

Legislative Priorities *2022*



Commitment to Diversity, Equity and Inclusion

School districts in many communities are considering and adopting Diversity, Equity and Inclusion (DEI) policies and practices. Many schools have faithfully implemented DEI efforts for years, and more have joined since the Board of Regents called on all schools in the state to develop policies that advance DEI as a priority.

In some communities, debates have arisen over the intent and focus of these efforts. Now, to ensure outcomes that best serve our young people, debates must be resolved through a reliance on facts and on a true understanding of the work being done in our schools.

The goal of DEI efforts is to create a positive learning environment for all students and eliminate barriers that limit a student's chance to be successful. When a school board adopts a DEI policy, it is committing to ensuring all students have equal educational opportunities and the resources they need to succeed.

DEI policies and practices aim to include all groups that have been disadvantaged, whether due to race, ethnicity, disability, gender or gender identity, socioeconomic status or another factor. That is why DEI efforts include a focus on advocating to ensure all schools have resources matched to the needs of the students they serve.

In public education, school boards, with the advice and counsel of school superintendents and staff, adopt a curriculum that teaches students to think analytically, understand multiple perspectives and draw their own conclusions. An equitable and inclusive education prepares all students for a lifetime of thoughtful discussion and analysis of issues that shape and define our society, today and into the future.

The adoption of DEI initiatives by school districts is about ensuring that all students have the opportunities and assistance we would want for our own children – and preparing all students for a diverse workforce and world they will enter upon leaving school.

Our future depends on public education and the success of our schools requires a commitment from those in our communities who hold differing perspectives to resolve those differences in a respectful manner.



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NYSSBA's 2022 Calls to Action

STUDENT SERVICES AND NEEDS

Bridging the Digital Divide and Virtual Learning

Virtual learning and hybrid-style teaching are here for the foreseeable future. The COVID-19 pandemic forced public schools across the state to make a dramatic shift from classroom to virtual instruction, whether completely remote or a hybrid model. Research indicates that between 15 and 17 million students nationwide have inadequate online access to properly engage in virtual learning platforms. This greatly impedes school districts' efforts to adequately meet the academic, social and emotional needs of students when unable to educate them in person, resulting in educational inequities among students.

School districts may choose to move classes online even after the pandemic is over for myriad reasons. For example, many rural districts struggle to provide competitive course offerings to their students. Including an array of online courses in the curriculum would further student opportunities. Online learning can also promote collaboration nationally and internationally. Students throughout New York could partner with each other to research, or foreign language students could build lasting relationships with their peers globally. We have also seen recent bus driver shortages necessitate occasional shifts to remote learning days.

Broadband access must be expanded so that students throughout New York State are granted the opportunity to access high-speed internet. There cannot be true equity in our education system when certain students have little to no internet access while others work at top speeds. In addition, the state

and federal government must increase investments in a multi-billion dollar effort to support distance and remote learning programs for students who do not have proper broadband access at home. It is critical that such funds cover a wide range of expenses including Wi-Fi hotspots, modems, routers, connected devices, at-home internet devices for students and more. Flexibility for use of these funds is also necessary.

Finally, in addition to the physical limits of broadband technology, many families face cost barriers to internet access. Funding, such as stipends for families, should be made available to low-income households who cannot afford high-speed broadband in order to ensure equitable access to education.

Student Health and Mental Health

After more than a year of remote learning, in-person schooling has generally resumed for students across the state. School leaders are working hard to address unfinished learning and assess student well-being in the wake of the collective trauma brought about by the COVID-19 pandemic. As a result, schools are prioritizing both academics and socio-emotional health as they navigate this frequently changing landscape. Even when school facilities are closed, schools continue to provide student health and mental health services either virtually or by means of complex, costly delivery services.



New York has over 250 approved and operating school-based health centers whose services not only improve overall student health and mental health, but also lead to fewer absences and improved academic performance. These centers are even more critical during a global pandemic. Many routine healthcare visits have been put on pause, and districts will have to respond to more critical mental health needs. Anxiety, depression and suicide rates were already on the rise before schools closed. Now, additional factors must be considered, including social isolation, anxiety caused by COVID-19 and grief over the death of family members.

