



The Arc[®]

New York

Chief Executive Officer Erik Geizer's Testimony

Joint Legislative Hearing of Senate Finance and Assembly
Ways and Means Committees on FY24 State Budget

February 16, 2023



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Introduction

Chairwomen Krueger and Weinstein, Senator Brouk and Senator Mannion, Assembly Member Seawright and Assemblywoman Gunther, and other members of the Senate and Assembly, thank you for the opportunity to provide feedback on the proposed Executive Budget and its impact on our field and the people we support.

I am Erik Geizer, Chief Executive Officer of The Arc New York, the largest provider of services for New Yorkers with intellectual and developmental disabilities in the state. We are a family-led organization, with a 73-year history working toward our mission to “provide people with intellectual, developmental, and other disabilities the ordinary and extraordinary opportunities of life.” With 36 operating Chapters across New York state, our organization supports more than 60,000 individuals and families and employs more than 30,000 people statewide.

The parents who created our organization were among the earliest advocates for quality services and opportunities for people with intellectual and developmental disabilities (I/DD). In the more than 70 years since our founding, we have witnessed – and at many times driven – massive transformation and progress in our field. Over those seven decades, New York has developed a robust system of exceptional, comprehensive individualized services and programs that aid independence, support families, and emphasize inclusion in communities.

That system is in crisis.

New York has a legal and ethical obligation to provide essential services, quality care and integration for its citizens with I/DD. Our shared responsibility to the people we support is nonnegotiable. Regretfully, Governor Hochul's Executive Budget falls woefully short of meeting that obligation.

In her budget address, Governor Hochul asked if her administration is doing the hard things necessary to lift up and support all New Yorkers. She asked if her administration is committed to providing opportunity for every New Yorker, and if the state has "met the moment" of making the New York dream a reality for all New Yorkers.

Unfortunately, the answer is a resounding NO for individuals with intellectual and developmental disabilities, their families, and the skilled and dedicated staff who support them around the clock, every day.

The governor's proposal includes only a 2.5% cost-of-living adjustment (COLA) for OPWDD services, which is a full 6% less than the actual increase in inflation. There is no funding to support direct care worker wage increases or support for special education schools.

This is unacceptable.

In the past decade, inflation rose 27%, yet our field received only a 1.2% COLA. A 5.4% COLA was committed in the 2022-23 budget, but this promised increase does not come close to resolving the crisis brought on by a decade of underfunding. Our proposed 8.5% COLA for 2023-24 is derived from NYS statute, which states the annual COLA will be calculated based on the Consumer Price Index (CPI-U) from July of the previous year. The annual COLA is intended to increase budgets appropriately to adjust for inflation and rising costs. It is built into statute to meet that critical goal, and it must be upheld. Last year, the Governor promised to "Rebuild and Regrow the Healthcare Workforce by 20% Over the Next Five Years," and made an initial investment of a 5.4% COLA in addition to bonuses for healthcare workers. It was our understanding that this initial investment served as the beginning of progress toward a five-year goal. Yet, there is no such investment

this year to make good on that promise. A single investment does not reverse a decade of neglect in our commitment to New Yorkers with disabilities. A single investment is not the foundation for a stable system of care.

We have long advocated for recognition of our essential frontline staff, sustainable investment, and common-sense policy. For over a decade, that call has gone largely and consistently unheard. Neglect of our vulnerable population has resulted in an escalating crisis that threatens the safety, opportunity, and future of people with I/DD.

We were hopeful that the commitments made last year signified a shift by the state to prioritize New Yorkers with I/DD. Only one year later, the Governor's proposed budget reverts us to neglect.

As policy makers, you have a responsibility to your constituents to leverage the power of government to ensure our systems have the necessary resources to complete the mission for which they were created. Your responsibility is most critical when it comes to populations who will be at the highest risk if these systems fail.

Workforce Crisis and Pay Disparity

The dire need for investment is reflected in our workforce crisis. We are calling for enhanced wages for Direct Support Professionals (DSPs). Not only has that call gone unanswered, actions are instead being taken that will drive us deeper into crisis. Historically, Direct Support Professionals were compensated for their skilled work at well above minimum wage. Today, the average DSP starting wage is just over \$16 an hour. We can no longer compete with starting wages in retail, fast food, and other industries.

