

April 2013

# The Blue Sea Educator

## NYS 2013-14 BUDGET PASSES

NYS legislators

approved, and Governor Cuomo signed, the \$135 billion budget for the 2013-14 fiscal year which starts April 1. The budget closes a \$1.3 billion gap and increases spending for schools by more than \$1 billion, to roughly \$21 billion.

The budget is the third on-time budget in a row, which helps school districts add clarity to local budget activities and votes. In a statement issued by the NYSSBA, Executive Director Timothy Kremer, commented “our preliminary analysis shows

that this budget begins to recognize school districts’ actual fiscal circumstances and their communities’ ability to pay. It provides increases in every aid category, while giving districts flexibility and restores a large portion of the Gap Elimination Adjustment (GEA). It continues the predictability of two-year funding and does not shift any new costs to districts.” Governor Cuomo commented that this year’s budget agreement “is good news for New York’s students.” Education reforms reflected in the budget included:



- Full day pre-K targeted toward higher need students
- Extended School Day & School Year Programs
- Community Schools in distressed communities that integrate social, health and other services, as well as after-school programming to provide much-needed support to students and their families
- Reward High-Performing Teachers with a program that offers \$15,000 in annual stipends for four years to the most effective teachers beginning with math and science teachers
- Increased Standards for Teacher Certifications to require passage of a “bar exam” as well as longer, high-quality student-teaching experiences conducted in school settings
- Expansion of Early College High School Programs

The budget is not without its critics however. The budget initially cut \$120 million in services for the developmentally disabled. The Legislature restored \$30 million, which still left a cut of \$90 million. One lawmaker commented that “the fact that we are making a \$90 million cut to the developmentally disabled in this state is unacceptable ... it leaves the state’s most vulnerable population even more vulnerable. That money pays for their health care services, transportation to and from work, school or day-hab, and education job-training programs.” Lawmakers are hopeful a federal grant can help reduce the service cuts.

### NYS EDUCATION REFORM COMMISSION ISSUES PRELIMINARY REPORT

Tasked with performing a comprehensive review of New York State’s education system, Governor Cuomo’s Education Reform Commission released its preliminary report January 2, 2013. Since convening in April 2012, the Commission held 11 public hearings, reviewed student performance data,

and met in executive session to agree on a set of reforms. Many of the agreed upon recommendations included in the “Education Action Plan” preliminary report were included in the 2013-14 budget, including pre-K, community schools, school day restructuring, and more robust teachers’ admissions requirement.

However, many voiced disappointment over the commission’s failure to address funding issues that have forced school districts to cut teachers and student services. Commission Chairman Richard Parsons commented that “everyone agrees there is an ‘urgency’ in reforming a system with 2.7 million students that is first in the country in state education spending, but has abysmal graduation rates in some areas. The costs of such plans, however, are not insubstantial.” NYS Board of Regents Chancellor Merryl Tish commented that the “challenge is funding these crucial programs so they become part of the daily education lives of students throughout the state.” A copy of the Preliminary Report can be found at [www.puttingstudentsfirst.com](http://www.puttingstudentsfirst.com). The full report is due out in September 2013.

---

### FOR YOUR INFORMATION ...

New York State *Education Committee members* in both the Senate and the Assembly include:

Senator John J. Flanagan (Senate District 2)  
 Senator Kenneth P. LaValle (Senate District 1)  
 Senator Senator Carl. L. Marcellino (Senate District 5)

Assemblymember Steve Englebright (Assembly District 4)  
 Assemblymember Earlene Hooper (Assembly District 18)  
 Assemblymember David McDonough (Assembly District 14)  
 Assemblymember Edward Ra (Assembly District 19)  
 Assemblymember Phil Ramos (Assembly District 6)  
 Assemblymember Robert Sweeney (Assembly District 11)  
 Assemblymember Fred Thiele Jr (Assembly District 1)  
 Assemblymember Harvey Weisenberg (Assembly District 20)

**Contact Information can be found at the Education Committees’ Homepages:**

**Senate**                    <http://www.nysenate.gov/committee/education>  
**Assembly**                <http://assembly.state.ny.us/comm/?sec=mem&id=12>

Note: See 2013-14 School Aid Projections (Payable under §3609 plus Other Aids) posted on the NYS Assembly Education Committee website.



