

---

# Ten Legislative Actions for School Success



January 2023

---

The New York State Council of School Superintendents has a wide range of advocacy priorities, all with one overriding objective—ensuring every school has the ability and resources to offer high-quality educational opportunities for all students, regardless of their economic status, race, disability, or the wealth of their school district.

After the pandemic upending the 2019-20 school year, and significantly impacting the following two school years, students that started high school in 2019 are culminating their high school experience with a “normal” school year.

The state is on the precipice of accomplishing a 15-year journey to fully fund the Foundation Aid formula. This will be accomplished despite high inflation that has increased the cost to finally meet this commitment. Updates to the formula will be necessary for future school years but completing this promise to all students is a monumental achievement and we applaud all legislators and the Governor.

This list of ten Council priorities, if enacted, would assist schools in providing higher quality academic programming for their students and promote safe and secure learning environments.

We will share additional funding-related priorities once the Governor’s Executive Budget is released.

**1. Modify the Annual Professional Performance Review Law (APPR):** The teacher and principal evaluation procedures imposed on schools for the last decade by Education Law sections 3012-c and 3012-d have been nothing short of a boondoggle. While the intentions behind these laws were admirable, they have led to a costly misuse of time and money, minimal differentiation in assessing teacher performance, and further hostility toward the state’s standardized testing regime.

School leaders want the system revamped and a new system that is less dictated by the state and more locally determined. At the same time, they want the public and policymakers to be assured that any new locally determined evaluation system will have integrity and ensure highly qualified educators are in front of students. All stakeholders and policymakers must agree on a new evaluation system this legislative session so we can move forward from the current failed system that provides minimal educational purpose.

**2. Fix Civil Service:** The state civil service system is broken and the inefficiencies that this system creates are exacerbating an already problematic labor shortage. These proposed reforms would help school leaders seeking to simply hire qualified employees to operate our schools in an effective way.

**a.** Provide that if an employee has been provisionally appointed for at least nine months and no test has been offered for such job position in that timeframe, the employee shall become a permanent appointment. Schools are forced to dismiss competent and dedicated employees if

the provisional employee does not score high enough on the exam when it is offered, even if they have served faithfully for nine months or more. This is wrong for employees, schools, and students.

- b. Provide that schools can canvass from the top 5 highest scores on the exam, rather than just the top 3. An exam cannot tell a school or college everything it should know about a student, why should an exam act as an insurmountable barrier to employment? Expanding the number of employees that are reachable can help schools find the best possible employee, regardless of a score on a test.
- c. Prohibit counties from mandating that schools canvass from the county list before expanding their options. This is needlessly restrictive especially since 45% of school districts north and west of New York City cross county lines.

**3. Enhance Student Safety:** Tragedies continue to strike our schools and while New York has not seen firsthand the horror of a mass school shooting, parents fear a tragedy may come unless more is done to protect students and staff. While this list does not include all possible steps that should be taken, they are some concrete ideas that may make an appreciable difference towards preventing a tragic event in our schools.

- a. Promote collaboration between school districts and local law enforcement agencies in implementing “handle with care” programs or similar approaches. Under these programs, law enforcement and schools have a collaborative relationship where law enforcement informs the school that a student or family has experienced a traumatic event outside of school hours so the school can take proper steps the next school day to provide extra support for the student and to be aware if there are possible safety threats to the community. Providing extra care and support to these students may avert tragedies down the road.
- b. The state should provide an allocation of dollars exclusively for school safety purposes, but with broad allowable uses. These uses should include capital projects to secure buildings, hiring security and/or mental health-related staff, and providing safety related training to school employees.
- c. Prohibit county boards of elections from requiring school buildings to be used as election sites. Not every school building has the necessary egress points to secure students and staff on election day. Schools should be able to reject their designation as county boards of election have many other public buildings that they can utilize for elections rather than creating unnecessary logistical and safety challenges.

**4. Expand Reserve Fund Flexibility:** Sound fiscal management is critical to the success of any enterprise, public or private. While municipalities have no limit to the amount of funds they may hold in an unrestricted reserve fund, school districts are held to the highly restrictive limit of 4% of their budget. The state has recognized the benefits of reserves and has a committed to increase its “rainy-day” fund to 15% of the state’s total budget. School districts deserve the same opportunity to manage their finances just as municipalities and the state already possess.

A modest increase in the unrestricted fund balance is long overdue and necessary. Greater flexibility will help spare students and taxpayers from disruptive budget actions that might otherwise become necessary if there is an economic downturn.

5. **Support Career and Technical Education:** Our State Constitution promises “a system of free common schools, wherein all the children of this state may be educated.” We owe young people an education that prepares them for demands of life after school. Career and Technical Education (CTE) programs deliver on that promise. In 2019-20, 90% of students attending CTE programs at Boards of Cooperative Education Services graduated—above the statewide rate for all students that year. A high number directly entered the workforce, yet more than half of CTE program graduates went on to college.

