$20.9 million for the Science and Technology Entry Program (STEP), \$15.8 million for the Collegiate Science and Technology Entry Program (CSTEP), and \$7.92 million for Foster Youth; and
- an increase of \$700,000 to expand the Readers Aid program (\$1 million total).

However, there are Executive proposals of concern that need your thoughtful consideration.

First, we strongly oppose transferring oversight of 42 health care professions from the Department's Office of the Professions (OP) to the Department of Health (DOH). OP ensures competent professional practice, aligning the State's systems of educational preparation, licensure, and professional oversight under the single umbrella of the Board of Regents, whose members are elected by the Legislature. Allowing the agency that regulates health care facilities to also oversee the licensed practitioners who work therein presents an inherent conflict that is not in the public interest. Instead, full and consistent funding and staffing of OP would enable us to be more responsive to the needs of our customers, their employers, and the public.

The Department has recently revitalized its outreach and partnership efforts to ensure competent practitioners and patient safety, while mindful of the stresses of workforce shortages, urgent health care facility needs, and other pressures. Our OP staff continues to partner with the Governor's Office, DOH, professional associations, and other stakeholders to respond to the COVID-19 pandemic. We have worked closely with schools to provide needed flexibility while maintaining the quality of clinical preparation programs, provided prompt information about Executive Orders, answered practice questions for licensees, and expedited licensure in high-need professions to meet critical demands to the greatest extent possible in the face of chronic understaffing.

While OP is funded entirely by the revenue it collects, historically the budget has restricted OP's authority to spend this revenue on essential functions. Last year, the Executive-imposed agency hiring freeze worsened this situation at the height of the pandemic. As a result, OP staffing dropped to 15% below its budget staffing level (and 25% below the staffing level that its revenue would support) at a time when its health and safety-related services were in greatest demand.

In the enacted 2022-23 State Budget, OP seeks the authority to continue its system modernization efforts and spend the revenue it collects on essential OP functions, without annual revenue sweeps that divert these funds for general state fund purposes. Transferring the oversight of the health care professions to DOH would also undermine the Legislature's multi-year, multi-million-dollar investment in technology modernization solutions for the 40-year-old COBOL-based licensing system, which is not transferable to DOH. It would be far more impactful and efficient to follow through on that investment by utilizing the Department's long-standing experience and independence to better protect the public.

Second, the Department urges a thoughtful and thorough review before considering the Executive's proposal to join the Interstate Medical and Nurse Licensure Compacts. While a Compact typically offers advantages for specific disciplines, they require member states to adopt the same standards in law without modification. Therefore, the Board of Regents has directed staff to carefully analyze how this one-size-fits-all solution would apply to each of the professions which OP oversees.

The Nursing Compact restricts multi-state licensure to applicants with no felony convictions and the Interstate Medical Compact has requirements beyond what is currently required for NYS applicants – such as possession of a social security number. Therefore, the Department would need to continue existing licensure pathways to ensure the eligible of applicants who may not qualify for Compact licensure, including foreign and Deferred Action for Childhood Arrivals (DACA) applicants. Creating additional pathways and ITS infrastructure at this time would significantly slow progress on our modernization effort and may inadvertently delay, rather than speed up, the licensure process for out-of-state licensees seeking NYS licensure.

In the interim, and to allow for careful consideration and review of the Compact, the Department will roll out a new “Fast Track” pathway for many out-of-state licensed nurses and physicians. This will allow OP to speed up the processing of applications from qualified out-of-state professionals while maintain New York State's standards for licensure and practice.

We again oppose the Executive's proposal to allow any new curriculum or program of study offered by certain public and not-for-profit colleges to be approved by the governing body of such college or university 45 days after submitting a completed application for program approval. Like other proposals of the Executive that would assume mere completion of an application should lead to licensure, this proposal weakens protection currently provided to the public. If the goal is to expedite these and other reviews of applications, the answer lies in appropriately and consistently supplying resources to do so, not sacrificing protection afforded to the public.

Our Office of College and University Evaluation (OCUE) offers an independent and objective review of degree programs, ensuring program integrity and alignment with standards. This is the single line of defense that protects the educational and financial interests of students and the investment of taxpayer dollars in financial aid programs.

OCUE currently conducts program reviews in a timely manner, with nearly 80% of programs (1,052 proposals in 2021) approved within 30 days or less, with the average proposal review time being 21 days. Further, 37% of these programs (498 proposals in 2021) are approved in under 10 days, and 96% of programs are approved in under 60 days. Lengthier timelines for some proposals are often due to the complexity of a particular proposal, incomplete applications, or extended response times from institutions of higher education (IHE) to questions posed by the Department. For example, the average number of days it took IHEs to provide answers and responses back to our OCUE staff was 13 days, with the longest response time lasting 127 days.

Institutions may consider their application complete upon submission – but often they are not. The Department can only make this determination through its normal review processes. If the aim is to secure quick review of proposed programs, the answer is straightforward: provide the needed resources without arbitrary constraints that weaken the Department's ability to serve and protect the public.

Imagine the havoc that would ensue if, once enrolled in a program, a student is told that they cannot continue because the program is deficient. While the Governor's proposal would provide a refund, money does not compensate students for their time and effort. Additionally, cancellation of a program has widespread implications for the variety of financial aid programs a student may have accessed to enroll in the program.

On the positive side, the Division of Budget (DOB) has approved the Department's request to allocate \$8.5 million to update OCUE's technology and build an online system for evaluating and approving college and university programs. The funding for the project comes from a \$100 million appropriation included in the 2021-22 enacted budget for agency-related technology improvement projects. This funding will be used to migrate the Inventory of Registered Programs mainframe database to a modern relational database and build a new online system for the OCUE/OP program approval review process. This system will include internal and external user interfaces to address current inefficiencies in program approval and enhance transparency. The new system will also provide a shared online space for SED staff reviewers and IHEs to communicate about program evaluations and maintain changes and other supplementary evaluation materials.

This will streamline the program approval process, create internal efficiencies, and provide cost savings through resource-sharing and bundling with software companies. The modernization project is slated to be completed by 2025. Continued maintenance and updating of those systems and resources will ensure thorough and quick program reviews that will ensure quality in higher education programs and protect our students and the public for the foreseeable future.

Finally, we request that the Legislature provide additional investments to enhance supports and services for students with disabilities to ensure success in college and further equity for all. While the Executive Budget supports the current \$2 million allocation, it is woefully inadequate, amounting to about \$25 per student. The Board of Regents requested a total of \$15 million (a \$13 million increase) for this program in support of students with disabilities attending New York State IHEs.

Before I end my testimony, I want to thank our staff, who work so hard every day on behalf of students, districts, IHEs, and licensed professionals across New York. Thank you, and I look forward to your questions and providing additional information.