In addition, the tobacco and electronic cigarette industries have worked hard to influence a new generation of users. Once thought to be the generation that would destroy the tobacco industry, new products have entered the market targeted at today's youth. These products have encouraged young people to pick up tobacco products for the first time. To protect our children from a lifetime of nicotine addiction and poor health outcomes, the state must take further action to regulate and restrict the use of tobacco and e-cigarette products.

NYSSBA calls on the state and federal governments to adequately fund programs that support student physical and mental health. That includes funding for community schools as a separate aid category and dedicated funding for school-based health and mental health services, including infrastructure. Further, NYSSBA calls on the state and federal government to protect Medicaid payments to school districts. Finally, assistance should be consistently provided to school districts to ensure they can safely keep their doors open to students as the pandemic persists. This includes funding for personal protective

equipment as well as access to ongoing COVID screening tests.

The COVID-19 pandemic has shone a light on the importance of vaccinations as a strategy to minimize disruptions caused by preventable illnesses. New York State requires children attending daycare and pre-K through 12th grade to receive all doses of vaccines on the recommended schedule. The vaccine requirement applies to students attending all public, private and religious schools. Under current law, school staff are not held to these same standards. NYSSBA calls for legislation to require all school staff to receive vaccinations required of students, where medically appropriate.

School Nutrition

Throughout the pandemic, school districts have continued to ensure students across the state have access to nutritious breakfasts, lunches and sometimes dinners. Meals have been served in classrooms, central pick-up locations and even delivered to homes. School leaders recognize that first and foremost, students need proper nourishment in order to be productive learners. The U.S. Department of Agriculture (USDA) provided the flexibility districts needed to feed all students in a wide range of settings. As a result of this flexibility and guaranteed federal funding, school districts have realized great success in feeding their students. However, these allowances are slated to expire after June 30, 2022.

NYSSBA calls on New York State to fund a statewide universal school meals program that would ensure all public school students are offered breakfast and lunch free of charge. California and Maine will launch such programs starting in the 2022-23 school year. Universal school meals programs reduce the stigma for students unable to afford meals, increase the number of students fed during the school day, reduce paperwork for school staff and lead to more efficient meal service operations.



School Safety

NYSSBA does not believe there is a one-size-fits-all solution for addressing school safety. Some communities may choose to have a school resource officer employed by a law enforcement agency assigned to one or more of their school buildings. Another district may feel better served by a security officer or team that is not affiliated with law enforcement, but rather selected and hired by the district. Others may determine their greatest need is to provide mental health services, while yet another may focus on security systems, access and hardening of entrances. While the options vary, one thing remains true – each will best serve students if adopted with local stakeholder input and support.

School safety and the health and wellbeing of students and staff have taken on many new nuances due to the COVID-19 pandemic. This includes considerations related to social distancing, testing and capital upgrades. These provisions will have a budgetary impact for districts, especially if they are required by governments - local, state or federal. It is important that adequate funding, including capital

project funding, be made available and readily accessible to allow districts to comply with these needs.

Child Safety Zones also play a crucial role in school safety. Child Safety Zones are designated areas within a school district in which students who live a short distance from the school building may receive transportation because walking could be dangerous. NYSSBA has advocated for the expansion of this definition to include high crime areas and the presence of vacant and abandoned structures. NYSSBA was pleased to see Chapter 623 of the Laws of 2021 signed, but more work remains. This includes expanding zones to cover other foreseeably dangerous conditions and ensuring the capacity to transport students in Child Safety Zones is appropriately reimbursable through transportation aid.

NYSSBA calls on state and federal policymakers to make available flexible grant funding to support the development and implementation of many of these school safety programs.



EDUCATION RESOURCES

State Aid

The 2020-21 school year saw a total reversal of fortune when it came to education funding. In April 2020, following a state budget that was adopted with relatively flat funding supported by federal stimulus dollars, school districts were almost immediately warned about the potential for upwards of a 20% mid-year cut to state aid. Such a reduction would have resulted in a loss of more than \$5 billion statewide, reducing education funding to levels not seen since 2014-15. But by April 2021, following second and third federal stimulus packages in December 2020 and March 2021, state leaders turned one of the most dire education finance situations into one of incredible promise and opportunity.

The 2021-22 state budget increased traditional school aid by more than \$3 billion, including a state restoration of the 2020-21 Pandemic Adjustment state aid cut of more than \$1 billion, a \$1.4 billion boost in Foundation Aid and nearly \$500 million through the full-funding of expense-based aids and increases to other programs such as prekindergarten.