**EDUCATION QUOTE...** “Education is when you read the fine print.  
 Experience is what you get if you don’t.” [Pete Seeger](#)



## REGULATORY UPDATES

### NYS DEPARTMENT OF EDUCATION

- **SPECIAL EDUCATION FIELD ADVISORY: Placements of Students with Disabilities in Approved Out-of-State Residential Schools** Updated procedures, forms and policy related to approval of State reimbursement of tuition costs for out-of-state placements. Topics covered include Interagency Services, Initial applications, reapplication process, notification of approval/denial, referral and placement process, sharing student records, placement in Children’s Residential Project Programs, and Technical Assistance.
- **IMPLEMENTATION OF COMMON CORE LEARNING STANDARDS** Update on NYS’s implementation of Common Core. It reviews four years of implementation activities, and consolidates content from NYS’s Race to the Top application, Board of Regents items and presentations, publications and other resources.
- **SUMMER 2013 ESY APPLICATION PROCEDURES** Information and materials related to Summer 2013 ESY Special Education programs, including provision and guidance for new and existing programs.
- **COMMR REGULATIONS AMENDMENTS APPROVED** Amendments of sections 200.2 through 200.5 have been approved, including provisions related to additional parent member, and teacher access to IEPs.
- **PARENTAL CONSENT & MEDICAID** NYS will propose changes to regs to conform to federal regs; however, districts must continue to comply with current State regs relating to access to public benefits or insurance.



### US DEPARTMENT OF EDUCATION

- **USDOE CLARIFIES OBLIGATIONS TO PROVIDE EQUAL OPPORTUNITY RE EXTRACURRICULAR ATHLETICS** USDOE issued guidance clarifying school districts’ legal obligations to provide equal access to extracurricular athletic activities to students with disabilities. Students with disabilities have the right to an equal opportunity to participate under Section 504. A 2010 report by the GAO found many students are not afforded an equal opportunity, and therefore may not have equitable access to the health and social benefits of athletic participation. See <http://www.ed.gov/news> to access complete story with links to guidance.
  - **SUMMARY OF FINDINGS (2006-2012) POSTED FOR SPECIAL EDUCATION RESEARCH** The National Center for Special Education Research (USDOE’s Institute of Education Sciences) posted summary of research findings for the years 2006-2012. Highlights included:
    - ✓ Building Comprehensive School-based Interventions to Improve Outcomes in Autism
    - ✓ Optimizing Developmental Outcomes & School Readiness (Early Identification & Intervention)
    - ✓ Closing the Achievement Gap in Reading
    - ✓ Building Strong Foundation in Mathematics
    - ✓ Improving Outcomes through Technology & Small Business Innovations
    - ✓ Understanding the Needs of Adolescents with Disabilities
    - ✓ Improving RtI Models
    - ✓ Improving Social, Emotional & Behavioral Skills with Targeted Interventions
- See <http://ies.ed.gov/ncser/pdf/NCSEFindings2006-2012.pdf>



## FOCUS ON BEHAVIOR

### A CALL FOR MORE EFFECTIVE PREVENTION OF VIOLENCE

December 19, 2012. Post Newtown, school violence prevention researchers revised a nationally-recognized position on school shootings. The revision states “that in every mass shooting we must consider two keys to prevention: (1) the presence of severe mental illness and/or (2) an intense interpersonal conflict that the person could not resolve or tolerate ... Inclinations to intensify security in schools should be reconsidered. We cannot and should not turn our schools into fortresses.” Further, the position paper states “we believe that research supports a thoughtful approach to safer schools, guided by four key elements: Balance, Communication, Connectedness, and Support, along with strengthened attention to mental health needs in the community, structured threat assessment approaches, revised policies on youth exposure to violent media, and increased efforts to limit inappropriate access to guns and especially assault type weapons. The complete Position Statement can be found at <http://curry.virginia.edu/articles/sandyhookshooting>.



**NYSSBA REPORT ISSUED “TENDING TO OUR YOUTH”** A new report entitled “Tending to Our Youth” addresses the question of whether tougher gun control laws and police officers in schools will help improve safety, or must schools also address mental health and the social well-being of students in order to reduce school violence in the long-term. Citing the previously cited position paper above in part, the NYSSBA report goes on to discuss the role that mental health resources play, school support personnel roles and responsibilities, and a discussion of what school boards can do. Read the full report at <http://www.nyssba.org/>

## STORIES TO CONSIDER

### POLICE RESPONSE TURNS TRAGIC FOR DISABLED MAN

Jan 12<sup>th</sup>, 2013. Robert Ethan Saylor, a 26 year-old man with Down Syndrome, went to a local mall to see the film “Zero Dark Thirty.” When it ended, his caregiver went to get the car. Saylor went back in and sat down for the next showing. Theatre employees told him to buy another ticket or leave. When Saylor refused, they called three off-duty sheriff’s deputies who tried to drag him out of the theater. According to the sheriff’s office, Saylor cursed and struggled. He was handcuffed and ended up on the floor. Saylor quickly went into distress and died of asphyxiation. The medical examiner ruled it a homicide. After deputies were not charged with a crime, advocacy groups spoke out. The National Down Syndrome Society, along with the Saylor family, met recently with the U.S. Department of Justice. A press release issued spoke of the necessity for first-responder training guidelines for



disabled individuals, and mentioned the need for an independent investigation into why Saylor died.

