



TO: The Honorable the Members of the Board of Regents

FROM: Beth Berlin *Elizabeth B Berlin*

SUBJECT: Proposed Regents 2014 State Legislative Priorities

DATE: November 18, 2013

AUTHORIZATION(S):

JL B. 959
SUMMARY

Issue for Discussion

The Board of Regents advances Legislative Priorities every year. The relevant committees will review the 2013 legislative proposals for advancement and also consider and approve new legislative proposals for the 2014 session.

Reason(s) for Consideration

Review and update the Regents Legislative Priorities.

Proposed Handling

The attached proposals will be reviewed at the relevant committee meetings during the November meeting.

Recommendation

Affirm support for last year's proposals and consider and approve new legislative proposals for the 2014 session.

Timetable for Implementation

The attachment summarizes the proposals that were priorities last year as well as new legislative proposals for the 2014 session.

DRAFT REGENTS 2014 LEGISLATIVE AGENDA

STATE LEGISLATIVE PRIORITIES



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Affirm Support for Previously Advanced Priorities:

- **Mandate Relief and Flexibility** – Legislation would enact a series of mandate relief measures to promote cost savings and provide relief from reporting requirements. (S.5557-Flanagan/A.7060-Nolan of 2013)
- **BOCES As Regional Leaders** – Legislation would enact a series of measures designed to expand the ability of BOCES and BOCES leadership to provide services to entities other than their component school districts and become a regional education leader. (S.5567-Flanagan/A.7150-Nolan of 2013)
- **Create Regional Secondary Schools** – Legislation would enable 3 or more school districts to enter into a mutual contract to form a regional secondary school, affording students greater educational opportunities. (S.4184-Flanagan/A.7149 Nolan of 2013)
- **Board of Regents Intervention in Chronically Underperforming Schools** – Legislation would authorize SED to give these districts a series of tools and supports to get them back on track. (S.4183- Flanagan/A.6480-Nolan of 2013)
- **TAP for Early College High School Students** – Legislation would provide for Tuition Assistance Program funding to Early College High School students, and provide sustainable support for these newly created programs. (S.4008-Flanagan of 2013)
- **Education Equity for DREAMers Act** — Legislation would give undocumented immigrants the opportunity and access to higher education by making financial assistance available. (S.5682-Rules of 2013)

Consider and Approve New Legislative Proposals:

- **Tuition Rate Setting Methodology** – To correspond with administrative proposals to improve the existing tuition rate setting methodology for Special Act School Districts and Approved Private Schools Serving Students with Disabilities (853 Schools), legislation would create a statutory index for establishing the growth in annual tuition and authorize the creation of a general reserve fund.
- **Tuition Assistance Program (TAP) for Students with Disabilities** – Legislation would resolve the conflict in the law that has resulted in creating a barrier for students with disabilities who attend college part-time to continue receiving TAP awards.

For more information contact the
Office of Governmental Relations, New York Education Department, (518) 486-5644



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MANDATE RELIEF AND FLEXIBILITY

SED LEGISLATIVE PROPOSAL

THE ISSUE:

As the state's revenue condition worsens and school districts adjust to the tax cap and the loss of federal funds, mandate relief becomes vital in order to preserve funding for critical priorities.

While many mandates were originally enacted to enhance the rights, protections and performance of students and the fiscal accountability of school districts, not all mandates have produced their intended results. In these fiscal times, it is imperative that a thoughtful and targeted series of changes be made to repeal outdated mandates that have grown too burdensome and costly and which are not essential to improving results for students.

The Regents have acted within the scope of their authority to make regulatory changes to help unburden school districts while maintaining appropriate safeguards and protections for students, parents and the general public.

THE SOLUTION:

Our proposed legislation would eliminate or reduce a significant number of legislative mandates and provide greater flexibility relating to curriculum, transportation, educational management services and special education.