Beyond the dollars, the budget also included a commitment and plan to fully fund the now fifteen-year-old Foundation Aid formula, one of NYSSBA's top school funding priorities over the past decade. But while this was an incredibly positive step, and state leaders should be commended for enacting such a plan, it is not the first time the state has statutorily committed to fully funding the Foundation Aid formula. When Foundation Aid was first

enacted in 2007, the original plan was for a four-year phase-in. That schedule was funded for the first two years, until the Great Recession began to significantly impact the state's budget. Foundation Aid was then frozen and the four-year phase-in schedule was stretched out to a seven-year plan. When that plan also became unrealistic, the state effectively eliminated the schedule altogether.

As such, it is a top priority of NYSSBA's that the full-funding commitment be maintained in years two and three of the plan and beyond.

With a plan to finally fund the existing formula now in place, NYSSBA also calls on the state to look to the future of the formula by formally reviewing the impacts over the past two decades and the changes to the educational environment since the formula was first constructed. As an important part of that process, NYSSBA believes strongly that the state should conduct a new costing-out study to determine the current cost of educating a student. The Foundation Aid formula is rooted in the basis of the standard cost to educate a student, based on a calculation of such costs in "successful schools". However, the data used in that formula is, in some cases, more than two decades old. In addition, school districts and the state continue to adjust to changing educational standards, additional new programs and changing technology as well as growing student need. All these factors should be reconsidered in a new costing out study.

School districts will continue to need a state aid system that is dependable, predictable and responsive to the existing educational environment, with minimal manipulation by political processes. And while Foundation Aid makes up the majority of traditional state aid, school districts rely on a wide variety of state funding mechanisms. Whether it be



The following additional adjustments and improvements should be made to the Foundation Aid Formula:

Review and adjust the weightings for high-need students

The number of high-need students continues to rise across the state. English language learner students now total nearly a quarter million statewide. Statewide special education enrollments increased by more than 16% from 2012-13 to 2019-20, even as total student enrollment decreased over that same period. In addition to increasing populations, these high-need students often require more comprehensive and more costly services than a decade ago. The current formula includes limited weightings for these and other high-need students that require review and adjustment.

Improve data collection for measuring student poverty

There are numerous examples of why the formula's measure of student need requires adjustment. The state acknowledged this issue in the 2017-18 budget by including the use of the modern "Small Area Income and Poverty Estimate" (SAIPE) as an alternative to the out-of-date 2000 census poverty count. However, the state failed to extend the use of SAIPE beyond that single year, effectively restoring the use of data that is now more than twenty years old. NYSSBA calls on the state to restore the use of SAIPE as a full replacement of the 2000 census poverty data. In addition, the state required the collection of "direct certification" student counts. This measurement is an alternative to the traditional Free and Reduced Priced Lunch (FRPL) figure, which is known to undercount children in districts with the greatest need. NYSSBA calls on the state to use the direct certification as a replacement for FRPL data in state aid formulas. Further, the cost and effect of high concentrations of poverty (not just the counts) and inclusion of a poverty concentration factor should be considered.

Update the Regional Cost Index

The formula recognizes that it costs more to educate students in some parts of the state than others. However, the Regional Cost Index (RCI) has not been changed since it was included with the original formula in 2007. The State Education Department already conducts these reviews for data purposes every few years. The RCI should be updated in the formula periodically to ensure that regional cost differences and boundaries are representative and up-to-date.

Review impact of student-based district wealth factors

Because Foundation Aid is a per student operating aid, declining enrollment suppresses the amount of aid the formula generates for a district. However, many district wealth factors within the Foundation Aid formula are also adjusted by student count. When enrollment declines, the district will seem "wealthier," even when actual wealth measures such as property value and gross income remain flat. These processes are understandable when viewed on their own,

but when combined, the loss of enrollment can result in a "double hit" on a district's Foundation Aid. Nearly all districts currently on save harmless under the Foundation Aid formula have experienced declines in enrollment, despite increases in student need and inflationary costs. The calculation of student-based district wealth factors should be reviewed to ensure that districts with declines in enrollment are not unduly punished by the formula.

