



## MEMORANDUM OF SUPPORT

A.10191 Assembly member Benedetto/S.9132 Senator Mannion: An Act to amend the education law, in relation to the tuition methodology for special education schools and programs

A.10192 Assembly member Benedetto/S.9134 Senator Mannion: An Act to amend the education law in relation to the tuition reimbursement interim rates

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May 9, 2022: The New York State Coalition of 853 Schools strongly supports A.10191/S.9132 and A.10192/S.9134 by Assembly member Benedetto and Senator Mannion. Each bill is necessary to ensure that Governor Hochul's commitment to invest \$240 million into special education schools (853/Special Acts) and programs (4410) is realized.

In 2021, Governor Hochul vetoed legislation that passed the Legislature unanimously which would have created parity in the state's annual increase in the investment of public school students with disabilities served by 853 schools, special act public school districts and preschool special education schools. In her veto message she stated:

"However, I am sensitive to the concerns faced by these providers, and understand the difficulty in ensuring properly certified special education teachers and staff are available to serve students. Costs have gone up and our students face greater challenges. Therefore, as part of my upcoming 2022-23 Executive Budget proposal, I will be proposing a significant increase in funding to support increased rates to be paid to these providers. Following the 4% cost-of-living adjustment approved for 2021-22 school year tuition rates, I will propose a COLA of 11% for the 2022-23 school year, for an increase of more than 15% over two years. *The 11% COLA will increase preschool and school-age special education providers' annual funding by more than \$240 million.*" (Veto Message 82 of 2021; emphasis added)

While our members continue to be disappointed the Governor does not support ongoing equitable investments, we were pleased that she promised to invest \$240 million for the 2022-23 school year in support of special education students.

After the Governor's promise, we shared with her office and members of the Legislature that, in order for the investment of \$240 million to be realized, changes to the tuition rate methodology were necessary. The Legislature agreed with our recommendations for modifications to the tuition rate methodology, and included a series of reform proposals in their one-house budgets. Unfortunately, the Enacted Budget included limited statutory changes related to the authorization to retain funds to address these concerns. The current tuition rate methodology,

as implemented, is insufficient to ensure that the investment made to a school or program's rate would be allowed to be fully spent or any unspent funds retained for a future year.

A.10191/S.9132 clarifies that funds may be retained based on the program's expenses prior to the application of the reconciliation process. This will ensure that programs are able to fully capture rate increases that they are unable to spend in a given year and instead be able to use those funds in a subsequent year.

As currently implemented, the tuition rate methodology also will prevent approximately 100 schools or programs with existing tuition rate waiver requests or appeals to receive tuition growth until their waiver requests or appeals are finalized. This process can take years - essentially preventing these schools from realizing the investments the Governor promised for the support of special education students. The New York State Education Department has requested for many years that they be allowed to issue rates to schools with pending waivers and appeals with growth factored in, known as "interim plus rates," under the methodology. This proposal continues to be rejected by the Division of the Budget. A.10192/S.9134 would require that interim plus rates be allowed under the tuition methodology. Allowing interim rates to include the growth factor (plus), will enable schools to collect the tuition necessary to invest in their students.

The New York State Coalition of 853 Schools strongly supports these bills. We are grateful for the Legislature's continued support of our students.