



NYSSBA 2020-21 Executive Budget Recommendations

For the 2020-21 fiscal year, NYSSBA requests an increase in state support for public school districts of **\$2.1 billion** over 2019-20 to assist school districts in preserving critical programs and services, while allowing for new investments in areas of continuing and emerging need. With limited opportunities for new local revenue, including a property tax cap likely below two percent for the fifth time in nine years, the state is a necessary partner in this pursuit.

The proposed increase in state support for school districts, as well as the additional legislative changes outlined below, will help ensure our students receive the world class education they deserve.

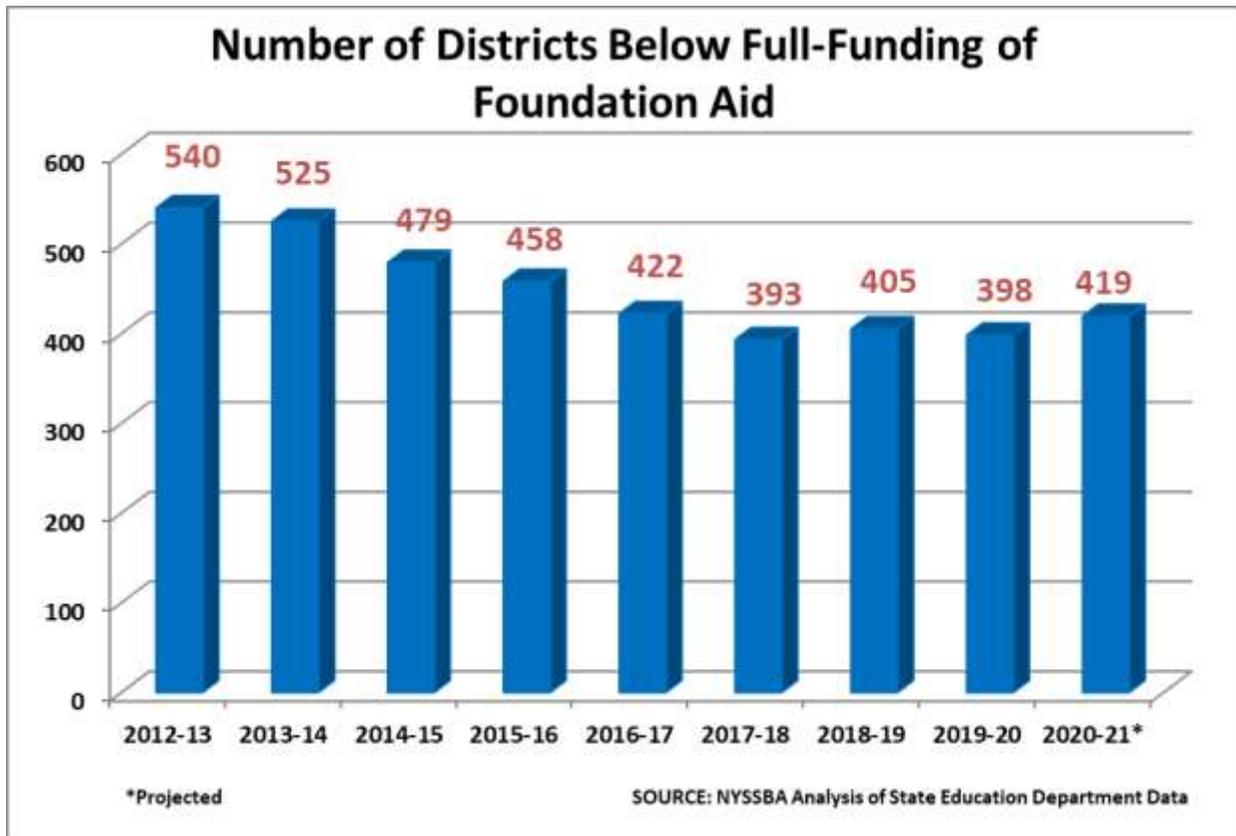
Foundation Aid

The state's Foundation Aid formula represented significant progress by designing a basic operating aid methodology that, if used and funded as intended, had the potential to equitably and predictably support school districts statewide. The formula considers pupil counts, student and community need, regional cost factors and local ability to pay. Unfortunately, the multi-year phase-in of the formula ran for only two years before the recession forced the state to halt implementation. Recent conversations around the Foundation Aid formula have been encouraging and those discussions are important. However, it is important that these efforts serve as something more than an exercise in policy study. Any work to improve the formula will be for naught if it is not partnered with a considerable increase in state aid. Adequate funding is an absolutely critical and necessary part of this conversation.