Account for the property tax cap in a district's expected local contribution

When the Foundation Aid formula was enacted in 2007, a central component was the measure of how much the local community should be expected to cover of the total cost of educating a student based on the resources in that community. That figure would then be subtracted from the total educational cost to determine the state's portion (Foundation Aid per pupil). The local contribution would, theoretically, be generated through the local property tax levy or other local revenue streams. Since then, the state enacted a property tax cap that places additional limits on a district's ability to generate revenue at the local level. Therefore, the expected minimum local contribution calculation should be reconsidered to recognize the fact that a district may not be able to realize that full amount.

Eliminate the use of "set-asides," or restrictions, on the use of operational funding

While funding is critical, how those resources can be used is often just as important. Under the 2021-22 state budget, a quarter billion dollars in Foundation Aid is restricted to be spent only on community school programs, regardless of whether or not a school district runs, or wants to run, a community school program. NYSSBA supports the concept of community schools but is firm in its stance that funding for such initiatives should be separate from Foundation Aid. Foundation Aid was designed to be, and should remain, unrestricted. Set-asides reduce local control and give the false impression that additional investments are being made, whether it be for community schools, contracts for excellence or other needs. School boards and other district leadership, with approval by voters, must have the ability to determine where funds are most needed within their community. Should policy makers wish to provide funding for a specific purpose, it should be done through a separate appropriation to be used at local discretion.



expense-based aids that serve as reimbursements for previously incurred costs, improved tuition methodologies for special act districts or high tax aid for districts unusually dependent on property taxes, school districts will continue to rely on the state to maintain proper funding of these categories. In some cases, these formulas must also be re-examined and adjusted to meet the unique circumstances faced during the pandemic.

Significant financial investments over the past year have allowed school districts to respond to the challenges - direct and indirect - of the COVID-19 pandemic in both the near and long term. But it does not mean that the needs that existed prior to COVID-19 have simply gone away. In many cases, they have been intensified. Our children get one shot at kindergarten, one opportunity to experience all that elementary school has to offer and one chance for high school to prepare them for the rest of their adult lives.

Federal Aid

The COVID-19 pandemic disrupted many sectors of the economy – statewide, nationwide and globally. As the pandemic created an upheaval in our education system and threatened the financial stability of our school districts, NYSSBA called on federal representatives to provide school districts with an influx of stimulus funding to support the delivery of essential services, meals, technological devices and other necessities that support student achievement.

From March 2020 to March 2021, Congress passed three stimulus bills that provided three tranches of funding for school districts. The CARES Act provided \$1.1 billion for New York State public school districts;

the CRRSA Act provided \$3.85 billion; and the ARP Act provided approximately \$8.2 billion for New York's public school districts. This aid has allowed many districts to provide summer unfinished learning programs, enhance mental health supports and upgrade HVAC systems to improve ventilation, among other vital services and programs.

NYSSBA is immensely grateful for the federal relief provided to school districts thus far. However, other long-term priorities have yet to be met. When the Individuals with Disabilities Education Act (IDEA) was enacted in 1975, Congress authorized federal spending to fund up to 40% of states' average per-pupil expenditures. IDEA currently funds approximately 13% nationwide of what it is estimated to cost all schools to meet student needs, according to the federal statute. NYSSBA calls for a significant increase in federal funding to support special education programs and services, working towards the 40% funding commitment. This financial support helps ensure school district budgets work, particularly for districts with the neediest students.

NYSSBA further calls on Congress to commit to strong investments in public school infrastructure. Not only would a significant federal investment in school facilities be a long-term investment in the health, safety and success of our students, it would also be an immediate investment in both local and national economies. Congress can bring America's school buildings into the 21st century and provide our students and communities the greatest opportunity to recover from this pandemic. NYSSBA urges them to act.

The federal government is also uniquely positioned to help school districts meet the technology inequities that have been highlighted and intensified by COVID-19. Access to broadband must be a national priority. NYSSBA is pleased with the recent bipartisan infrastructure agreement to invest \$65 billion in broadband expansion and calls for





PRINCIPLES

NYSSBA calls upon the state Legislature and the Governor to reform New York State education funding in accordance with the following tenets to ensure adequate resources to public schools in the State of New York by providing for:

Adequacy – to provide sufficient resources to assure the opportunity for a sound basic education for all students.