Among other things, the legislation would:

- Allow the awarding of transportation and cafeteria and restaurant contracts based on "Best Value" rather than solely on lowest price.
- Initiate a feasibility study to allow districts and BOCES to save on credit card costs.
- Exempt school districts from the Smart Growth regulations for reconstruction, renovation and addition projects.
- Eliminate duplicate fingerprinting for school bus drivers.
- Eliminate the requirement for back-lit school bus signs.
- Replace the mandate on Conservation Day with Earth Day academic instruction.
- Streamline the provision of special education services to parentally-placed students with disabilities.
- Reduce delays and due process costs by shortening the statute of limitations to request a special education due process hearing.
- Eliminate certain duplicative aging out reporting requirements.
- Further align Committee on Special Education (CSE) membership with the federal IDEA as well as Committee on Pre-School Special Education (CPSE) membership.

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BOCES AS REGIONAL LEADERS

SED LEGISLATIVE PROPOSAL

THE ISSUE:

Increasingly, students, teachers, administrators, school districts and other educational entities need to be served by a more integrated education system that creates efficiencies while bringing them world-class educational opportunities. The current system of public schools and school districts, charter schools, non-public schools, libraries and other agencies providing an education to our students needs a strong regional system to support and augment what they are able to offer.

Boards of Cooperative Educational Services (BOCES) were created to be regional providers of educational services in cooperation, affording the energies and economies of scale to a region that would be unavailable or too expensive to provide by any single district. Increasing the ability to BOCES to provide these services will strengthen regional ties, open up educational opportunities to more students and allow districts and other educational service providers to tap into the economies and efficiencies that come with a regional approach to education.

THE SOLUTION:

The legislative proposal would:

- Help BOCES increase the effective and efficient delivery of educational services in New York State.
- Allow BOCES to grow as a regional education leader *and* a regional service provider.
- Expand BOCES authority to provide a broader range of services to entities other than component school districts, including charter schools, libraries, state agencies that operate schools and nonpublic elementary and secondary schools.
- Re-align existing incentives to encourage districts to operate more efficiently and promote multi-district consolidations and inter-municipal cooperation.
- Authorize BOCES to provide fingerprinting services to nonpublic elementary and secondary schools, charter schools and individuals seeking teacher certification, for use in criminal history record checks.
- Clarify that BOCES may contract with both public libraries and library systems to provide high-speed telecommunications.
- Reduce costs by allowing BOCES to provide treasurer and purchasing agent services to school districts.
- Legislation will be updated to reflect provisions enacted in the 2013 session and include other mandate relief items as approved by the Regents.

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CREATE REGIONAL SECONDARY SCHOOLS

SED LEGISLATIVE PROPOSAL

THE ISSUE:

In light of fiscal constraints, many school districts are at risk of not being able to meet their fiscal obligations and/or are facing educational insolvency due to cuts to critical personnel and programs. Much of the fiscal and educational pressure on districts is at the secondary education level.

Current state law has limited options for school districts to create and sustain high-quality collaborative secondary schools. Provisions allow for central high school districts, the creation of regional high schools in Suffolk County and special legislation enacted in 2007 led to the creation Tech Valley High School in the Capital Region.

School districts across the state need a mechanism to build collaborative secondary school partnerships that will provide greater educational services to better ensure that students graduate high school ready to succeed in college and careers, such as high-quality science, technology, engineering and mathematics programs, through more cost-effective and efficient operational delivery.

THE SOLUTION:

By allowing three or more districts to contract together or with a BOCES to establish a regional secondary school, SED's proposal will:

- Improve instructional quality and students' educational opportunities by helping districts pool educational resources to allow them to provide the educational programming necessary to ensure that students are prepared to succeed in college and careers.
- Allow districts to leverage resources to provide greater operational flexibility and cost savings.
- Require boards of education to approve a resolution proposing establishment of a regional secondary school, to be followed by a referendum by voters in each school district.
- Require SED approval of proposed regional secondary school plans to ensure that the plan provides for increased educational opportunities for students.
- Provide state aid to incentivize districts that create a regional secondary school and to provide them with resources that may be required through the first five years of a transition.
- Preserve rights of teachers during a transition to a regional high school in a manner similar to when a BOCES assumes operation of a school district program.

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SUPPORT AND INTERVENTION IN CHRONICALLY UNDERPERFORMING SCHOOLS

SED LEGISLATIVE PROPOSAL

THE ISSUE:

School boards play a crucial role in American public schools. They represent our society's firm belief in the importance of local governance. The vast majority of school boards are effective bodies that support staff, enhance instruction and promote student academic achievement. However, some school districts are continually and chronically underperforming. These few districts are characterized by years, or even decades of consistently low academic performance, rampant fiscal instability, or both.

