



Advocates for Children of New York

Protecting every child's right to learn

October 16, 2023

The Honorable Eric Adams
Mayor, New York City
City Hall
New York, NY 10007

Dear Mayor Adams:

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We are writing to express our grave concerns about the drastic budget cuts facing New York City Public Schools (NYCPS) in the coming year and to emphasize, in advance of cuts being planned for November, that the City's obligation to uphold students' legal rights remains unchanged. While we recognize the current fiscal challenges and fully agree that the federal and state governments should step in and provide additional funding to help New York City meet current needs, including the needs of newly arrived immigrants, the City must meet legal mandates in public education, including court orders, regardless of whether Albany or Washington choose to act.

With respect to special education, for example, NYCPS must make the investments necessary to provide all students with disabilities with their legally mandated evaluations, classes, and services in a timely manner. The Individuals with Disabilities Education Act (IDEA) provides rights to students with disabilities and their parents that do not diminish with budgetary pressures, and the City cannot make budgetary or staffing changes that would lead to delays in the special education process or violate students' rights.

It is worth noting that NYCPS is *already* failing to meet its obligations under IDEA. Every year, thousands of children have to wait months for services to begin—or never receive mandated services at all—due to NYCPS's delay in evaluating students, developing an Individualized Education Program (IEP), finding service providers, or providing an appropriate school placement. In 2021–22 (the most recent school year for which data are available):

- Nearly 20,000 school-age students did not fully receive their special education instruction. This is the equivalent of *every* student with a disability in Buffalo, Rochester, Yonkers, and Utica *combined* going unserved.



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- 28% of K–12 students who were referred and found eligible for special education for the first time waited more than two months (the legal deadline) for an IEP meeting to be held so that services could be put in place to help them learn.
- Well over a third of all preschoolers with disabilities—9,800 children—went the entire school year without receiving at least one of the types of services NYCPS was legally required to provide.

While special education is one key example, NYCPS similarly has legal obligations to students in temporary housing, students in foster care, and English Language Learners (ELLs), none of which evaporate when the City is facing fiscal constraints.

In its September 9 letter to agencies announcing the coming spending cuts and broad hiring freeze, the Office of Management and Budget (OMB) noted that the City would make exemptions for purposes of “public health, public safety, and revenue generation,” but made *no* mention of the need to comply with civil rights laws or already existing court orders and to provide mandated services. We are deeply concerned by this omission and reiterate that students do not forfeit their legal rights when the City is facing unanticipated costs. As a result, when existing staff leave NYCPS, the City will need to unfreeze their positions if the failure to do so would result in violation of students’ rights.

Beyond legal mandates, sweeping cuts to public education and a blanket hiring freeze would be the definition of penny-wise and pound-foolish; any short-term savings achieved would be eclipsed by far greater expenses for the City down the line. For example, when children with disabilities do not receive the support they need early on, they typically require more intensive—and expensive—special education services later in their educational careers. Moreover, shortchanging students with disabilities would almost certainly result in additional due process complaints, further exacerbating longstanding problems with the impartial hearing system and needlessly increasing NYCPS spending on legal fees and private school tuition. Parents who have to wait months for their child to be evaluated for services or get assigned a speech therapist because their Committee on Special Education administrator quit and cannot be replaced, or who are stuck calling the Office of Pupil Transportation every day for weeks because the bus never shows up, or who cannot get the assistance they need from the Family Welcome Center because staff are stretched too thin, or who are told by their principal that their child with dyslexia will have to wait another year to get help because there’s no money left in the budget—these are parents who leave the school system, and maybe the City altogether, if they have the means and opportunity to do so. And, most fundamentally, these delays and denials of services are wrong because they harm students.

As the budget process moves forward, the City must ensure its choices do not impede NYCPS’s ability to uphold students’ rights and comply with federal and state law.

Respectfully,

Kim Sweet
Executive Director