Equity – to distribute a foundation level of state aid for every student that is based on the actual cost of providing a sound basic education that fairly compensates for differences in community costs, needs and resources. The Legislature should preclude municipalities from using state aid to replace local education resources.

Flexibility – to increase the percentage of operating aid so that boards of education retain the discretion to determine what educational programs best address local needs. Local communities should not be restrained from determining the level of funding they will expend to support educational programs.

Predictability – to provide timely passage of the state budget and stable funding distributed through a consistent, uniformly applied formula that would not require annual manipulation by the Legislature and that would facilitate long-term planning by school districts.

Clarity – to establish a funding formula that is easily explained and understood.



long-term commitments to increase funding for the E-rate program, which disseminates funds to schools and libraries for the purchase of connected devices and advanced information and technology services within their facilities. NYSSBA also calls for an expansion of E-rate eligible purchases to include home internet access for all students.

Finally, federal action to limit the income tax deduction for state and local taxes (SALT) compounds many of the funding challenges that school districts face. In high-cost states like New York, the \$10,000 SALT deduction cap acts as double taxation for essential educational services and potentially impacts millions of taxpayers. The SALT cap can threaten the passage of general school district budgets as well as bond approval for capital construction projects. The SALT cap must be repealed.

Local Revenue

More than half of school district spending statewide is provided by local revenue, the majority of which is generated through property taxes. The fiscal difficulties of the past two years have further highlighted the constraints of the tax cap environment. This has been especially true in years when the consumer price index is lower than 2%, which has occurred six times since the cap was instituted. Conversely, when inflation runs higher, like we saw in 2021, the tax cap arbitrarily limits a district's ability to meet those increased costs. Since the enactment of the property tax cap in 2011, school boards have been forced to adjust their budgeting practices to fit the constraints of the tax cap, rather than placing the greatest priority on the needs of their school districts and students.

While the property tax cap's sunset clause was repealed in 2019, there was unfortunately little action taken to address the inequities and unintended consequences the cap created when it was established a decade ago. These difficulties still exist and have only compounded over time. In order to make the property tax cap work for all stakeholders, NYSSBA continues to seek action on the following reforms:

- Make the allowable growth factor a minimum of 2%
- Prohibit negative tax caps
- Include properties under payment-in-lieu-of taxes (PILOT) agreements in the tax base growth factor
- Reform the tax cap override process
- Account for enrollment growth in the calculation

The complexities of the property tax cap are only part of the problem. School districts have also experienced an increasing prevalence of payment-in-lieu-of-taxes (PILOT) deals and other economic development tax incentives. Approximately 500 districts reported receiving nearly half a billion dollars in PILOTs in 2019-20 alone.

Industrial Development Agencies (IDAs) routinely offer PILOTs and other tax abatement deals to encourage economic development. PILOT agreements generally reduce the amount of property tax revenue that would have otherwise been received by school districts and other local governments. In addition, these incentives have an initial negative impact on a district's tax cap calculation.

In some cases, IDAs actively engage potentially affected school districts in their process and offer great openness and transparency. However, too often there is little to no communication, leaving the school district to learn of a multi-million-dollar impact on its budget after a decision has already



been made. State law specifically lists school board members as potential members of IDA boards, but only a handful of the more than 100 IDAs statewide have current school board representation.

NYSSBA calls for continued reforms to the PILOT process in order to promote greater communication, openness and transparency. School boards should have representation on IDA boards and/or the authority to disallow such tax deals from applying to school property taxes.

Budget Management and Cost Drivers

Balancing the need for strong academic programs with keeping local property taxes stable and affordable is one of a school board's most important responsibilities. The state made notable progress in recent years by authorizing a Teachers' Retirement System (TRS) reserve within the existing state and local retirement system (ERS) reserve fund. But additional barriers remain.

Increasing Fund Balance

Fund balance is the amount of operating funds that districts may retain at the end of a fiscal year. Currently, districts may carry over a maximum of just 4% per year. Any amount in excess of 4% must be used to offset property taxes or be placed in an authorized reserve fund, restricted to specific future expenses.

In contrast, local governments have no specific percentage limitation on fund balances. However, the Government Finance Officers Association recommends that local governments – including school districts – maintain no less than two months' worth of operating expenses on hand. This is significantly higher than the current limit for school districts. Moreover, a low fund balance is one factor given by the Office of the State Comptroller that indicates poor financial health.

