



December 15, 2007

The Honorable Sheldon Silver, Speaker  
New York State Assembly  
State Capitol, Room 349  
Albany, New York 12248

Dear Speaker Silver:

I am pleased to present to you my second annual report as Chair of the Assembly Standing Committee on Education for the 2007 Legislative Session. It is an honor to serve as the Chair of this prestigious Committee and assist our Majority in making education our number one priority. The 2007 Legislative Session was very productive and significant for education, with successes in both State Budget negotiations and the work of the Committee.

The State Budget adopted for the 2007-08 school year provided a long overdue State response to the Campaign for Fiscal Equity (CFE) court decision. Along with satisfying the court's decision, this settlement represents the hard work and long-term commitment of the Assembly Majority in advocating for and securing significant additional resources to adequately fund our public school system so that all public school students have access to a sound basic education. This funding increase was accompanied by a new Foundation Aid formula which provides a 4-year funding plan and several new accountability initiatives. These actions, along with last year's enactment of the Assembly Majority's EXCEL Program which provided \$2.6 billion in capital grants statewide, satisfy the requirements of the CFE court decision.


A cornerstone of the Executive's accountability proposal this year was the Contract for Excellence. This initiative requires certain school districts to direct additional State aid on specific program areas to improve school performance. In response to concerns raised by Members of the Assembly, constituents and school officials, the Assembly Majority advocated for several changes to the Executive's proposal which were included in the enacted State Budget. One such change was class size reduction. Mr. Speaker, with your support, the Assembly Majority was able to include language in the State Budget that requires New York City's Contract for Excellence to include a class-size reduction plan. This is a milestone in public education policy. The State's approval of 56 Contracts for Excellence also provided an unprecedented level of data and communication between the State and school districts. The Foundation Aid formula and accountability requirements established by the Contract for Excellence represent a quantum leap forward and clearly show what we the Legislature can do to address the basic education needs of students throughout the State.

On other policy fronts, the Committee successfully advanced legislation about special education. The U. S. Supreme Court had decided in *Schaffer v. Weast* that the burden of proof at an impartial hearing regarding an Individualized Education Plan (IEP) rests with the party seeking relief. This decision mostly impacted parents, and not the school districts, because parents are more likely to be seeking relief in a challenge claiming that services provided by the school district do not provide an “appropriate” education as required by the federal “Individuals with Disabilities Education Act (IDEA). In response, I introduced legislation that was signed into law which clearly established that the school district, not the parents of children with disabilities, has the burden of proof when claiming appropriate services to children with disabilities were provided. I am proud to have been the lead sponsor of this legislation which will do so much for so many parents and children.

The Committee also held a hearing about the education needs of Limited English Proficient /English Language Learners (LEP/ELL) students – a diverse and growing student population throughout the State. Representatives from school districts and advocacy groups joined Assembly Members to discuss the challenges facing LEP/ELL students in schools and explore ways by which New York can assure a quality education to these students. I am very grateful to all who participated. It was highly informative and what we learned will help us during negotiations about the State budget and legislation about education for LEP/LEP students.

I hope to continue the success we have enjoyed during this past year. I will work with Committee Members to advance our commitment to adequately fund our public school system and hold school districts accountable for their academic improvement and fiscal management. On behalf of the Committee, I thank you for your continued support and leadership and look forward to 2008 which promises to be another landmark session. Also, I would like to thank the members of the Committee for their hard work and support of public education.

Sincerely,

A handwritten signature in cursive script that reads "Catherine T. Nolan".

Catherine Nolan  
Chair  
Committee on Education

**2007 ANNUAL REPORT  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON EDUCATION**

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## I. INTRODUCTION

The New York State Constitution states that, "[t]he Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated" (Article 11, Section 1). This constitutional provision establishes the foundation for the areas of responsibility of the Assembly's Standing Committee on Education.

The Committee is responsible for overseeing educational policies and programs affecting prekindergarten, elementary and secondary education for more than three million school children attending both public and nonpublic schools. Within New York State, there are over 700 school districts, including the nation's largest, the New York City School District, which enrolls over one million students. In addition, 38 Boards of Cooperative Educational Services (BOCES) provide occupational education, shared services, special education, and academic programs on a regional basis. The Committee also participates in the process for selecting persons to serve on the New York State Board of Regents.

The Committee works diligently to ensure that the public schools of this large and diverse State provide the range of opportunities that all students need to fulfill their potential. The Committee supports equitable funding and strengthening the quality of public education in the State.

During the 2007 Session, 487 bills were referred to the Education Committee. The Assembly Education Committee has broad jurisdiction reaching to all aspects of public education. This report provides a detailed examination of the Committee's budgetary and legislative achievements in 2007.