But state funding for CTE programs has not kept pace with needs or costs. The existing funding mechanisms must be altered to ensure the long-term viability and success of these programs.

- a. **Increase the amount of CTE instructional salary that is aidable in the current formula from \$30,000 to \$60,000 over the next three years and adopt a commensurate increase in Special Services Aid.**
  - b. **Consider phasing in a new tier of BOCES and special services aid that reflects the current and future cost of these programs.**
6. **Increase Capital Outlay Authority:** School districts are currently authorized to spend \$100,000 on capital projects and receive Building Aid on this spending the following year. This provides them with faster reimbursement than under regular Building Aid for costs they will incur at some point and reduces the chance that delaying small projects will grow into big problems. This program would have more broad based use and benefits with a few key changes.
- c. **Increase the limit to a minimum of \$250,000 adjusted by the Building Aid Regional Cost Factor up to a maximum of \$500,000.** Authorizing a greater outlay limit will reduce the total funding needed for larger bond projects in future years thereby savings funds over the long term.
  - d. **Authorize use of capital outlays for multiple buildings in a year.** Schools are presently limited to using the outlays funds on one building. This causes significant constraints since some projects require work in multiple buildings, such as security system overhauls.
  - e. **Authorize multi-year project approval.** Schools should be able to request project approval for multiple capital outlay projects for up to five years. Schools spent approximately 15% to 20% of the capital outlay limit on fees and other expenses. Allowing multi-year approval would reduce waste and increase the impact of these dollars.

7. **Extend Retiree Earning Limit Exemptions:** The State appropriately suspended the limitation on earnings of more than \$35,000 for retirees receiving a state pension that are employed by schools. Schools have faced ongoing labor shortages. For some districts these shortages are limited to specific positions and in some rural and high poverty districts they exist across all certification and civil services titles. No one has been immune from the bus driver shortage.

Unfortunately, this statute is set to expire at the end of this school year. To date, schools have taken advantage of this law to fill vacancies at all employment levels. This law has provided a safety net for many schools and this safety net should not be removed. The law should be extended through the 2024-25 school year to provide ongoing employment assistance for schools.

8. **Support “Grow Your Own” Staffing Initiative:** Schools will need additional tools to overcome hiring shortages. Extending the exemption from retiree earnings limits would be one quick,

straightforward fix. We also generally support expanding flexibility in certification and licensure requirements, including steps already taken by our State Education Department.

Funding “grow your own” teacher initiatives would be a longer-term strategy that could also advance another critical goal—achieving greater diversity in the school work force. Through these programs, districts identify promising high school students, encourage them to consider teaching as a career, connect them with a college or university, and provide samples of practical experience of what it is like to be a teacher. Because shortages are often greatest in small, rural districts, funding should be available to combinations of districts and to BOCES, as well as to individual districts. State scholarships for postsecondary study could be provided for students recommended by their schools.

One strategy for finding more candidates for positions not requiring professional certification would be to establish career and technical education programs designed for those school jobs.

- 9. Streamline School District Planning and Reporting Requirements:** An accretion of reporting and planning requirements has increased demands on school and district administrators. Some districts may have added administrative positions to meet the demands, while in smaller and poorer districts, leaders have been diverted from responsibilities more essential to students and taxpayers. The State Education Department intends to launch a multi-agency review of these requirements. The Department should be empowered to terminate requirements imposed under the Education Law, with advance notice to the Governor and Legislature. Also, duplicative school level financial reporting should be allowed to expire, as scheduled, on June 30, 2023.
- 10. Modify the Tax Cap:** With the tax cap now permanent, commonsense adjustments are necessary to make it workable for all parties in the long-term.

  - a. Eliminate negative tax levy caps.** A negative levy limit is a nonsensical result that policy makers never intended. With inflation significantly higher than 2%, we will still see districts with negative caps, a result that should be not only implausible, but impossible.
  - b. Payments in Lieu of Taxes (PILOTs).** Include properties covered by payments in lieu of taxes (PILOTs) in the tax base growth factor, just as properties covered by taxes are included, so that districts may receive revenue to fund demands for services that tax base additions create.
  - c. Increase pension exclusion flexibility.** The current cap allows an exclusion for pension system contributions only if the employer contribution rate increases by 2 percentage points instead of a simple 2% (i.e., an increase in the rate from 8% to 10% does not qualify for an exclusion even though it increases district pension costs by 25%). Despite what will likely be the third year in a row with increased pension costs and the 7th time the rate has increased since the inception of the tax cap, schools have only been able to utilize this exclusion one time. This change would expand its potential utility.