



# Advocates for Children of New York

Protecting every child's right to learn

## Testimony for the Joint Legislative Hearing on the Fiscal Year 2026 Executive Budget Proposal: Elementary and Secondary Education

January 29, 2025

Thank you for the opportunity to speak with you about the Fiscal Year 2026 Executive Budget: Elementary and Secondary Education. My name is Randi Levine, and I am the Policy Director at Advocates for Children of New York (AFC). For more than 50 years, AFC has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. Every year, we help thousands of New Yorkers navigate the education system. We focus on students whose needs are often overlooked, such as students with disabilities, English Language Learners, students who are homeless or in foster care, students with mental health needs, and students with involvement in the juvenile or criminal legal systems.

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### I. Proposed Foundation Aid Formula Changes Would Result in Less Funding for NYC Schools

We appreciate that Governor Hochul and the New York State Legislature fully funded the Foundation Aid formula in 2023 for the first time. While we agree that updates to the formula itself are sorely needed, we are deeply concerned that the Executive Budget proposal for updating the poverty weight fails to fully capture the needs of students and would result in less funding for New York City schools to meet the needs of low-income students.

#### ***Support for Proposal to Replace “Free and Reduced-Price Lunch” Metric with “Economically Disadvantaged Students”***

We support the Governor’s proposal to replace the “free and reduced-price lunch” metric with a broader measure of “economically disadvantaged students.” With the expansion of free school meals to all students in New York City schools and other districts, families no longer need to return the form documenting their eligibility for free or reduced-price lunch in order for their children to receive free school meals. As such, using the number of students found eligible for free or reduced-price lunch to determine the number of low-income students eligible for a weight in the formula is outdated, flawed, and inaccurate. The broader category proposed in the Executive Budget of “economically disadvantaged students” would capture students participating in a range of benefits for low-income families and more accurately reflect the number of low-income students in our schools. We strongly support this proposed change to the formula.



***Deep Concern about Proposal to Update the Poverty Weight, Relying on Federal Poverty Threshold, Resulting in Projected Decrease of \$392M to New York City Schools***

However, we are deeply concerned about the Executive Budget proposal to update the data used to determine the poverty weight from the 2000 US Census data to the most recent three-year average of another Census metric—the Small Area Income and Poverty Estimates (SAIPE). We along with the more than 120 organizations that comprise the Coalition for Equitable Education Funding (CEEF) submitted public comment to the Rockefeller Institute and released a statement in September 2024 making clear that merely updating Census data would not be sufficient; rather, “the State should explore alternative, more robust measures of poverty and economic disadvantage, including considering differentiated weights for different concentrations of poverty.”

SAIPE, like other Census poverty counts, measures poverty based on the *federal* poverty guidelines—with no consideration for variations in cost of living in different parts of the State or the nation. The current federal poverty threshold for a family of four is just \$32,150. Trying to make ends meet on \$30,000 means something very different for a family in New York City than elsewhere in the State. However, the Executive Budget proposal does not take into account these differences, merely using a uniform poverty weight that is available only to students whose family income falls below the federal poverty threshold.

Furthermore, SAIPE, unlike the prior poverty measure, includes students attending public school and private school. Including private school students only further masks the poverty of students attending public schools in New York City and elsewhere in the State.

The Rockefeller Institute report suggested that a benefit of using SAIPE as a measure of poverty is that it could be supplemented to account for variations in concentration of poverty in the neighborhoods where students attend school, as numerous stakeholders offering testimony at the Rockefeller Institute’s public hearings recommended. Indeed, the Rockefeller Institute study recommended providing a higher poverty weight to school districts with greater concentrations of poverty. However, the Executive Budget proposal does not include higher weights for districts with greater concentrations of poverty.

The Rockefeller Institute study itself noted that if the State were to replace the 2000 US Census data with the most recent three-year SAIPE, as the Executive Budget proposes, “New York City would be the most impacted, seeing a ***projected decrease totaling approximately \$392 million***” (emphasis added). Even when combined with the proposal to replace “free and reduced-price lunch” with the broader category of “economically disadvantaged students,” these two changes in the Executive Budget would result in New York City schools getting substantially less funding to meet the needs of low-income students than they would receive if these changes were not made.

Given that our New York City public schools have 700,000 economically disadvantaged students—three out of every four students—and 146,000 students experiencing homelessness—one in every eight students, we urge the Legislature not to stand for a decrease of hundreds of millions of dollars to New York City to serve low-income students based on using the flawed federal poverty guidelines.