Chronically underperforming districts typically have one or more schools identified as Priority Schools. Fiscally, these districts fail to exercise appropriate fiscal management by failing to take the actions necessary to keep the district's budget in balance and/or maintain appropriate and consistent fund balances.

Often such districts have graduation rates at or below 60% and/or have high drop-out rates. In the elementary grades, such districts have low numbers of students who are proficient and high numbers of students struggling to make grade level. Moreover, such districts consistently fail to move low performing students to proficiency.

Governance of chronically underperforming school districts is often beset with difficult and even intractable, long-standing problems. Frequently such districts lack sufficient mechanisms to hold boards of education accountable for their district's academic and/or fiscal underperformance.

THE SOLUTION:

Our proposed legislation will permit the Board of Regents and the Commissioner of Education to put school districts into three levels of Academic and/or Fiscal Restructuring Status, with tools and supports to help them get on track and remove them from oversight. Such tools and supports would include:

- The assistance of Integrated Intervention Teams (formerly Joint School Intervention Teams).
- Requiring these districts to develop a plan with specific, measurable goals. Removal from oversight if plan goals are met for three consecutive school years.
- Giving more troubled districts the assistance of a Distinguished Educator and/or a Fiscal Administrator to review and monitor the district's operations, including school academic and fiscal systems, structures, projects, operations and facilities, and recommend measures to the board.
- Appoint an independent review team for the most troubled school districts to review the board of education's actions and/or omissions and make a recommendation to the Board of Regents.
- Upon a determination by the Board of Regents that governance problems are a substantial factor in a district's chronic underperformance, allowing the Regents to appoint a three-member Education Oversight Board with all the powers and duties of the board of education. Such a finding would result in the removal of the board of education and, upon recommendation of the Oversight Board, the superintendent as well. An education oversight board would report directly to the Commissioner and the Board.

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TAP ELIGIBILITY FOR EARLY COLLEGE HIGH SCHOOL STUDENTS

SED LEGISLATIVE PROPOSAL

THE ISSUE:

Traditionally underrepresented students in post-secondary education need strong, innovative programs designed to boost their level of participation in college. Creating such programs that will increase underrepresented students' access to post secondary education and reduce these students' costs to obtain a college education, should be a priority for New York State.

It is well established that a postsecondary education is essential for financial and personal freedom in today's economy. A four-year college graduate earns two-thirds more than a high school graduate does. An Associate's degree translates into earnings significantly higher than those earned by an individual with a high school diploma alone. Furthermore, even when students from traditionally underrepresented communities make the transition to college, they often need one or more remedial courses to succeed. Statistics show that the more remediation a student needs, the less likely they are to graduate college.

According to the national Early College High School Initiative (ECHSI), these schools are "based on the principle that academic rigor, combined with the opportunity to save time and money, is a powerful motivator for students to work hard and meet serious intellectual challenges."

Finally, students who do complete a college education often leave burdened with significant financial debt. The financial hurdles that many students face are a barrier to achievement at the post-secondary level, especially for students from chronically distressed communities. Innovative programs that combine the opportunity for college level work and credit toward a diploma, while relieving students of some of the financial burdens associated with pursuing a college degree are needed.

THE SOLUTION:

The creation of Early College High Schools is an innovative strategy that has proven effective. Our proposal would:

- Provide disadvantaged students with the opportunity and structured preparation in the public school setting.
- Accelerate completion of students' high school studies while allowing them to earn up to 60 transferable college credits, tuition-free.
- Support these ECHS programs as they serve school districts with high-needs schools.
- Maintain consistency of the mission the New York State Tuition Assistance Program (TAP).
- Increase underrepresented students' access to post secondary education and reduce these students' costs for obtaining such education. The academic and social support that ECHS provide their students helps to ensure these students successfully complete college course work after high school, thereby making the investment of TAP funds in ECHS programs a sound strategy.

