Legislative Priorities
2020
Introduction

New York’s public school children deserve a top-notch education that prepares them for joining the workforce, attending college and becoming productive citizens.

The demographics of New York are changing and New York’s schools reflect those changes. Many districts have experienced declining or flat enrollment in recent years. At the same time, students in those same classrooms have higher rates of poverty, increasing special education needs and are more likely to require English language learner supports.

While districts are still grappling with a devastating opioid epidemic, a second is emerging – the public health crisis caused by under-aged vaping. At the same time, districts are struggling to address issues of mental health and exposure to trauma. At an ever-increasing rate, New York’s public school districts must address issues that extend far beyond the walls of their buildings.

School districts are facing safety issues the likes of which most board members could not have contemplated even a decade ago. These include not just the physical safety of students and staff, but also cyberthreats. Local leaders must take steps to keep our spaces, real and virtual, safe and convey a sense of security.

Locally selected boards of education are up to meeting these challenges. They make the tough choices every day to do everything in their collective abilities to keep their students safe, healthy and academically successful. But school districts need state and federal policymakers to join forces in a meaningful way with locally selected boards of education to focus on providing the students in our districts’ schools with everything they need and deserve.
NYSSBA’s positions on school funding are guided by **five main principles**:

**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.
State Aid

The Foundation Aid formula, originally enacted in 2007 with a planned four year phase-in, was frozen after just two years due to the Great Recession. Aid increases resumed in 2012, but those increases have been provided based on year-to-year, short-term distribution methods with no predictability and little stability. Nearly ten years later, school districts are still unable to depend on a functioning operating aid formula. Foundation Aid remains billions of dollars below full-funding for nearly two-thirds of districts. For districts experiencing meaningful enrollment growth each year, recent Foundation Aid investments have done little to account for their increased student populations. The remaining districts are losing faith in a formula that can effectively penalize them for loss of enrollment, despite many of them being high-need, low-wealth districts.

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 detached from such a system, the harder it is to return. Now a decade removed from a functional formula, it is time for the state to look to the future. Reforms are necessary. A functioning formula, with those reforms, is well past due. NYSSBA calls on the state to establish and follow a plan to fully fund the Foundation Aid formula, incorporating the following adjustments:

- Conduct a new costing-out study to determine the current cost of educating a student;
- Review and adjust the weightings for high-need students;
- Improve data collection for measuring student poverty;
- Update the Regional Cost Index;
- Review impact of student-based district wealth factors;
- Account for the property tax cap in a district’s expected local contribution;
- Eliminate the use of “set-asides,” or restrictions, on the use of operational funding.
State Aid, cont.

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, expense-based aids that serve as reimbursements for previously incurred costs or high tax aid for districts unusually dependent on property taxes. School districts depend on the state to maintain proper funding of these categories. 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.

Now is the time for the state to finally commit to fully-funding an updated and functional Foundation Aid formula and provide adequate state aid to all school districts.

Federal Aid

NYSSBA calls for federal support that maximizes investments in Title I grants for disadvantaged students, Title II grants to support professional development and Title IV grants to support a variety of academic programs. It is critical that federal Medicaid payments also be protected. While overall federal funding levels are small when compared to state and local support, the dollars help ensure school district budgets work, particularly for districts with the most needy students. NYSSBA also calls for flexible investments to help support school safety programs and maintenance of impact aid funding for districts with non-taxable federally owned land.

Finally, NYSSBA calls for a significant increase in federal funding to support special education programs and services, working towards the 40% funding commitment that the federal government made to states when the Individuals with Disabilities Education Act was enacted.

Local Revenue

More than half of school district spending statewide is provided by local revenue, the majority of which is generated through property taxes. School boards strive to balance restraint in property tax growth with their mission to deliver the programs and services their students need in order to thrive in an ever-changing world. Since the enactment of the property tax cap in 2011, school boards have been forced to adjust their budgeting practices to first fit the constraints of the tax cap, instead of placing the greatest priority on the needs of their school districts and students.
Local Revenue, cont.

While the 2019-20 state budget included a repeal of the property tax cap’s sunset clause, it failed to address the inequities and unintended consequences the cap created when it was established nearly a decade ago. The 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:

- Counting districts’ costs for BOCES capital in the tax cap’s capital exclusion;
- Including properties under payment-in-lieu-of taxes (PILOT) agreements in the tax base growth factor;
- Making the allowable growth factor a minimum of 2%;
- Prohibiting negative tax caps;
- Reforming the tax cap override process;
- Accounting 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. Nearly 500 districts reported receiving PILOTs in 2017-18 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.

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.

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 school board representation.
Local Revenue, cont.

The recent federal action to limit the income tax deduction for state and local taxes (SALT) compounds local funding challenges. In high cost states like New York, the $10,000 SALT deduction cap 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.

The state must work with school districts to remove or reduce barriers that restrict districts’ abilities to support their students through the use of local revenue.

Budget Management

Balancing the need for strong academic programs while keeping local property taxes stable and affordable is one of a school board’s most important responsibilities. The state made some progress by authorizing a Teachers’ Retirement System (TRS) reserve, within the existing state and local retirement system (ERS) reserve fund. Going forward, school districts will have the ability to use pension contribution savings to help offset inevitable future cost increases.

Additional barriers remain. Sections of Education Law and General Municipal Law give school districts the authority to create, fund and expend from certain reserve funds. Each reserve fund is governed by its own set of rules and restrictions. At the same time, school districts are limited to maintaining undesignated fund balances of no more than 4% of their general budgets, a level well-below other local governments. Such funds are used to address revenue shortfalls and unanticipated costs throughout the school year. However, audits conducted by the Office of the State Comptroller too often critique district budget practices – not based on statutory guidelines or provisions of state law, but rather subjective standards and preferences. Such audits confuse the issue of reserves and fund balances and unnecessarily complicate the annual budgeting process.