During the COVID-19 pandemic, some temporary fixes were put in place. These included a law which allowed districts to borrow from their reserve funds with a five-year payback and interest requirements. Additionally, districts were authorized to record federal stimulus funds as grants in aid. These flexibilities, though appreciated, do not go far enough.

Coupled with the property tax cap, the current fund balance restrictions place an undue burden on districts as they try to meet the needs of students. The current restrictions leave little room for error for districts to achieve this critical metric necessary to indicate good financial health. A higher cap would allow districts to retain more cash on hand to meet unplanned fiscal obligations. Flexibility for school districts coupled with more local control would be a means of allowing districts to better meet the financial challenges as they occur. A permanent increase to the fund balance limit is both needed and fiscally responsible.

Reforming the Triborough Amendment

The Triborough Amendment is a state law that prohibits employers from discontinuing the provisions of a collective bargaining agreement once it expires if a new contract has not been negotiated. Notably, this requires any incremental salary increases to continue to be paid, unless or until a new contract is agreed upon. The structure of the Triborough Amendment causes a number of challenges that can mean added fiscal stress and reduced flexibility for school districts.

First, it requires districts to pay for expired contractual obligations, whether they can afford to or not. This, in turn, can create a disincentive to negotiate new agreements. In any fiscal environment, requiring districts to continue funding expired contract provisions is unnecessarily burdensome.



Reforming the Triborough Amendment would provide immediate and much needed fiscal flexibility to our state's school districts. It would provide districts more predictability in the budget process and would also allow for potential cost savings. NYSSBA calls on the Governor and the State Legislature to reform the Triborough Amendment in a way that appropriately acknowledges the needs and circumstances for both school districts and their staff.

Reforming the Wicks Law

The Wicks Law is a requirement that school districts hire four separate prime contractors for school construction projects. These are a general contractor, an electrical contractor, a plumbing contractor and an HVAC (heating, ventilation, and cooling) contractor.

Standard construction projects are done with a general contractor that chooses electrical, plumbing, and HVAC subcontractors as needed. School districts are held to a different and unnecessary standard. To make the situation more challenging, because each contractor is a general contractor, they are free to stop their work to focus on other projects. Capital projects are expensive and paying four separate contractors often eliminates any economies of scale. Additionally, districts are also required to pay prevailing wage to each separate contractor for all capital projects.

The law is outdated and inefficient. The original goal of the Wicks Law was to ensure timely payment of subcontractors by their general contractors. However, this original intent has been lost and replaced by a costly mandate on school districts. Every other state in the country has repealed similar laws in favor of more sensible policies.

Special Education

School districts spend billions of dollars each year on special education services. Costs for these services have increased by more than 30% over the past decade. Much of this increase is driven by special education enrollment growth.

Nearly one in five students now qualifies for special education services. These services are important, but also costly, and local school districts are required to absorb the overwhelming majority of the expense. While additional resources could help offset these costs, that is not a long-term solution.

Litigation remains a key driver of these increasing costs. Special education-related lawsuits have become increasingly common in recent years. This is particularly true in the case of due process hearings, impartial hearings and independent evaluation requests.

Several reforms would help to mitigate the impact of these rising costs, while continuing to provide critically important services to students with special needs. These reforms can be divided into three key legislative requests.

1. Increase Ease of Recovery of Attorneys' Fees

Special education hearings come at substantial cost, including the cost of the hearings and attorneys' fees in due process claims. Of particular note is the present difficulty experienced by school districts in recovering attorneys' fees in suits where the district is successful. One way to reduce the costs associated with these hearings would be to guarantee recovery of attorneys' fees by the district when the district is the prevailing party.

2. Shifting the Burden of Proof in Due Process Hearings

Many special education-related lawsuits stem from a due process hearing, in which parents request a reevaluation of their child's



Individualized Education Program (IEP). Impartial hearings play a vital function in mediating and resolving issues between school districts and parents. This is complicated by the fact that current New York State law, with some limited exceptions, generally places the burden of proof on the district against which a claim is being made. This means that in state special education due process claims the burden lies with the defendant, reversing the normal practice for most other legal proceedings in which the burden falls on the plaintiff.