**“FIGHT CLUB” AT HIGH SCHOOL** School officials at New Jersey’s Bridgewater-Raritan High School are investigating a possible fight club after several videos were posted on Facebook. The Superintendent of Schools commented that the district does not have jurisdiction over Facebook sites. Students identified in the videos were given multi-day suspensions while officials attempt to identify more students seen in the videos.

**ELEMENTARY ENROLLMENT DECLINING ACROSS LONG ISLAND** BOCES demographers predict an additional 3.7 percent decline in the region through the 2015-2016 school year, with greatest losses in kindergarten through grade five. An updated report is expected to be issued soon.

## LEGAL BRIEFS

**M.W. v. NEW YORK CITY DEPARTMENT OF EDUCATION** Oral arguments were heard by the U.S. Court of Appeals for the Second Circuit in a case that involves a child with autism, Tourette's, and ADHD. At the impartial hearing level, an IHO ruled in favor of the parents awarding tuition reimbursement for a private placement, funding for the services of therapists and a paraprofessional, and reimbursement for transportation costs. The IHO ruled, in part, that:



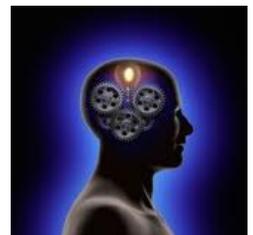
- Parent was not given the opportunity to meaningfully participate in the decision making process;
- IEP decisions were predetermined;
- CSE did not adequately consider the impact of the large size of the recommended classroom; and
- Other substantive inadequacies existed, including failure to conduct/recommend: a Functional Behavior Assessment, an extended school year, and Parent Training & Counseling.

The SRO reversed the IHO, reasoning, in pertinent part, that while a number of the school district's actions violated NYS and Federal law, these violations were not sufficient to rise to the level of a denial of FAPE. After the SRO's ruling, the parents brought suit in federal court, and the U.S. District Court for the Eastern District of New York (EDNY) ruled in the school district's favor. Oral arguments were heard by the U.S. Court of Appeals in early March, exactly nine months to the day since the U.S. District Court ruled in the school district's favor.

**A.S. v. NEW YORK CITY DEPARTMENT OF EDUCATION** Oral arguments were heard at the Second Circuit in a case involving a number of issues, including: (1) parental involvement in the placement process, including a parent's right to be notified about a proposed placement; (2) the issue of who decides methodology and (3) the degree of deference to the SRO's reversal of an IHO. Stay tuned.

## CLINICAL CORNER

**CDC STUDY REVEALS SHARP RISE IN ADHD DIAGNOSES** According to new CDC data, nearly one in five high school age boys in the U.S., and 11% of school-age children overall have received a medical diagnosis of ADHD. This represents a 53% rise in the past decade. About 66% of those with a current diagnosis receive prescriptions for stimulants like Ritalin and Adderall. While some welcome rising diagnosis rates, others say the new rates suggest millions of children may be taking medication to calm behavior or do better in school. Sales of stimulants to treat ADHD have more than doubled to \$9 billion in 2012 from \$4 billion in 2007. Further, criteria for the proper diagnosis of ADHD to be released next month in the 5<sup>th</sup> Edition of the DSM have been changed specifically to allow more adolescents and adults to qualify for a diagnosis. While final wording has not been released, most proposed changes would lead to higher rates of diagnosis, including the requirement that symptoms appeared before age 12 rather than 7, and others. For the full report visit [www.cdc.gov](http://www.cdc.gov)