Despite the end of the recession and the ability to provide additional support to districts, the state has failed to restart the phase-in of the Foundation Aid formula. Increases in Foundation Aid in recent years have been distributed using single year formulas subject to conditions in that year alone. While the funding increases have helped many districts meet their students' basic needs, there is little predictability or stability from year to year; nor is the full scope of districts' financial circumstances and student needs being considered. For nearly two-thirds of the districts in the state, Foundation Aid remains billions of dollars below full-funding. However, all districts are experiencing increases in need and require additional resources to meet them.

At the same time, districts are facing many more and different pressures than when the Foundation Aid formula was first enacted. These include implementation of another set of new learning standards, thousands of new high-cost special education students, increased requirements for a growing English language learner population, growing threats to student safety, implementation of the state's federal Every Students Succeeds Act (ESSA) plan and increased demands for school-based health and mental health services. While navigating this all, there has been little meaningful relief from major cost drivers.

Entering the 2020-21 school year, needs exist for increased support in every corner of the state. For the upcoming state budget, we call for an increase of **\$1.6 billion in Foundation Aid** over 2019-20. In the current school year, New York State is \$3.4 billion below full implementation of the Foundation Aid formula. That figure grows to approximately \$3.8 billion as we enter 2020-21.



School districts need a state aid system that is dependable, predictable and responsive to the existing educational environment, with minimal manipulation by political processes. The further school districts are removed from such a system, the harder it is to return. NYSSBA calls on the state to establish and follow a plan to fully fund the Foundation Aid formula. The increases in Foundation Aid over the next three years should follow the framework detailed below. For those districts that are underfunded (based on a comparison between their 2019-20 Foundation Aid allocation and 2020-21 statutory Foundation Aid levels), we recommend a two-tiered formula be used to distribute the additional Foundation Aid. Under the first tier, districts that are receiving 75% or less of their fully funded Foundation Aid amount would receive higher increases.

Under the second tier, the remaining districts that are receiving less than their full phase-in Foundation Aid amount, but more than 75% of that amount, would receive a lower level of Foundation Aid increase. Under this proposal, funding would be focused towards the districts that are the most underfunded, and phased-in until all districts reach full-funding by 2022-23.

Adjustments to the phase-in formula would need to be made each year to reflect that given year's data.

Recognizing that all districts face cost pressures and growing student needs, all districts should be eligible for an increase that at least meets the percentage growth in inflation. Lastly, to ensure that the most underfunded districts receive immediate support, a minimum Foundation Aid funding level of 75% would be applied for 2020-21.

When the state paused the phase-in of the formula, they also neglected any maintenance of the statutory formula itself, failing to consider if each underlying assumption remained true. While a clear plan to return to a functioning Foundation Aid formula is as important as an adequate increase, the formula itself should be periodically reviewed. When appropriate, the formula should be updated, modified and otherwise improved to ensure that it is reflective of the current educational environment. As part of this process, NYSSBA calls on the state to address the following items with regard to the formula:

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, nearly 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 of these factors should be reconsidered in a new costing out study. Given the scope, a new costing out study should be conducted over the course of a full year, allowing for the investment of proper time and resources.

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 and special education enrollments have increased by more than sixteen percent in just the past six years. In addition to increasing populations, services provided to these high-need students are often required to be more comprehensive, and therefore, more costly, than a decade ago. The current formula includes limited weightings for these and other high-need students that require review and possible adjustment.