### *Need for More Accurate Measures of Student Need*

We urge the Legislature to ensure that the Foundation Aid formula is updated in a way that more accurately reflects the needs of New York City students. For example, it is essential for the budget to include an **update to the Regional Cost Index**, which is supposed to account for differences in wages in different parts of the State but has not been updated since 2006. The New York State Board of Regents and the Rockefeller Institute recommended updating the RCI, but this important change was left out of the Executive Budget. The State must also **add a weight for students in temporary housing and students in foster care**, who have unique educational needs that are currently not considered in the Foundation Aid formula. To further address the inadequacies of the Governor's proposed poverty metric, the State could also consider using differentiated weights for different concentrations of poverty, as recommended by the Rockefeller Institute, and adding a new cost-of-living adjustment or a higher poverty threshold (e.g., a multiplier of the federal poverty level) for certain districts when determining which students should receive the "poverty weight" in different parts of the State, among other possibilities. Another option would be doubling the weight for "economically disadvantaged students" instead of having one weight for "economically disadvantaged students" and a separate weight for students living below the federal poverty threshold.

While New York City would still see an increase in Foundation Aid funding under the Governor's proposal due to existing factors already in the formula, **we want to ensure the State does not make changes to the formula that would result in our schools getting less money than they otherwise would to serve low-income students**. The formula is supposed to result in equitable distribution of funding, and New York City should not lose out on funding based on nationwide poverty guidelines that fail to provide an accurate measure of the economic needs of New York City students.

### *Changes Recommended for the Foundation Aid Formula*

Beyond our concerns with the Governor's proposed changes to the Foundation Aid formula, we also join with the Coalition for Equitable Education Funding to continue urging the State to make the following changes to the Foundation Aid formula, as recommended in our [Collective Call for an Equitable Foundation Aid Formula that Meets Students' Needs](#):

- **Replace the outdated "successful school district model" that has formed the base of the formula.** This model is based on the narrow view that successful school districts are those where students perform well on standardized tests, with insufficient consideration to the needs of large urban districts. The State must ensure the new base rate reflects the actual cost of providing the academic, social-emotional, and holistic supports students need to succeed in school, including in large urban districts, with particular attention to students from low-income backgrounds, students with disabilities, English Language Learners, students who are homeless, and students in the foster system.
- **Reexamine the existing poverty weight to ensure the needs of students from low-income communities are accurately represented.** It is not sufficient to merely update Census data and the number of students eligible for free or reduced-price lunch; the State should explore alternative, more robust measures of poverty and economic disadvantage, including considering differentiated weights for different concentrations of poverty.



- **Add a per-pupil weight for students in temporary housing and students in the foster system.** More than 146,000 New York City students—roughly one in every eight—experienced homelessness in 2023–24, and around 5,000 students spent time in the foster system. At present, the Foundation Aid formula does not provide any additional funding to help schools support these student populations, both of whom face tremendous obstacles to success in school and have educational needs distinct from those of all students in poverty.
- **Increase the weights for students with disabilities and ELLs to ensure they reflect the cost of providing legally required, high-quality classes, services, and supports and are adequate to address the wide spectrum of student needs.** This includes considering differentiated weights by program to better account for the tremendous diversity within both groups of students, neither of which is a monolith.
- **Update the Regional Cost Index to better reflect the rising costs of salaries and services.** This metric has been fixed since 2006 and is thus significantly out of date, particularly given increased expenses in New York City.
- **Provide resources to implement the State's new class size requirements.** The New York City Independent Budget Office (IBO) has estimated that NYCPS will need between \$1.6 and \$1.9 billion annually to achieve full compliance with the law by the 2028 deadline, given the significant hiring needs associated with reducing class size—yet the State has allocated no additional funding to help NYCPS meet this legislative mandate, which applies to New York City alone.
- **Include funding for students in 3-K and Pre-K, as well as students with disabilities through the school year they turn 22.** Over the past decade, New York City has dramatically expanded access to early childhood education. The Foundation Aid formula, however, only covers grades K–12, a holdover from an earlier era in which a child's educational career was typically thought to begin at age five or six. Numerous studies have demonstrated the long-term benefits of high-quality preschool, and the Foundation Aid formula should be updated to reflect the needs of a unified P–12 system. In addition, the State recently affirmed that districts have a legal obligation to provide special education programs and services to students with disabilities until they turn 22 if they have not yet graduated, but the Foundation Aid formula does not provide funding for these students.

### ***Need for Ongoing Review of Foundation Aid Formula***

Recognizing the need for an ongoing review of the formula, we also urge the Governor and the Legislature to establish and fund an independent commission focused on ensuring that the formula reflects the actual costs of educating students, with a particular focus on students who have the greatest needs.