While wages in New York advanced around them, DSP wages have stagnated. These complex and critical roles have become minimum wage jobs. The majority of these dedicated frontline workers are women and people of color – historically disadvantaged groups for whom the state has committed to improve equity and opportunity. That commitment is not being met for our staff.

Surveys conducted by New York Disability Advocates (NYDA) during the 3rd and 4th quarters of 2022 (attached as Appendix A) found that the average annual turnover rate for DSPs is nearly 31%. One in three DSPs are leaving the field every year, from a role where continuity of care is essential. Turnover costs for non-profit providers have risen to more than \$100 million annually—\$100 million that would be better invested in keeping staff than losing them.

The average statewide staff vacancy is 17%, totaling nearly 20,000 unfilled positions. More than thirty percent of providers reduced or eliminated programs or services in a single year. We are unable to meet current need. Nearly two-thirds of providers were unable to expand program offerings to meet growing need due to staffing. More New Yorkers need our support, and we don't have the staff to support them. An already long waitlist for care is growing.

Without adequate funding, I/DD providers simply cannot offer competitive wages to recruit and retain the skilled direct support staff that provide the foundation of care for New Yorkers with I/DD. Without investment, this workforce emergency will continue to force service reductions, program closures, and loss of supports for people with I/DD throughout the state.

Let me be painfully clear. Our workforce crisis is a threat to the people we support. Without adequate staff, we cannot guarantee their safety. And ensuring their safety is our most fundamental responsibility.

In their five-year strategic plan released last year, the Office for People with Developmental Disabilities (OPWDD) acknowledged the critical need to solve the workforce crisis. They stated that their primary goal was to, "improve the recruitment, retention, and quality of the direct support workforce" by "investing in the workforce".¹

They followed through with their commitment for Direct Support Professionals in the state-operated system, but did not include the nonprofit workforce. New York provides supports and services for 130,000 people with intellectual and

¹ <https://opwdd.ny.gov/statewide-comprehensive-507-plan>

developmental disabilities across the state. 85% of these services are provided by nonprofit providers like The Arc New York. Just 15% are provided by state operated and programs. All of these programs are funded by the state, but they are not being funded equitably.

New York state has provided two wage increases for their state-operated direct care workers in the past year, including a 13% increase in calendar year 2022, \$4,000-\$6,000 proposed increases in 2023, and an additional \$50M announced in 2024.

Today, our DSPs and other frontline staff are now making only 70% of what their state counterparts make – doing, the same job and supporting the same individuals in the same state-funded system. This wage disparity is not justified in any way.

It is difficult enough to compete with for-profit national conglomerates, who offer better wages and less responsibility, but now the voluntary sector must compete with the state-run operations in our own field, where people are earning \$23-\$25 per hour, compared to \$16 with our providers.

This is not equal pay for equal work. And it is not an equitable investment in the New Yorkers with disabilities supported in different branches of the same system. It destabilizes our entire field, and places the people we support at risk.

In addition to the 8.5% COLA to support wages and agency operations, the establishment of a Direct Support Wage Enhancement (DSWE) is a critical and equitable request to ensure that nonprofit employees are compensated fairly, and individuals supported by nonprofit providers receive quality care. Under the Direct Support Wage Enhancement (DSWE), provider agencies will receive \$4,000 per eligible employee to be used for the purpose of enhancing the hourly rate of pay for all staff that have direct care/support responsibilities for individuals with I/DD. This wage enhancement will enable provider agencies to raise wages by approximately \$2.19 per hour.

Including the DSWE in the Enacted Budget would support wage parity and equity for direct care professionals who work diligently throughout their careers but are not compensated accordingly or recognized appropriately. We had to fight to have our workforce recognized as essential employees during the pandemic, and for them to receive the bonuses granted to critical frontline staff. This includes the DSPs, janitorial staff, cooks, drivers, nurses and other clinicians who rose to the moment to meet the needs of people with I/DD and implement complex health and safety protocols during the COVID-19 pandemic.

Direct care staff's satisfaction in their work, their passion for care and their desire to support people with I/DD will not pay their bills or provide security for their families. If we do not invest in our workforce, we will permanently lose these valuable support staff to careers and providers who will.

