

# CHILDREN WITH DISABILITIES DESERVE A QUALITY EDUCATION

## FULLY FUND 4410 & 853 SPECIAL EDUCATION SCHOOLS

All children with disabilities who attend 4410 and 853 schools are public school children and should receive funding equitable with their school district peers.

Children who attend these schools must have access to a certified special education teacher, certified teacher assistants and all required clinical and related services staff, to ensure that their IEPs can be fully implemented.

New York State must guarantee that every child with a disability, who needs a special education seat, has one available to meet their educational needs as required by federal Special Education Law under the Individuals with Disabilities Education Act.



### What we need:

- Modify the Executive Budget Special Education Tuition Rate-setting Methodology Study to eliminate the requirement that alternative rate methodology proposal(s) be cost neutral.
- Modify the Executive Budget Special Education Tuition Rate-setting Methodology Study to eliminate the requirement that alternative rate methodology proposal(s) be cost neutral.
- Amend the OCFS statute and regulations to exempt preschool special education programs, approved by SED pursuant to section 4410 of the Education Law, from the definition of “Day Care” program.

**ACT NOW!**



# Why we need it:

Our schools provide special education services to preschool children ages 3-5 (known as 4410 schools) and school-age students, ages 5-21, (known as 853 schools) for their local school districts. These schools are approved private special education schools, chartered by the Board of Regents, that serve students whose local school districts and BOCES are unable to educate because of the complexity of their disabilities.

*There is no other educational option for these students.*

They were placed in our schools because the local Committee on Special Education or Committee on Preschool Special Education has determined that there is no other appropriate educational setting available in a local public school. Our programs help New York State meet the federal mandate of a "free and appropriate public education," yet they have historically not received the fiscal or programmatic support to ensure that they will be able to continue to provide these critical services. Because of this, staff recruitment and retention is at a crisis level for 853 and 4410 schools to the great detriment of the children they serve.

Without changes to the special education rate-setting methodology, our schools may not get or be able to keep the tuition rate and any increase. According to the current reimbursement methodology, even if a school does not actually receive the funding increase for years, they must spend it within the school year or it is taken back on reconciliation. Due to the inability to hire teachers, therapists or other direct care staff and closed classrooms, if a school spends more than 30% on "indirect costs," anything above 30% is taken back and the next year's tuition rate is reduced. No other school or program has their rates reconciled in a downward reimbursement spiral like this.

While we appreciate the Executive's proposal to provide \$2.5 million to SED to conduct a study of alternative tuition rate-setting methodologies for 853 schools, special acts and preschool special education programs, restricting these changes to be cost neutral will prevent the development of an alternative rate methodology that can address the failures of the current methodology. We urge the tuition rate-setting methodology study be modified to eliminate the language requiring recommendations to be cost neutral.

## SCHOOL OR DAYCARE?

Preschool special education providers (4410 schools) face an identity crisis.

In New York, these providers must be licensed as both schools, subject to the oversight by the state Education Department, *and* as daycare, regulated by the Office of Children and Family Services. This means these programs are subject to stringent and sometimes conflicting standards from these two agencies.

Section 4410 center-based programs are schools, **not daycare programs**. They must meet different federal and State standards for services, grouping and other programmatic issues for the education of students with disabilities.

410 center-based preschools should be solely or primarily under the purview of SED. The requirement that center-based programs, that are approved pursuant to section 4410 of the Education Law, must be licensed as a day care center is burdensome, unnecessarily costly and programmatically counterproductive.

**We recommend that 4410 special education preschools and integrated programs be exempt from the definition of daycare in OCFS statute and regulations.**