



# MEMORANDUM OF OPPOSITION

## A.9824 (Camara)/S.7247 (Flanagan)

In relation to mandating supplemental educational services

June 12, 2012

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### *The New York State Council of School Superintendents OPPOSES this legislation, and urges its defeat.*

Two weeks ago, New York State won approval from the Obama Administration and the U.S. Department of Education for a waiver from selected requirements of the federal No Child Left Behind (NCLB) Act. The waiver request was developed by the State Education Department after months of consultations with educators and others from across the state. This legislation would undermine that work and potentially lead to revocation of the recently received waiver, thus we urge its opposition.

### Background

Under the 2002 NCLB, states were required to identify schools as “in need of improvement” if they fail to make “adequate yearly progress” (AYP) in improving students outcomes on state tests and other measures.

If a school a school fails to make AYP for three or more years, its districts are required to set aside up to 20 percent of its federal Title I aid to fund “supplemental educational services” (SES) for low income students from the school. Title I is the largest federal education aid program and supports services for students at-risk of failing. SES are extra academic help, administered outside regular school hours, and usually delivered by non-school providers.

The NCLB’s adequate yearly progress requirements have been acknowledged as unreasonable by public officials in both major parties, because they result in excessive numbers of schools being identified as in need of improvement, and therefor subject to SES set-aside requirements and other accountability mandates.

### Impact of Legislation

Under the NCLB waiver received by New York, school districts will now have flexibility to redirect resources to improve student achievement. Under the waiver, Priority Schools, Focus Districts, Focus Schools will be identified based on new student performance measures. Focus Districts will still be required to use a portion of their federal aid to fund services from a state-approved list of programs in their Priority and Focus Schools. Districts will also be required to use up to 2 percent of their Title I allocation for parent involvement and engagement. But they will no longer be required to set aside funds for SES or public school choice activities.

This legislation would counter these efforts, and mandate the school districts set aside certain funds for SES in direct conflict with the waiver recently received. Furthermore, this proposal would prohibit many schools from being approved providers of SES despite the fact that schools are often in the best position to provide support to their student body.

Further, the legislation would resurrect the old accountability designations which have been dismissed by public officials of both parties as unreasonable and would force SES set-asides in virtually all schools receiving Title I funding.

Also, by enacting provisions inconsistent with the waiver request approved by the U.S. Education Department, the legislation jeopardizes that waiver which was the product of intensive effort by SED officials, local educators and parent representatives from across the state.

The state and its policy makers should allow New York to operate under its recently obtained waiver and allow districts to serve their children in the manner they know best under guidance from the Education Department and within the approved guidelines set forth from the U.S. Department of Education.

*Because this legislation would counter the collaborative efforts of the State Education Department and educators, and could potentially cause a revocation of New York's waiver from NCLB requirements, we urge opposition.*