## SPECIAL EDUCATION CROSSWORD PUZZLE

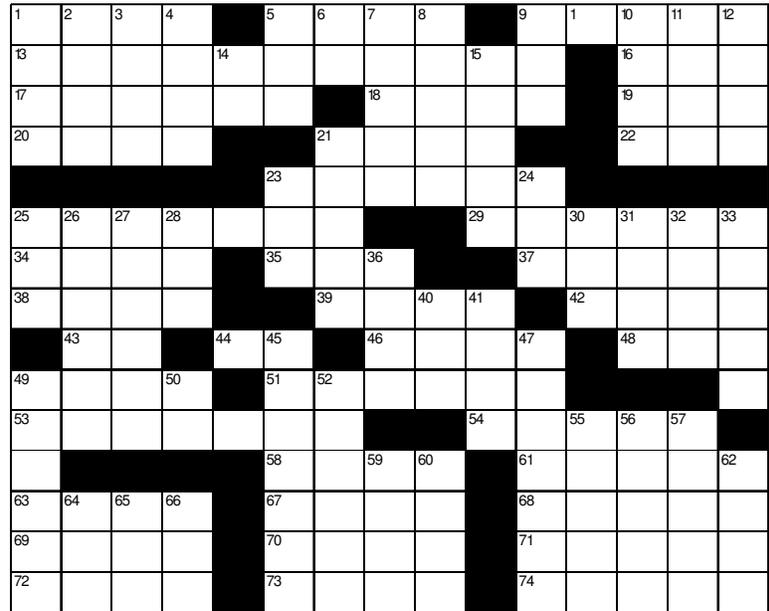
### Across

- 1 There's no place like this  
 5 Federal Special Ed Law, abbrev.  
 9 Get smart  
 13 This & Fitch  
 16 Sandra \_\_\_\_\_  
 17 LI Special Ed Org  
 18 Group or sect  
 19 We breath this  
 20 Baseball Mel et al  
 21 Abominable snowman  
 22 Alphabet trio  
 23 Italian countryman  
 25 Shakespeare's \_\_\_\_\_ Night  
 29 Reading skill  
 34 The \_\_\_\_\_ of my existence  
 35 Internet service company  
 37 Military unit  
 38 Division word  
 39 Rowboat utensils  
 42 Musical work  
 43 TV's Oz is one  
 44 Down opposite  
 46 Discipline Special Ed student venue  
 48 Impartial Hearing Reviewer, abbrev.  
 49 Lawyer's contingent \_\_\_\_\_  
 51 You do this to a coupon  
 53 \_\_\_\_\_ & Old Lace; play  
 54 Type of mill, or gossip  
 58 Ballot  
 61 Metes  
 63 Toddlers Special Ed Doc.  
 67 Alda or Arkin  
 68 Do this to pepper  
 69 A Ranger type  
 70 Take care of  
 71 Parts of a roof

- 72 Holler  
 73 Exxon Mobil Name  
 74 \_\_\_\_\_ apnea

### Down

- 1 Angel ring  
 2 Death notice, abbrev.  
 3 Beef & Pork  
 4 Educ. support service  
 5 Pension plan, or Gershwin  
 6 Right before re and mi  
 7 Announcer  
 8 Borders on  
 9 Allow, or play again in tennis  
 10 Eve's partner  
 11 Horse guide  
 12 Fiery Roman Emperor  
 14 Professional license requirement, abbrev.  
 15 Homer classic  
 21 Internet email service  
 23 Parent school group  
 24 Used In tennis or fishing  
 25 Head injury abbrev.  
 26 A kind of lust  
 27 Joseph Otto \_\_\_\_\_ (Painter)  
 28 A famous lion  
 30 Magnon prefix  
 31 Mistake exclamation  
 32 Sullen, obstinate  
 33 Salt type  
 36 Lay, past participle  
 40 Norma \_\_\_\_\_  
 41 One with ESP  
 45 Lowest Army military rank  
 47 Blackboard smears  
 49 All in the \_\_\_\_\_: TV show  
 50 Directional opposite of NW  
 52 French schools  
 55 Right behavior  
 56 Type of oil  
 57 Jerry Maguire co-star Zellweger  
 59 Sun bathes  
 60 \_\_\_\_\_metriosis  
 62 USDOE Self-Determination Synthesis Project, abbrev.  
 64 Enemy  
 65 Belushi & Curtin were on this  
 66 Energy



Solution to Puzzle can be found on our website at at <http://blueseaeeducation.com/>

Contact Blue Sea Education at 631-368-BLUE or by email at [info@blueseaeeducation.com](mailto:info@blueseaeeducation.com)

**DISCLAIMER.** *The Blue Sea Educator* Newsletter is provided for informational purposes only, and is not legal advice and not warranted or guaranteed. Readers are cautioned not to rely on this information. Because laws change over time and in different jurisdictions, it is imperative that you consult an attorney in your area regarding legal matters.