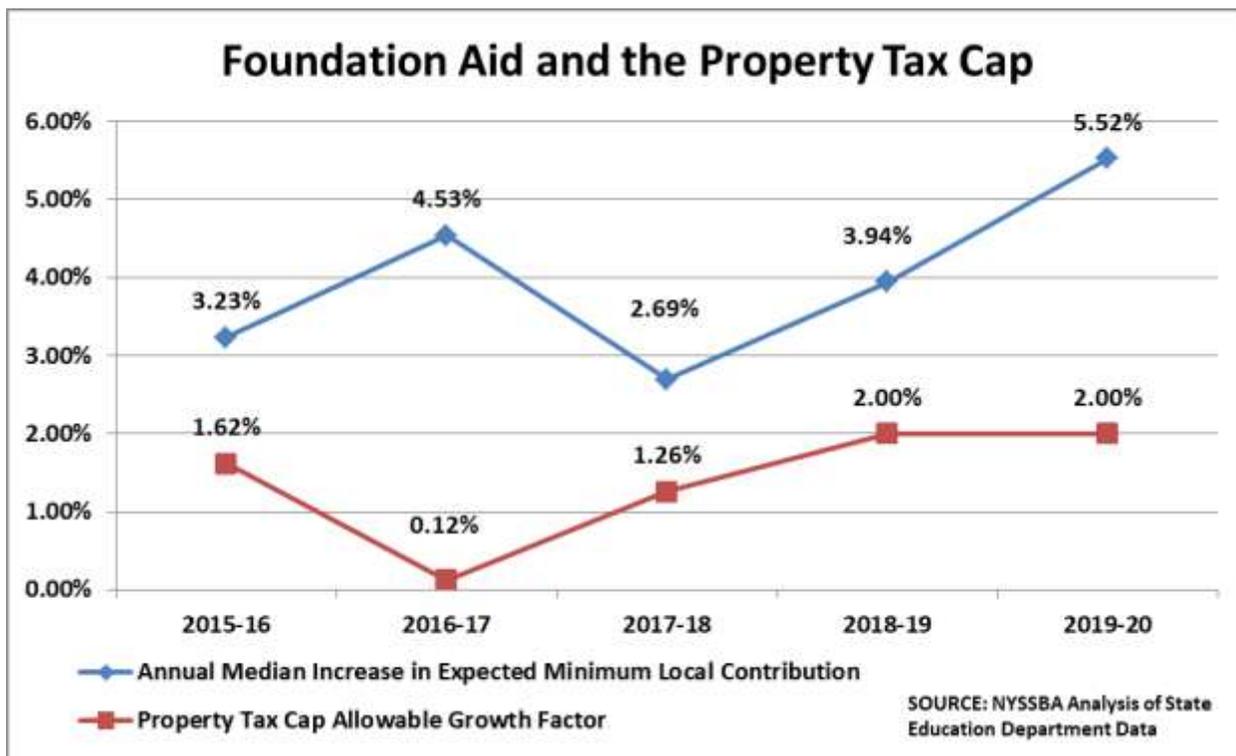
Improve data collection for measuring student poverty - It has been previously noted that the formula's measure of student need requires adjustments. The state acknowledged this issue in the 2017-18 budget by including the use of the modern “Small Area Income and Poverty Estimate” (SAIPE), as an alternative to the out-of-date 2000 census poverty count. However, the state failed to extend the use of SAIPE in the 2018-19 state budget or thereafter, effectively restoring the use of data more than fifteen 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 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 are measured accurately. In addition, the state should review the components of the index, for both geography and labor market composition, to ensure that the most appropriate calculation is being made.

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 the district. However, many district wealth factors within the Foundation Aid formula are also adjusted for district pupil counts. 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 other inflationary costs. The calculation of student-based district wealth factors should be studied 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. In each of the past five years, from 2015-16 through 2019-20, the annual median increase in districts’ expected minimum local contribution has exceeded the property tax cap’s allowable growth factor. 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 - While funding is critical, how those resources can be used is often just as important. In the 2019-20 state budget, \$50 million of the Foundation Aid increase was restricted for use towards community schools. This amount was in addition to the \$200 million in Foundation Aid already restricted for community school programs through the two prior state budgets, bringing the total restricted funding to \$250 million. 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. NYSSBA is opposed to the continuation of this restriction in 2020-21 and would oppose any additional set-asides moving forward.

Other State Aid

Foundation Aid makes up the majority of traditional state aid for most school districts, but they rely on a wide variety of state funding mechanisms. Whether it be improved tuition methodologies for special act districts or high tax aid for districts unusually dependent on property taxes, school districts depend on the state to maintain proper funding of a variety of categories. We encourage the continued approval of building aid and transportation aid forgiveness requests, providing relief to districts and students for minor clerical errors. At the same time, additional investments must be made to address neglected areas such as prior year aid claims, where districts are forced to wait up to 15 years for owed state aid.