Additionally, In the FY23 NYS Enacted Budget, the Nurses Across New York (NANY) initiative provided statutory changes intended to rebuild and grow the healthcare workforce by establishing a repayment program, which would reimburse nurses working in underserved communities for loan repayment over three years.² A workgroup was to be appointed from associations representing nurses, hospitals, and other healthcare providers to streamline the application process. After nearly a year, there has been no movement on this initiative. It was our hope that this might start to alleviate the continual losses to our nursing staff. Once again, the state has promised action, but has not committed to expediency. Even the 5.4% COLA included in last year's enacted budget is going into provider rates starting in the fourth quarter of the current fiscal year—over eight months after becoming law. This is unacceptable.

While it is commendable that the governor and Division of Budget seek to build the “rainy day fund,” and have a General Fund surplus of \$8.7 billion,³ it is not an appropriate decision considering the current predicament we face.

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[http://leadingagency.org/home/assets/File/Nurses%20Across%20New%20York%20\(NANY\)%20PowerPoint%20July%2012%202022_final.pdf](http://leadingagency.org/home/assets/File/Nurses%20Across%20New%20York%20(NANY)%20PowerPoint%20July%2012%202022_final.pdf)

³ <https://www.budget.ny.gov/pubs/archive/fy24/ex/fp/index.html> page 8

There needs to be a reality check about what is happening outside the halls of the Capitol.

The state has articulated the need to increase Direct Support wages to combat the workforce crisis. The state has met this need for their own staff. You need to meet it for ours. If you do not, our programs will be reduced or eliminated due to lack of staffing and many years of progress toward community integration, choice, and deinstitutionalization will be lost.

Supporting Special Education

Students and children with I/DD must be educated with free and appropriate supports and services in the least restrictive environment, which address their individual needs. However, these educational institutions have historically been inequitably underfunded. Due to this systemic underfunding, teacher salaries at 853 and 4410 schools are not comparable with public school opportunities, resulting in significant challenges retaining these essential educators.

Over the past two budget cycles there have been significant investments in 853 and 4410 schools. Combined, FY22 and FY23 provided a 15% trend factor and allowed a certain portion of these rate increases to be retained over time. However, given how the rate methodology works, these increases merely represent opportunity and not reality, since these schools are unable to maintain surpluses needed to plan ahead of the current school year.

The FY 2024 Executive Budget provides \$2.5 million for the New York State Education Department (SED) to study and design a new rate-setting methodology for preschool and school-age special education providers in order to streamline and improve the timeliness of tuition rates. SED would be required to present its recommendations to the Division of the Budget (DOB) by July 1, 2025, and adoption of any alternative methodology would be subject to DOB approval.⁴

⁴ <https://www.budget.ny.gov/pubs/archive/fy24/ex/book/briefingbook.pdf> page 62

We are encouraged that the governor recognized this broken methodology, but we have concerns that the final decision of adopting any of the studies' recommendations will be left solely to DOB. Over the years, DOB has consistently ignored the funding and policy recommendations provided by SED when it comes to 853 and 4410 schools. We should not assume this exercise will be any different. Therefore, we propose that the draft study be open for public comment and hearings by the legislature and subject to final approval by the governor and not the bureaucracy of the DOB.

Furthermore, we call for a 10% trend factor for state-approved special education schools in FY24, which is on par with the 10% appropriated for public schools. The children who attend 853 and 4410 schools are public school children who need additional supports that public schools cannot provide. They should be afforded the same opportunities as all New York's children.

Article VII & Appropriation Recommendations

Increased flexibilities found in the HMH bill part FF⁵ offers flexibilities for delegated nursing tasks allow direct support staff in certain OPWDD community-based programs to perform certain nursing tasks. Increasing the availability of nursing tasks outside of certified residential settings may provide greater opportunities for more independent settings and is a worthy pursuit, but we must assess appropriate wage increases that come with increased responsibility in the healthcare space. While DSPs are fully capable and often perform similar responsibilities, there needs to be a reconciliation of what we require them to do and how they are compensated while performing tasks typically associated with higher paying professional fields.