Changes to the law are needed to clarify when and if the burden of proof lies with a school district versus a party bringing suit.

3. Establish Training and Certification Opportunities for CSE Parent Advocates

At the discretion of parents of students with disabilities or the district, a committee on special education (CSE) can include individuals who have knowledge or special expertise regarding the child. Parents can include advocates and other supporters to help determine any appropriate special education services their child should receive. Advocates are often professionals with experience in special education and advocacy. However, no certification is required to serve as an advocate nor are there any additional qualifications.

In addition, New York State court rulings have made clear that if a CSE chooses to resolve an impasse in discussions by taking a vote, then the vote of all participants must be counted, including members selected by the parent/guardian. There is no limit or cap on the number of CSE participants.

Because parent advocates have become an increasing part of the CSE process, it has become worthwhile for the state to establish a training and certification program that supports their involvement. Training opportunities should be fully funded by the state to encourage the broadest participation possible. Such a program, supported and encouraged by the state, would foster a more effective and efficient CSE process for all stakeholders.

Districts have no desire to deny students the services that they require, under their constitutionally protected right to an education. At the same time, they have an obligation to students and families, who are also taxpayers, to ensure that all the current requirements are met while delivering services efficiently. NYSSBA believes the state should take steps to address the underlying drivers pushing the cost of special education upward.



LOCAL SCHOOL BOARD FLEXIBILITY AND SUPPORT

The COVID-19 pandemic caused a cultural and societal change across the country and the world. Gone are the days of rigid, superfluous schedules and 9-to-5 lifestyles. Flexibility and local options are a welcomed part of the new normal. School districts are adapting to these changes and that requires increased flexibility and control. As we all continue to navigate the new “business as usual” model, the state must also adapt its laws to reflect this positive transition to a more flexible day-to-day lifestyle.

Virtual Open Meetings

As the COVID-19 pandemic raged, New York State understood that continuity of government was essential, and citizen participation in government must go on. Through extraordinary action by the legislature and executive orders, school boards and other public bodies were able to continue their vital work virtually. This was essential in ensuring the success of our state’s response to the emergency. Likewise, citizen participation was preserved through virtual means, allowing public involvement to continue. Moving forward, NYSSBA calls upon state leaders to make two specific changes to the Open Meetings Law.

First, school boards and all public bodies should be able, at local discretion, to meet virtually when the need arises. This authority should apply to full board meetings, as well as committee meetings. The value in doing so extends well beyond the pandemic, as such flexibility can address challenges associated with weather, natural disasters, facility issues and other emergencies. Public participation would continue to remain at the heart of virtual open meetings. Virtual meetings will not only preserve

public access, but as we have seen over the past two years, they can expand it. Participation in school board and other public meetings is often easier for interested parties who would not have to travel to a school or town hall to let their voice be heard.

Second, statute should be amended to no longer require school board members to publicly disclose their physical location and make that location open to the public. Such provisions were crafted with the idea of preserving access to the public by preventing undisclosed meeting locations. However, those requirements do not fit our current world. Going forward, it is appropriate to help protect the privacy and safety of thousands of school board members and other government officials by eliminating the requirement for an individual to advertise their physical location and make that location open to the public while participating virtually in a public meeting.

Regional High Schools

The state should examine expanding the number of regional high schools. In this model, students attend elementary and middle schools in their local community, then attend a regionalized facility at the secondary level.

According to one Board of Cooperative Educational Services (BOCES) district superintendent, regional high schools “allow schools and communities to maintain their identity, expand educational opportunities and achieve financial savings,” which may be more appealing to certain communities than the traditional merger model. In order to achieve operational and educational efficiencies and maintain community interest in local schools, NYSSBA recommends legislative changes to allow for school districts and BOCES across the state to establish regional high schools.



Flexible School Days

During the pandemic, it became clear that flexible scheduling and remote working and learning can be useful and effective tools. Many current learning platforms include a hybrid of in-person and online classes. School districts must also be granted greater flexibility in determining their school calendars and organizing their students' instructional days.

Under current law, school districts are required to hold at least 180 instructional days, or an hourly equivalent, between September 1 and Regents Rating Day in late June. If they fail to do so, they risk losing state aid. NYSSBA calls on the state to provide flexibility to begin the academic year earlier than September 1 if that is what district leaders choose is best for their students and communities. As the future of learning changes, both the school day and school year may look different from how it has looked in the past. School districts need the guidance and flexibility to be able to adapt to the needs of today and meet the needs of tomorrow.