In addition, NYSSBA requests the continued full-funding of expense-based aids, which provide school districts with reimbursement of approved expenses. These funds, already expended in prior years, cover transportation, special education, capital and facilities, BOCES and instructional materials. School districts expended these funds, in many cases to provide mandated services, with the understanding that the state would meet their obligation to reimburse them based on set formulas. Proposals have been made in recent years to cap or otherwise restrict expense-based aids at arbitrary levels. Not only would such proposals erode the important state and local educational partnership, but they would also disproportionately harm high and average need districts - those who are most dependent on state aid. Recent improvements to the projection process made by the State Education Department allow for a more accurate estimate of the growth in expense-based aids. Based on the most recent database, reimbursement of these aids would require an increase of approximately **\$85 million** over 2019-20.

School Safety

Providing students with a safe and secure learning environment is one of the most important responsibilities of a school district. Our communities, including school districts, parents, law enforcement, students and other stakeholders, all have ideas about the best way to ensure that school buildings are safe places for students and staff. Consensus in one community may be different than consensus among stakeholders in a neighboring community.

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 the hardening of entrances, access policies and security systems. This is not an exhaustive list. However, these and other options have one thing in common; each will best serve students if adopted with local stakeholder input and support. NYSSBA calls on state and federal policymakers to make available flexible funding to support the development and implementation of school safety programs.

Student Health and Mental Health Services

Many school districts throughout the state serve as the hub of their communities. While meeting the educational needs of their communities remains the primary mission of school districts, they are also grappling with the ever-growing needs of their students. More and more often, students are arriving at school with physical and mental health needs that are not being met outside the school. Students are increasingly arriving at school hungry or food insecure and in need of medical and dental care. Districts are deeply aware that a student who is hungry, scared, and dealing with physical and emotional pain and trauma will struggle to learn. Worthwhile progress was made on the state level in an attempt to address some of these concerns. The “No Student Goes Hungry” and “Breakfast After the Bell” programs help support thousands of students across the state. However, this work was left incomplete – as these programs were adopted with new requirements, but little to no

funding to support them. Districts are currently implementing these programs in their schools, but are left choosing where to find the money in already strained budgets in order to comply with these mandates. Additional funding should be provided to districts to support their implementation.

While New York State has been a leader in the fight against student hunger, recent federal action has threatened that progress for tens of thousands of New York families. The United States Department of Agriculture's proposal to revise the two-decade old "broad-based categorical eligibility" (BBCE) policy would greatly reduce the number of participants who are currently eligible to receive benefits through the Supplemental Nutrition Assistance Program (SNAP). Additionally, the Administration's efforts to change the public charge rule would deter immigrant families from utilizing SNAP benefits for which they are eligible. Students who receive SNAP benefits are directly certified to receive free school meals through the National School Lunch Program. If those students lose their SNAP benefits, they may no longer be directly certified to receive free lunch at school. Rather, the onus would be shifted to the schools and the parents to determine whether or not that child would be eligible to receive either free or reduced-price lunch (FRPL). The consensus of the school community is that the number of applications received by parents and guardians greatly undercounts the number of students eligible to receive free or reduced-price lunch. NYSSBA is concerned that the result of these federal policies would lead to less access to nutritious foods for needy children and higher costs to school districts that will ensure students are fed regardless of their FRPL status. New York State should bridge the gap to bolster food security to children and families who need it the most by investing in food banks and other relevant community-based organizations focused on providing students with nutritious meals.

Full stomachs are only one piece of the equation. An increasing number of districts want to provide additional health and mental health services for their students. Some districts have found the resources to provide these programs and services, which include but are not limited to comprehensive primary and preventive medical care, reproductive health care, dental, vision, nutrition counseling, and other mental health services. However, not all districts have been able to find these resources locally. Too many districts across the state face shortages of nurses, counselors, psychologists, social workers and other important health and mental health professionals. To ensure that all districts have the ability to provide their students with the services they need to be healthy and successful, several changes could be adopted.

First, school health facility space could be made a building aid eligible expense. Currently, when determining what portion of a school construction project will be eligible for aid, non-instructional space is generally excluded from the aidable cost. By aiding spaces within school facilities that provide these students with health services the same way as traditional classroom space, school districts would be better able to meet their students' needs.