In previous budgets, the Institute for Basic Research in Developmental Disabilities (IBR) was nearly eliminated and merged with other programs. We fought hard against that proposal. So, we are encouraged that the Executive Budget includes funding for a two-year independent study focused on how IBR's functions align with OPWDD's strategic goals, and the feasibility of

⁵ <https://www.budget.ny.gov/pubs/archive/fy24/ex/artvii/hmh-bill.pdf>

revitalizing the facility. The research conducted by IBR has been invaluable, and the facility has the potential to be the preeminent global institution in this space.

We fully endorse the establishment of an ombudsman program, which will provide client advocate services for individuals eligible for OPWDD services. The program will hopefully provide an independent advocate for individuals who are not able to speak for themselves and provide training and support to those who can make their own decisions. More details are needed on this program, especially when it comes to oversight and the goal of the actual independence of the ombudsman. Should it be overseen and housed within OPWDD, we feel that it would not be sufficiently independent. Our recommendation would be for the program to be contracted and housed within the Executive Branch under the Chief Disability Officer.

Moving Forward

Over many years The Arc New York has consistently collaborated with the administration and legislators to develop solutions to problems we face. We mobilized to support each other and our communities. We innovated and evolved. We sought opportunity in every challenge, and today, we have hope that New York can seize the moment and continue the foundational support accomplished over the past two years.

Our most vulnerable citizens require the state to honor the fundamental values of our constitution, and our ethical obligation to social justice for all New Yorkers. The services we deliver are a cornerstone of that commitment. We will continue to collaborate with government to identify solutions, implement efficiencies, fight for equity for our workforce, and sustain quality care, integration, and opportunity for New Yorkers with I/DD. To meet that goal, we must be unified in vision. We ask for your partnership and commitment in achieving this goal by including all our recommendations in the FY24 Enacted Budget.

Appendices

SFY 2024 Budget Priorities

INVEST IN NEW YORK'S CARE ECONOMY

With rising costs of inflation, coupled with the decades-long workforce crisis and a historic lack of funding, the operational costs for non-profit I/DD provider agencies have drastically outpaced the funding this sector needs to care for over 130,000 New Yorkers with I/DD.



85% of individuals with I/DD in NY are supported by non-profit providers



\$100.5M is the annual cost of high staff turnover rates for agencies



19,788 vacant direct care positions need to be filled by the non-profit sector

WORKFORCE SUSTAINABILITY

DIRECT SUPPORT PROFESSIONALS

Permanent investment in Direct Support Professionals' (DSP) salaries is essential to recruit and retain staff for the future viability of the field. As highly skilled professionals dedicated to the essential care of individuals with I/DD, DSPs take on numerous critical responsibilities to uplift the safety, productivity, and well-being of the entire I/DD community.

DSPs are responsible for providing important practical & administrative support such as first aid & CPR, administering medication, meal preparation or transport facilitation, as well as, attending to the comprehensive social, emotional, & psychological needs of those they care for. Whether it's teaching personal care skills and money management or directing crisis de-escalation, DSPs are required to be well trained, skilled, and constantly prepared for all the essential life-support services their profession demands.

Through their fundamental support & services, DSPs are integral pillars of support for New York's I/DD community and are crucial in ensuring that over 130,000 New Yorkers with I/DD can live their highest quality of life.

DIRECT SUPPORT WAGE ENHANCEMENT (DSWE)

NYDA is recommending the establishment of a new Direct Support Wage Enhancement (DSWE) as part of the SFY 2024 New York State budget. Through the proposed DSWE, provider agencies would receive an annual funding allocation of \$4,000 per eligible employee to be used for the purpose of enhancing the hourly rate of pay for all staff that have direct care/support responsibilities for individuals with I/DD.

The proposed \$4,000 increase equates to approximately \$2.19/hour for a full time employee. The DSWE is also reflective of the 13% increase provided to DSPs employed by OPWDD in the SFY 2023 Budget. Furthermore, OPWDD is proposing an additional \$4,000 - 6,000 increase for OPWDD DSPs as part of the SFY 2024 Budget.

Therefore, the inclusion of the DSWE is critical to provide an equitable increase to employees who are providing the same services to the majority of people with I/DD in New York State.