## **II. Preschool Special Education**

As we have testified in prior years, we continue to hear from families whose young children have intensive disabilities and have a legal right to a preschool special education class, but do not have one because there is no seat available. Due to these shortages, in New York City alone, more than



700 children were waiting for seats in their legally mandated preschool special education classes at the end of the last school year. Failing to address the need for preschool special education classes and services perpetuates discrimination, violates the rights of children with disabilities, puts extra strain on parents trying to juggle jobs and care responsibilities, deprives young children of support at an important stage in their development, and ultimately requires the K-12 system to provide additional support to students with previously unaddressed needs.

Contributing to the shortage of classes has been the closure of classes by “4410” preschool special education programs run by community-based organizations (CBOs), which operate the majority of preschool special education classes. Among other challenges, programs report that they are struggling to recruit and retain special education teachers who are leaving for jobs in schools or universal prekindergarten programs where they can earn higher salaries for working only 10 months per year than 4410 providers can pay for a 12-month school year under the payment rate for preschool special education classes set by the State. State-approved non-public schools for school-aged students with disabilities have faced similar challenges. School districts place students in state-approved non-public schools when they cannot meet the students’ needs, but, too often, these schools struggle to recruit and retain teachers and service providers due to inadequate state rates.

We are pleased that the State is moving forward with a study of alternative tuition rate-setting methodologies for preschool special education programs and state-approved non-public schools serving students with disabilities. However, as we are years away from a new methodology, it is important for the State to take interim measures to support these schools.

As the cost methodology study moves forward, the State must provide tuition rates for preschool special education programs and state-approved non-public schools for students with disabilities that reflect year-to-year increases in costs such as staff salaries. Enacting in statute an annual rate adjustment to reflect inflation would help provide stability and predictability to programs rather than waiting each year to learn whether or not there will be an increase and what that increase will be.

Furthermore, in recent years, programs have not been able to access the full amount of the stated rate increases because of obscure policies within the reimbursement methodology. For example, under the policy known as “reconciliation,” if a teacher leaves mid-year, the funding “saved” from children no longer having a certified special education teacher is not only deducted from the amount the State will reimburse during the current year, but lowers the program’s rate in future years even after the program hires a replacement teacher.

We support the New York State Board of Regents’ proposal to enact a statutory mechanism to **update state-approved special education program tuition rates annually by the Consumer Price Index (CPI)** until a new rate setting methodology is adopted following the study. It is also essential that the same increases apply for preschool special education evaluations, as we continue to hear from families about a backlog in getting evaluations for their preschool-aged children. We also urge you to pause reconciliation while the tuition methodology study moves forward.



### III. Funding to Implement NY Inspires/Graduation Measures Work

In November, the New York State Education Department (NYSED) unveiled NY Inspires, its plan for implementing recommendations from the Blue Ribbon Commission on Graduation Measures. We have long advocated for multiple pathways to a high school diploma that do not require students to pass multiple high-stakes exams. The NY Inspires plan reflects an important step toward increasing equity in our school system and opening doors to higher education and careers by creating opportunities for students to demonstrate their knowledge in ways that are appropriately suited for them. This work is especially important for students who are often overlooked – students with disabilities, English Language Learners, and economically disadvantaged students.

Such an undertaking requires additional resources and capacity. We support the Board of Regents' proposal to include \$2.3 million to assist with these efforts. This investment would allow NYSED to fund a project coordinator to organize training and engagement opportunities, as well as two new staff to support the work of incorporating the new requirements into districts' curriculum. The funding would also allow NYSED to consult with experts in the development of academic standards.

Accordingly, we urge you to **include \$2.3 million in the budget, as requested by the Board of Regents, to implement the proposed changes to graduation measures.**

### IV. Funding to Serve Students with Disabilities Until Age 22

In line with the Second Circuit Court of Appeals' decision in *A.R. v. Connecticut Board of Education*, the State recently affirmed that school districts have an obligation to provide special education instruction and services to students with disabilities *until age 22* if they have not yet graduated with a high school diploma. However, current state law provides state funding for students only through the school year in which they turn 21 years old. To help districts serve older students, the State should provide additional funding to align with the new requirements.

We support the Board of Regents' proposal to **add \$65.4 million to help school districts provide instruction and services to students with disabilities over the age of 21** who have not yet obtained a high school diploma.

### V. High-Impact Tutoring

Each year, AFC hears from families of students who are struggling academically and have been unable to access intensive intervention in the public schools. High-dosage tutoring is a proven strategy for providing such students with the individualized attention and targeted support they need to be successful. As such, we urge NYS to **invest \$20 million for high-dosage tutoring.**

We look forward to working with you throughout the budget process. Thank you for the opportunity to testify. I would be happy to answer any questions you may have.