Second, state support could be provided through the creation of an expense-based aid for school-based student health services. As needs continue to grow, school districts are developing specific programs and initiatives to meet those challenges. However, when school districts create these programs, they must do so with dollars that are often shifted from the classroom and other services throughout the district. State support can help leverage local resources to assist districts in

addressing these emerging needs while preserving academic offerings. NYSSBA recommends establishing a new expense-based aid that would reimburse districts for a percentage of the dollars spent on approved services and the staff necessary to provide them, including but not limited to primary and preventive medical care, reproductive health care, dental, vision, nutrition counseling, and other mental health services. Such a reimbursement could be a “last dollar” reimbursement, limited to those expenses not covered by Medicaid or other dedicated sources. An appropriate reimbursement ratio for such costs could be established by using each district’s public excess cost aid ratio as a starting point, as that aid is used to compensate districts for the provision of direct student services. Reimbursement for approved services could then be paid against actual expenses after the application of other dedicated funding for such services.

Finally, school districts are seeing an increasing number of students engage in the use of e-cigarettes, also known as “vaping.” Intended as an alternative to tobacco use for adults, these vaping products are marketed to children and students through enticing flavors such as bubble gum and cotton candy. These products contain nicotine and can lead to addiction, illness and other negative health consequences. It is important for the state to aggressively protect minors from these unhealthy products through increased regulations and harsher penalties for those who sell such products to minors.

Meeting Student Needs

The profile of the students being educated by school districts is changing. In some instances, it is dramatically different than it was just 20 years ago.

Across the state, there has been a long-term trend of gradual enrollment decline. However, nearly a third of districts have experienced relatively stable enrollment in recent years. In both instances, the students showing up in classrooms are increasingly poorer, more likely to have experienced trauma, more likely to have special education needs and more likely to need mental health supports. Regardless of the number of students a district has, it is often far more expensive to educate them than it was in the past.

Whether a district’s absolute enrollment is going up or down, districts around the state are seeing marked growth in student need. For example, the number of English language learner (ELL) students has increased nearly 20% in the past five years and now totals nearly a quarter million statewide. In a functional, updated Foundation Aid formula, ELL students and their educational needs would be accounted for. But these districts need financial assistance from the state now and cannot afford to wait for hopeful reforms to school aid formulas.

School districts throughout the state are also experiencing consistent growth among students who need more and different educational supports to be successful. In 2017-18, 462,000 public school students were categorized as receiving special education services, representing more than a 15% increase since 2012-13. Data on students who may have had interruptions in their formal education or are in need of mental health services is harder to quantify, but anecdotal evidence shows it is also a growing crisis in our schools. It is important for students to receive all the services they need.

The Office of Children and Family Services estimates that there are over 15,000 children in the foster care system in New York State. Additionally, the number of homeless students has been steadily increasing over the last decade, now reaching over 150,000 students. Foster and homeless students oftentimes come to school in need of additional social and emotional supports in order to help them succeed academically.

As districts balance the collective needs of their communities, NYSSBA calls on the state to support school districts and the students they serve through flexibilities and relief from service mandates that go beyond federal requirements, or provide meaningful increases in funding to offset the substantial growth in these areas.

Opportunities to Excel

Students enrolled in school today will face a different world and workforce than the ones encountered by policymakers, school board members and their parents. Our districts owe it to these students, and those who will come after them, to provide an education for the world ahead of them, not the one behind them. To do so, parents, communities, school districts and policymakers must continually evaluate what a school looks like and invest in programs that will grow in the future. Offering multiple pathways to graduation can be an important part of this goal. However, districts continue to face resource gaps and statutory barriers that prevent them from allowing their students to fully take advantage of these opportunities.

To ensure that all viable options are available, NYSSBA requests that the aidable cap on BOCES salaries for career and technical education teachers be raised above the current cap of \$30,000, with a simultaneous and proportionate increase in special services aid to allow aid to flow to the Big 5 and non-component districts with similar programs. The BOCES aid reimbursement adjustment would have no fiscal impact in fiscal year 2020-21. An increase in special services aid could be approved to take effect in the same year. Proposals to achieve this goal have been part of numerous previous budget plans. While each of these plans has slightly different details, all parties understand the issue and believe something needs to be done. Now is the time to reach an agreement.