NYSSBA calls on the state to adopt sensible policies to support efficient school district budgeting and fiscal planning.
Cost Drivers

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

POSITION: The New York State School Boards Association shall take a leadership role in encouraging school boards to develop successful strategies for integrating respect for cultural differences into the educational experience. In carrying out this mission, NYSSBA shall:

a. Encourage school boards to ensure that the importance of acceptance of others who are unique and different because of racial, ethnic, gender, sexual orientation, disability and religiously related reasons is part of the curriculum.

b. Encourage school boards to invite discussion among students, parents, staff and the community regarding how hatred and bigotry based on race, ethnicity, gender, sexual orientation, disability and religion endanger the pluralistic and diversity principles for which this nation stands.

c. Encourage school boards to involve students, parents, staff and the community in developing and supporting education which invites understanding and acceptance of others’ differences and which aims to eradicate hatred and bigotry.
Cost Drivers, cont.

Like many employers, school districts face escalating health care costs. For districts in most regions of the state, health care costs have increased by 20% or more in the past five years. The growth regularly outpaces both inflation and state aid increases. And the property tax cap restricts a district’s ability to use local revenue to meet those costs. School boards are often forced to consider sacrificing student programs and services each year in order to offset these ballooning expenses.

NYSSBA calls on the state to partner with school districts in order to identify meaningful ways to reduce costs and curb the growth of high-expense areas.
STUDENT SERVICES AND NEEDS

Student Health

Children need more than educational services to be successful. They need to be healthy, well-nourished and nurtured. Meeting the health needs of students is not just about addressing their physical wellness issues, such as illness and hunger. Supporting their mental health through counseling and other services is crucial. School district leaders are increasingly providing school based health and mental health services, meals and other community based programs, all of which have a cost.

On the heels of a devastating opioid crisis, school districts are seeing more and more 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.

NYSSBA calls on the state and federal governments to adequately fund programs that support students’ physical and mental health. That includes funding for school nutrition programs, community schools (not Foundation Aid set-asides) and dedicated funding for school based health and mental health services, including infrastructure. Further, NYSSBA calls on the federal government to protect Medicaid payments to school districts.

School Safety

Students cannot learn if they do not feel safe. Consensus on how to achieve that feeling of safety in one community may be different from 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 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.

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

The profile of the students many districts are educating 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 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 may be far more expensive to educate them than it was in the past.

Moreover, in any given year, scores of districts experience year-over-year enrollment growth. In many cases, that growth is occurring in districts that already have high levels of student need, low overall wealth and educational systems that are already stretched too thin. Whether a district’s absolute enrollment is going up or down, districts around the state are seeing growth in student need.

For example, the number of English language learner (ELL) students has increased 17% 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 than basic academic programs to be successful. In 2017-18, 462,000 public school students were categorized as receiving special education services, representing a 16% 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 is also a growing crisis in our schools. It is important for students to receive all the services they need.

As districts balance the collective needs of their communities, NYSSBA calls on the state to support school districts and the students they serve through 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

Today’s students face a different world and workforce than encountered by current state and federal policymakers, school board members and their parents. Public schools owe it to these students, and future generations, to provide an education for the world ahead of them, not the one behind them. Parents, communities, school districts and policymakers must think boldly and support programs that will best prepare all students for the future. To help move towards this goal, NYSSBA calls on the state to continue and grow investments in P-TECH and other early college high school programs, Advanced Placement (AP), International Baccalaureate (IB) and other initiatives that allow for project-based learning.

It is well past time for the state to agree on an increase to the aidable cap on BOCES salaries for career and technical education instructors. Such programs grow student interest and provide a worthy path to successful employment for thousands of students. The cap has been in place for nearly three decades and must be adjusted to allow for full participation in these programs. At the same time, a proportionate increase in special services aid should be made for similar CTE programs in the Big 5 and other non-component districts.

NYSSBA calls for state support to explore alternative organizational models and educational delivery systems that will allow students access to richer programs than they would otherwise have through centralized high schools, use of technology and other options.
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. 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.

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

School District Elections

School districts are proud to be the only level of government in New York State whose budget is directly approved by voters. Unique rules by which school district elections are conducted complicate this process.

In addition to general procedural complexities, the process is not uniform. For example, small city districts are governed by outdated laws that were otherwise amended for most other districts decades ago.

To better align school election procedures for all districts, NYSSBA calls for the following changes:

- Uniform election rules and timelines;
- Appropriate time to verify the validity of all petitioners before finalizing the ballot;
- Limiting special elections to fill vacated board seats, not expansions of the board;
- Aligning legal requirements for small city school districts with those of common, union free and central districts.
Supporting Public Education

New York’s public school districts educate more than 2.5 million students each and every day. The 5,000 school board members elected to help lead the more than 700 districts that serve those students believe strongly in the mission of the state’s public education system. Public school districts offer diverse school choice options to parents that maximize student outcomes for success and assure every child is prepared for college, careers and citizenship. Public schools are proud of their responsibility to educate and prepare students of all backgrounds and all circumstances in every corner of the state.

NYSSBA urges support for policies that would level the playing field and ensure that all schools that receive public funds are held to the same accountability standards. NYSSBA opposes any proposal that would redirect resources from public school districts, where nearly 90% of students are educated, to support non-public schools.

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.