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EDUCATION EQUITY FOR DREAMERS ACT

SED LEGISLATIVE PROPOSAL

THE ISSUE:

Thousands of P-12 public school students in New York are children of undocumented immigrants. The Office of the Comptroller estimated, in their May 2013 report on the New York State DREAM Act, that 8,300 undocumented students were enrolled in our public institutions of higher education in the Fall 2012 semester, with most enrolled at CUNY (6,546 students).

New York's enlightened policy enables hundreds of thousands of undocumented students to receive education through the state's P-12 public school system; our state recognizes the value of an investment in career and college readiness for these students. It makes economic sense to help these young students become full participants in New York's economy. Yet their futures are undeniably circumscribed by current immigration law since these young people generally derive their immigration status from their parents. If their parents are undocumented, most students have no mechanism to obtain legal residency, even if they have lived most of their lives in the U.S.

Current State law, while providing undocumented immigrant students with in-state tuition rates at our public colleges and universities, prohibits these students from receiving State financial aid (i.e., general awards, academic performance awards and scholarships). Denying them aid means denying them access to higher education. Our society and our economic growth depend on a vibrant, well-educated workforce, but right now, hundreds of thousands of New Yorkers may be denied the opportunity to the education they need to fully participate in our economy. Without access to higher education, these students are far too often forced into the shadows of our society and into economic uncertainty.

THE SOLUTION:

The Regents recognize that the most pressing issue that falls within their purview is providing educational opportunity to all students. The Education Equity for DREAMers Act would change current law to:

- Eliminate Education Law provisions requiring students to be a U.S. citizen or permanent lawful resident to receive general awards, including TAP, academic performance awards, scholarships or other financial assistance.
- Allow certain non-residents, including undocumented immigrants, who graduate from New York State high schools or obtain their high school equivalency degree to receive general awards, including TAP, academic performance awards, scholarships or other financial assistance.
- Authorize SUNY, CUNY and community colleges trustees to provide state-aided programs, scholarships or other financial assistance to undocumented aliens who graduate from New York State high schools.
- Allow non-residents, including undocumented aliens, who graduate from New York State high schools to receive State funds in the higher education opportunity programs and the collegiate science and technology entry program (C-STEP).
- Allow undocumented immigrants and their families, who have a taxpayer identification number, to open a New York 529 family tuition savings account.

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TUITION RATE SETTING METHODOLOGY SPECIAL ACT SCHOOL DISTRICTS AND 853 SCHOOLS

SED LEGISLATIVE PROPOSAL

THE ISSUE:

Tuition reimbursement for Special Act School Districts and Approved Private Schools Serving Students with Disabilities (853 Schools) is based on a rate methodology that is established by the Department and approved by the Division of Budget (DOB). Following four years of no growth in tuition reimbursement, the 2013-14 rate methodology included a three percent trend factor for direct care costs of school age providers as recommended by the Department. This increase provided short-term relief, but did not address many of the shortcomings of the current rate setting system.

Based on provider testimony at the Special Education Financial Advisory Workgroup meetings, and the Department's analysis of submitted cost data, a lack of predictable growth to fund increasing costs and many technical aspects of the current rate setting methodology have endangered the Special Act School District and 853 School's capacity to operate essential special education programs for the some of the most severely disabled school age children.

THE SOLUTION:

To correspond with administrative proposals to improve the existing tuition rate setting methodology for Special Act School Districts and 853 Schools, the following legislative proposals would seek to address the financial stability of the schools and better enable them to provide educational and related services to the students they serve:

- **Create a statutory index for establishing the growth in annual tuition rates.** The current growth in tuition rates is established administratively and is not based a predetermined index. A statutory growth index based on an average of state personal income growth would establish predicable and timely tuition increases and allow for improved budget planning. For the 2014-15 school year, a 3% increase would result in \$20 million of revenue for Special Act School Districts and 853 school age programs.
- **Authorize providers to establish a general reserve fund.** Special Act School Districts and 853 Schools have historically relied on lines of credit to pay for unplanned or emergency expenditures until tuition revenue is received. Authorizing these schools to accumulate a small percentage of tuition revenue in a general reserve fund would reduce the reliance on private borrowing and enable schools to better respond to unanticipated events. Administrative parameters would be developed by the Department to specify the amount that may be deposited and to identify the allowable uses for the funds in addition to corresponding reporting requirements to ensure appropriate oversight.

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