In addition, we call for increased investment in programs that allow students to best prepare for life after secondary school. These include P-TECH and other early college high school programs, Advanced Placement (AP) and International Baccalaureate (IB) and initiatives that encourage project-based learning.

Another issue plaguing hundreds of thousands of New Yorkers is inadequate access to broadband services. Nationwide, approximately 70% of teachers assign homework that requires broadband connection. Additionally, many teachers communicate with their students and parents exclusively through online sites and web-based applications. In fact, it is common practice for teachers to email weekly updates to parents covering their child's homework assignments and expectations for each class. For those with limited or no broadband access at home, students must struggle to keep up with the day to day demands of a 21st century learning environment. This results in a homework gap

that has been suggested to negatively affect a student's ability to graduate high school. Not only must broadband be made available to all New Yorkers; increasing bandwidth must be prioritized as well. Limited bandwidth can affect a student's ability to complete assignments online and increased bandwidth is a requisite for school districts seeking to participate in computer-based adaptive testing or 1:1 technology programs.

It is also vital that New York State protect school districts' access to online educational resources. There are just under 900,000 people in the state with access to only one internet service provider (ISP), leaving them no option to switch if they find that provider's offerings to be too costly or otherwise undesirable. Without net neutrality protections, districts around the state will be vulnerable to the one or two ISPs that control the online content they can access. These ISPs can choose to charge educational companies providing online resources to schools significantly more to deliver content, and those companies could in turn pass those costs on to schools. For the many regions in our state with no ISP competition, we are concerned about prioritization of online companies who can afford to pay more. For schools unable to afford the higher fees, innovation may stall. A federal appeals court recently ruled that the Federal Communications Commission (FCC) could not preemptively ban state rules that impose more stringent requirements on ISPs than what exists in the FCC's 2018 "Restoring Internet Freedom Order". New York State has the opportunity to protect students from actions that may lead to unequal access to online content.

School District Management

School boards are publicly elected by their communities to provide governance and oversight for their districts. In some cases, state law can mandate or prohibit certain actions of the board and district. NYSSBA believes strongly in preserving and protecting the authority of school boards. State curriculum mandates, for example, direct how a particular subject or issue is taught in school buildings. Such decisions should be left to the school board and the community that they serve. Conversely, it is important for policymakers to give school districts greater control over access to their students and buildings.

Under current law, if a local board of elections designates a school as a polling place, the district must make space available, with no option to decline or appeal. The use of school buildings as polling places is concerning for many school districts. This practice extends far beyond general election day, to include primaries and special elections, and now early voting. On these days, members of the public may have unfettered access to school buildings and their students unless the district closes the building. This can compromise student safety and causes disruptions to academic programs. The state must provide school districts the right to refuse the designation as a polling place.

Recent paid time off for voting reforms expanded the time employees could take paid leave to vote from 2 to 3 hours, and eliminated the qualifier limiting this leave to employees without 4 consecutive hours before or after work during open poll hours. While NYSSBA appreciates the intent of this reform, it has a direct impact on school districts across the state. The vast majority of school district employees are teachers and other classroom staff that must be replaced when they take time off.

When a teacher is absent from his or her classroom, the classroom cannot be left empty. The use of large numbers of substitute teachers would not only be costly, but may not be achievable, due to a growing shortage. Classrooms are not the only area potentially impacted. For example, it is not clear how districts could accommodate transportation of students if bus drivers are not available during their regularly scheduled bus runs. In addition, the placement of the new consolidated primary day during the Regents examination period means that districts cannot just close. If the State Education Department makes the Regents examination period too early, there may not be adequate days available for districts to hold the 180 days of instruction required for a district to receive their full state aid allotment. Therefore, NYSSBA asks the state to restore the 4-hour qualifier for school district employees so that districts are able to maintain operations on election days.

Under current law, civil service employees are entitled to statutory due process protections before any disciplinary action can be taken against them, including written notice of the charges, the right to be represented by their employee organization during questioning and the hearing on the charges, and the right to collectively bargain additional disciplinary procedures. NYSSBA believes that current protections and rights granted school district employees under state Civil Service Law are extensive and should not be expanded.

NYSSBA stands ready to work with you on these important issues in 2020 and beyond. We are willing and able to provide language that would effectuate the changes called for in this proposal. Thank you for all you do in support of public schools and the student they serve.