



## **NYS COALITION OF 853 SCHOOLS**

*Testimony Presented By: Joseph Trainor, President*

Before the:

ASSEMBLY WAYS AND MEANS & SENATE FINANCE COMMITTEES  
Joint Legislative Budget Hearing on Elementary and Secondary Education  
SFY 2026-2027

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Thank you for the opportunity to address you today. My name is Joe Trainor, I am the President of the New York State Coalition of 853 Schools (The Coalition), as well as the Executive Director of The Martin De Porres School for Exceptional Children.

The Coalition represents state-approved, private, non-profit, school age special education schools, otherwise known as “853 schools.” Our schools serve a diverse population of children involved in the foster care, juvenile justice and special education systems, from children with emotional and behavioral issues to children with developmental challenges. Our students are as young as 3 years old with early intervention to young adults, up to 22 years old.

It is important to note that our students are public school students with needs that are unable to be met directly by the public school district of residence.

### **SUPPORT FOR STUDENTS WITH DISABILITIES IN 853 SCHOOLS**

We appreciate the support that the Regents, SED, the Governor and the Legislature have demonstrated for students with disabilities over the last several years in providing investments in our schools so we can deliver educational opportunity to our students deserve.

In particular, we thank the legislature for supporting resources for the NYS Education Department (SED) to hire a consultant to redesign the tuition rate methodology that establishes the funding for our schools each year. We look forward to the draft report in November with recommendations for reforming the methodology, and will follow up with legislators later this year with our feedback on the report. We will seek broad support in ensuring real meaningful change occurs as a result of the work completed by SED and the consultant.

The New York State Coalition of 853 Schools

All of this is positive. However, we need to make sure that the schools receive predictable annual growth in their rates to ensure that they can keep up with the costs of provide a Free and Appropriate Public Education (FAPE) to special education students. As has been the case in recent years, we recommend the growth factor in the tuition rate methodology continue to align with the Consumer Price Index. While the rates are established post-budget, through an administrative process involving the NYS Education Department and the Division of the Budget, legislative support is always crucial.

We also need to make sure that we invest in the dedicated staff that serve our students, and that we have safe and appropriate facilities for them to learn.

## **WORKFORCE**

Highly qualified teachers and clinicians are essential for the success of students with disabilities. However, like all schools, 853 schools struggle with recruiting and retaining certified teachers and professional therapeutic clinicians. Our members report issues across the board in hiring appropriately certified teachers, but a number indicate significant issues specifically in recruiting special education teachers, math and science teachers and certified teaching assistants. The average reported vacancy rate among 853 schools for special education teachers in a 2023 survey was a staggering 36%, and the average vacancy rate for certified teaching assistants was 30%.

Staffing challenges at our schools impact the quality of services that our schools are able to provide to our students, and also the number of students we are able to serve. Our members have previously identified 50 classrooms that had been approved by the New York State Education Department and included in the provider's approval letter were reported to be closed due to lack of staffing. This leads many of our members to deny enrollment to students that they would otherwise serve and can lead students to remain on waitlists for services.

To address these challenges, the Coalition recommends investing a total of \$15 million spread across the following three proposals:

- The Coalition recommends increasing the Excessive Teacher Turnover Prevention Program (ETTP) by \$5 million. Currently funded at \$8 million, the program provides financial support for our schools to increase the compensation for their certified teachers in recognition of their commitment to working with students with disabilities.
- Expand the list of staff who are eligible to receive enhanced compensation under the ETTP program. As noted above, currently ETTP supports certified teachers. However, schools are also facing significant shortages in teacher assistants, teacher aids and licensed clinicians (OT, PT, Speech, etc.). The Coalition recommends investing another \$5 million in ETTP targeted at these staff positions as they are critical to the successful implementation of student Individualized Education Plans (IEPs).

- The Department of Labor's Teacher Residency Program seeks to partially or fully fund master's degrees for teachers who are enrolled in a registered residency program. The program is designed to establish a pipeline of quality certified teachers. To further encourage teaching candidates to work in school-age approved special education schools, the Coalition recommends a targeted investment of \$5 million to support teacher residents specifically enrolled in programs within 853 schools.

These investments will ensure that students unable to be served directly by the public school district of residence, who are placed in 853 schools based on their needs, have equitable access to quality teachers.

## **CAPITAL FUNDING**

The current tuition rate methodology does not allow for appropriate reimbursement for the costs of maintenance and renovation projects in order to ensure safe, comfortable and accessible facilities for our students. The Executive Budget proposal includes continued and dedicated capital funding for other similar settings, like state operated schools, 4201 schools, and special act school districts. Unfortunately, no such dedicated funding stream exists to support 853 school buildings.

The Coalition recommends the creation of an 853 Schools Capital Fund. The purpose of the fund would be to make investments in capital projects that improve the quality, efficiency, and accessibility school age special education schools. Targeted investments would include renovations or modification of existing educational or therapeutic spaces; improvements that would provide for sustainable, efficient spaces that would result in overall energy and cost savings; accessibility renovations; and health and safety projects. The Coalition recommends a state investment of \$40 million, which be distributed by NYSED through an application process.

We appreciate the inclusion of \$30 million for this purpose last year in the Senate One House budget proposal. It is critical that the legislature again signal their support for the capital needs of our schools again this year, as we have recently learned that the Division of Budget is proposing changes to the current process, to be implemented on projects that are currently in the review pipeline, that will make accessing capital funding even harder for our schools.

As previously noted, the legislature supported a review of the tuition rate methodology to help streamline processes and eliminate unnecessary barriers for schools, and ensure an appropriate mechanism for determining funding for our schools. Implementing changes that will create further delays and denials of projects, while the review is in process is in contradiction to that intent.

## **SUPPORTING FAPE-22**

You heard from NYSED last year that the Second Circuit Court of Appeals' decision in *A.R. v. Connecticut Board of Education* found that pursuant to state obligations under the Individuals with Disabilities Education Act (IDEA), school districts must to provide a "free appropriate public education" (FAPE) to

resident students with disabilities until they reach the age of 22, unless they have obtained a high school diploma.

NYSED determined, and the Appellate Court in NY upheld, the federal court decision applied to students in New York schools. Meaning that public schools in New York are required provide special education and related services to resident students with disabilities until their 22nd birthday.

Guidance from the State Education Department indicates that as a result of federal litigation in A.R. v. Connecticut Board of Education, public school districts must provide students with a free and appropriate education (FAPE) until the day before they turn 22. The guidance recommends, but does not require that districts continue services through the end of the school year in which the student turns 22.

Current New York State Law provides state funding to students only through the end of the school year in which the student turns 21.

Right now districts, in some instances, are extending services to students at age 22 at their own expense. However, there should be a statewide applicable standard. Statutory changes are needed in order to ensure that all students needing continued services, are able to receive them through the end of the school year. This will ensure continuity of care, allow for discharge planning, and provide for enrollment management for our schools.

The Coalition supports amending state statute to continue special education and related services for students with disabilities necessary for the provision of a FAPE for the full school year in which they turn 22. Additionally, State aid to school districts should also be adjusted to support the provision of these services.

## **CONCLUSION**

Once again, thank you for your support of our students, families, and staff. Your advocacy remains critical today. We look forward to working with you to advance critical investments in this year's budget that will better assist us in delivering the education and related services our students are entitled to and deserve.

Thank you.