INCLUDE: ESTABLISHMENT OF A DIRECT SUPPORT WAGE ENHANCEMENT AS PART OF SFY 2024 BUDGET

SYSTEM SUSTAINABILITY

COLA - 8.5% FOR SFY 2024

Due to the significant inflationary growth that has occurred over the past year, not-for-profit provider agencies' operating costs have increased significantly necessitating a 8.5% COLA in the Enacted SFY 2024 Budget. The proposed 2.5% increase in the Executive Budget unfortunately does not provide the necessary resources to continue to invest in the vital workforce needed to provide high quality life supporting services and will erase the progress that has been made over the past year.

Significant cost increases related to mandated fringe benefits, repairs and maintenance, utilities, food, supplies, transportation, and insurance over the past 12 months have resulted in significant financial pressure on agencies. Additionally, since the I/DD provider agencies are solely funded by Medicaid, **agencies are unable to increase reimbursement for services to compensate for increased costs of operations.**

MODIFY: HEALTH AND MENTAL HYGIENE PART DD TO INCLUDE 8.5% COLA

NYDA provider organizations recently conducted their annual statewide workforce survey. The survey found that there are high levels of staff turnover are costing the state's nonprofit disability service provider \$100.5M annually. This cost directly hampers funding essential supports and services for New Yorkers with disabilities. **The 2022 survey results reflect staffing data as of December 31, 2022.**

It is important to note that the Draft OPWDD Strategic Plan highlights the 2019 NCI Staff Stability Survey, which was published in January 2021 and cites vacancy rates and turnover rates, "11.9 percent of full-time positions were vacant, and 17.5 percent of part-time positions were vacant. The turnover rate for DSPs was 36.2%..." The December 31, 2022 NYDA survey shows that statewide staff vacancy rates are still 42.5% above pre-pandemic levels. **Notably, the July 2022 NYDA survey also collected wage information for DSPs from the provider agencies, which showed the following results:**

Region	Average Statewide Staff Vacancy Rate	Average Statewide Annual Turnover Rate
Region 1 (NYC METRO)	16.07%	28.93%
Region 2 (Hudson Valley)	20.96%	23.18%
Region 3 (Capital District)	19.39%	33.04%
Region 4 (Western, Central & North Country)	15.70%	35.42%
Statewide	16.96%	30.70%

Average DSP Starting Wage at Non-Profit Provider Agency	\$16.07
Region 1 (NYC METRO)	\$16.24
Region 2 (Hudson Valley)	\$16.15
Region 3 (Capital District)	\$16.12
Region 4 (Western, Central and North Country)	\$15.84

State Operated Hourly Starting Wage	
Upstate	\$23
Downstate	\$25

2023 Executive Budget Request

INVEST IN NEW YORK'S CARE ECONOMY

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WORKFORCE SUSTAINABILITY

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Permanent investment in Direct Support Professionals' (DSP) salaries is essential to recruit and retain staff for the future viability of the field. As highly skilled professionals dedicated to the essential care of individuals with I/DD, DSPs take on numerous critical responsibilities to uplift the safety, productivity, and well-being of the entire I/DD community.

DSPs are responsible for providing important practical & administrative support such as first aid & CPR, administering medication, meal preparation or transport facilitation, as well as, attending to the comprehensive social, emotional, & psychological needs of those they care for. Whether it's teaching personal care skills and money management or directing crisis de-escalation, DSPs are required to be well trained, skilled, and constantly prepared for all the essential life-support services their profession demands.

Through their fundamental support & services, DSPs are integral pillars of support for New York's I/DD community and are crucial in ensuring that over 130,000 New Yorkers with I/DD can live their highest quality of life.

DIRECT SUPPORT WAGE ENHANCEMENT

NYDA is recommending the establishment of a new Direct Support Wage Enhancement (DSWE) as part of the SFY 2024 New York State budget. Through the proposed DSWE, provider agencies would receive an annual funding allocation of \$4,000 per eligible employee to be used for the purpose of enhancing the hourly rate of pay for all staff that have direct care/support responsibilities for individuals with I/DD. **This will provide agencies with the ability to increase the hourly pay by approximately \$2.19/hour annually for eligible staff presuming each staff member receives the same increase.** Funding must be utilized by provider agencies to enhance the rate of pay for direct support employees.