Schools as Polling Places

School boards are publicly elected by their communities to provide governance and oversight for their districts. NYSSBA believes strongly in preserving and protecting the authority of school boards. As part of that responsibility, it is important for policymakers to give school districts greater control over access to their students and buildings. Currently, county boards of elections can require school districts to open their doors for any election – general, primary and special.

When selected, school districts have no recourse, regardless of the potential impact on school operations or student and staff safety. Meanwhile, a board controlling any building, other than a school building, that has been designated a polling place has the authority to file a written request for cancellation of such designation.

At a time when school districts are forced to make costly investments to maintain strict health and security standards for their students and staff, setting aside such procedures and allowing unrestricted access to their buildings creates unacceptable health and safety risks. Furthermore, the New York State Department of Health issued an emergency regulation mandating masks be worn in schools. Current NYSDOH guidance for the 2021-22 school year also advises that school districts conduct daily health screenings, possibly including temperature checks, of all visitors that enter school buildings. It is unacceptable to burden school administrators with an additional logistical hurdle at a time when simply educating students has become a monumental challenge.

NYSSBA calls on the state to allow boards of education to determine whether or not school district buildings are used as polling places.

School Budget Votes and Elections

Nearly all school districts in the state of New York are required to hold their annual budget votes and board elections on the third Tuesday in May. If such date conflicts with a religious observance, a board may request permission from the State Education Department to move the election to the second Tuesday in May. There may be other worthwhile reasons to move the date of a school board election, such as a natural disaster or statewide emergency. However, current statute limits the Commissioner's ability to change the date of school board elections. NYSSBA calls for legislative action to empower the Commissioner of Education to declare alternate election arrangements in case of a disaster disrupting a scheduled school board and budget vote.



Current law requires school districts to make absentee ballots available to qualified voters unable to vote in person due to at least one of several reasons specified by law, including illness, physical disability or travel outside of the county or city of residence on the day of the budget vote and election. The law does not, however, permit a school district to provide an absentee ballot to an individual who, for religious reasons, is unable to vote in person on the date of a budget vote and election. NYSSBA calls for an amendment to state Education Law that would authorize school districts to grant qualified voters absentee ballots due to religious observances.

Environmental Sustainability and Adaptation

Environmental sustainability and adaptation to climate change are increasingly important issues for school districts. With natural disasters and extreme weather events becoming more frequent, schools must be prepared to adjust. NYSSBA calls on the legislature and the Governor to provide dedicated funding to help school districts address the areas of facilities improvements, transportation and sustainability.

Notably, using alternative energy sources, energy efficient technology and other environmentally sustainable practices in retrofitting or new construction is in line with the current environmental policies of the state. However, beyond general

building aid, there is no consistent and dedicated education funding source for these sorts of environmentally focused projects for schools. NYSSBA supports policies to increase and dedicate funding to these initiatives similar to the New York State Energy Research and Development Authority's (NYSERDA) P-12 Schools Initiative.

The initiative encourages schools to lower energy use and utility bills while reducing greenhouse gas emissions, the leading contributor to climate change. The more than 6,000 public and private schools in New York State spend roughly \$1 billion in annual energy costs while producing approximately 5.6 million metric tons of carbon dioxide or other harmful greenhouse gases. Working with NYSERDA, P-12 schools can lower emissions.

This initiative promotes clean energy efforts by educating, guiding and assisting schools that implement clean energy projects and commit to sustainability-focused principles at their facilities and in the classroom. In addition, it helps schools adapt to current issues related to climate change and global warming. However, this program does not provide maintainable funding sources for schools to undertake significant facility upgrades. NYSSBA calls on the state to fund more programs like this to help schools adapt to climate change and further protect students, today and in the future, from its harmful impacts.





The New York State School Boards Association believes that proposals affecting public education should:

- provide **access** to programs that prepare students to be college and career ready;
- **achieve** equity and adequacy in funding;
- promote **efficiency** and cost-effectiveness;
- advance high **expectations** for all students;
- embrace **innovative** approaches and assessments; and
- foster **community** engagement and regional cooperation.





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