INCLUDE: ESTABLISHMENT OF A DIRECT SUPPORT WAGE ENHANCEMENT AS PART OF SFY 2024 BUDGET

SYSTEM SUSTAINABILITY

COLA - 8.5% FOR SFY 2024

Following a decade of provider agencies not receiving the statutorily required Cost of Living Adjustment (COLA), the inclusion of the 5.4% COLA in SFY 2023 was a crucial investment in our field. However, due to significant inflationary growth and the global supply chain, **agencies' operating cost has increased significantly necessitating the COLA be included in the Executive's SFY 2024 Budget.**

Significant cost increases related to mandated fringe benefits, repairs and maintenance, utilities, food, supplies, transportation, and insurance over the past 12 months have resulted in significant financial pressure on agencies. Additionally, since the I/DD provider agencies are solely funded by Medicaid, **agencies are unable to increase reimbursement for services to compensate for increased costs of operations.**

INCLUDE: 8.5% COLA IN SFY 2024 BUDGET

2022 NYDA SURVEY

NYDA provider organizations recently conducted their annual statewide workforce survey. The survey found that there are high levels of staff turnover are costing the state's nonprofit disability service provider \$100.5M annually. This cost directly hampers funding essential supports and services for New Yorkers with disabilities. **The 2022 survey results reflect data as of July 1, 2022.**

It is important to note that the Draft OPWDD Strategic Plan highlights the 2019 NCI Staff Stability Survey, which was published in January 2021 and cites vacancy rates and turnover rates, "11.9 percent of full-time positions were vacant, and 17.5 percent of part-time positions were vacant. The turnover rate for DSPs was 36.2%..." **Notably, the July 2022 NYDA survey also collected wage information for DSPs from the provider agencies, which showed the following results:**

Average Statewide Staff Vacancy Rate	18.59%
Region 1 (NYC METRO)	18.08%
Region 2 (Hudson Valley)	23.71%
Region 3 (Capital District)	20.56%
Region 4 (Western, Central & North Country)	16.47%

Average Statewide Annual Turnover Rate	34.5%
Region 1 (NYC METRO)	34.35%
Region 2 (Hudson Valley)	33.72%
Region 3 (Capital District)	35.28%
Region 4 (Western, Central and North Country)	34.69%

Average statewide starting hourly salary for DSPs (lowest wage paid for starting DSP positions)	\$15.21
Region 1 (NYC METRO)	\$15.52
Region 2 (Hudson Valley)	\$14.71
Region 3 (Capital District)	\$15.06
Region 4 (Western, Central and North Country)	\$15.05

Since June 1, 2021, has your agency increased starting wages for direct care CFR Code 100 and 200 series positions? (Yes/No)	
Yes	85.26%
No	14.74%

Average statewide starting hourly wage increase since June 1, 2021	\$1.51
Region 1 (NYC METRO)	\$1.37
Region 2 (Hudson Valley)	\$1.35
Region 3 (Capital District)	\$1.45
Region 4 (Western, Central and North Country)	\$1.76

Average statewide current starting wage for direct care CFR Code 100 and 200 staff	\$16.07
Region 1 (NYC METRO)	\$16.24
Region 2 (Hudson Valley)	\$16.15
Region 3 (Capital District)	\$16.12
Region 4 (Western, Central and North Country)	\$15.84

Average statewide hourly wage increase, since June 1, 2021	\$1.50
Region 1 (NYC METRO)	\$1.30
Region 2 (Hudson Valley)	\$1.26
Region 3 (Capital District)	\$1.58
Region 4 (Western, Central and North Country)	\$1.74

Since June 1, 2021, has your agency increased average hourly wages for existing direct care CFR Code 100 and 200 series employees? (Yes/No)	
Yes	78.95%
No	21.05%

Average statewide hourly current average wage for direct care CFR Code 100 and 200 staff	\$17.08
Region 1 (NYC METRO)	\$17.18
Region 2 (Hudson Valley)	\$16.82
Region 3 (Capital District)	\$17.36
Region 4 (Western, Central and North Country)	\$16.96