## II. COMMITTEE ACTIVITIES AND ACHIEVEMENTS

### A. STATE BUDGET HIGHLIGHTS

The 2007-2008 State Budget provided the funding and reforms required by the New York State Courts of Appeals' Campaign for Fiscal Equity decision. The State of New York, through the 2007-2008 State Budget, provided an unprecedented level of funding for all school districts throughout the State. While the 2006 Campaign for Fiscal Equity court decision was based only on students attending the New York City School District, the Assembly Majority supported and fought for a statewide solution recognizing that many students throughout the State face the same challenges and needs of the students of the New York City School District.

The 2007-2008 State budget included an additional \$1.8 billion in increased school aid, implementing the Foundation Aid formula and enacting several accountability initiatives. In addition, the Legislature provided \$75 million for other educationally related programs. The State had begun addressing capital issues included within the Campaign for Fiscal Equity lawsuit in the spring of 2006. The 2006-2007 State Budget provided each school district with additional capital funding through the Assembly Majority's Expanding our Children's Education and Learning (EXCEL) Program. The EXCEL Program provided a total of \$2.6 billion in capital grants to school districts, with the New York City School District receiving \$1.8 billion of this amount.

In the 2007-2008 State budget, the Legislature appropriated \$15 million in new funding for the State Education Department due to several new initiatives that will require significant oversight and work on its part.

The following summary provides a brief description of the adopted State budget:

#### ***Foundation Aid***

The Legislature accepted the Executive's Foundation Aid proposal with certain modifications. The Assembly Majority had previously endorsed a Foundation formula which had been included in several Assembly budget bills over the years. The adopted Foundation Aid formula is based on the average cost of educating students in successful schools and is adjusted for regional cost differences, poverty levels, pupils with limited English proficiency, and special education needs. This formula is based on enrollment rather than attendance and also consolidates seventeen existing aid categories to streamline how school districts receive funding from the State.

The Legislature modified the Executive's Foundation Aid proposal in the following manner:

- Provided an additional \$110.6 million over the Executive's proposal for a total increase of approximately \$1.1 billion over a consolidated base.
- Modified the calculation for an expected local contribution – localities can use either an income adjusted assumed property tax rate or a State Sharing Ratio.

### ***Early Childhood Education***

The Executive budget proposal continued and expanded the Assembly Majority's Universal Prekindergarten program. The Legislature accepted the Executive's overall proposal to consolidate Universal Prekindergarten, Supplemental Universal Prekindergarten and Targeted Prekindergarten into a single Universal Prekindergarten program. The Legislature modified the Executive's Universal Prekindergarten proposal by increasing the minimum per pupil grant to \$2,700, changing the phase-in of the program, and providing for an additional \$43.5 million over the Executive's proposal for a total increase of \$145.9 million over a consolidated base. As a result, New York State will be providing a total of \$438 million in support of the Universal Prekindergarten Program for the 2007-2008 school year.

The Legislature also provided an additional \$2.3 million, over the Executive's 2007-2008 proposal, for the Full-Day Kindergarten program for a total of approximately \$4 million. Additionally, the Legislature accepted the Executive's proposal to link Full-Day Kindergarten to the Foundation Aid formula and to create a \$2 million Full-Day Kindergarten planning grants program.

### ***Teacher Programs***

The Legislature increased funding for the following programs that enhance the quality of current teachers and teacher recruits:

- Teacher Resource and Computer Training Centers - \$40 million for the 2007-2008 school year, an increase of \$3 million over the Executive proposal.
- Teacher Mentor Internship Program - \$10 million for the 2007-2008 school year, an increase of \$4 million above the Executive recommendation.

The Legislature concurred with the Executive's recommendation to fund Teachers of Tomorrow at \$25 million and National Board for Professional Teaching Standards Certification Grant Program at \$500,000 for the 2007-2008 school year.

### ***Special Education***

The Legislature provided for present law levels of funding for High Cost Excess Cost Aid at \$382.2 million and for Private Excess Cost Aid at \$234.9 million, an increase of \$6.2 million and \$3.4 million respectively over the Executive's proposal.

The Legislature also provided \$20.8 million in funding for Supplementary Public Excess Cost Aid for certain districts experiencing growth in Excess Cost expenditures.

### ***Other Expense Based Aids***

The Legislature provided present law level of funding for the following expense driven aids:

- BOCES Aid – total funding of \$627.6 million for the 2007-2008 school year, an increase of \$44.6 million over 2006-2007 school year and an increase of \$5 million over the Executive’s proposal.
- Special Services Aid – total funding of \$130.7 million for the 2007-2008 school year, a decrease of \$5.2 million from 2006-2007 school year.
- Transportation Aid – total funding of \$1.4 billion for the 2007-2008 school year, an increase of \$81.4 million over the 2006-2007 school year and an increase of \$6.1 million over the Executive’s proposal.
- Building Aid – total funding of \$1.75 billion for the 2007-2008 school year, an increase of \$36.5 million over the previous school year and an increase of \$83.1 million over the Executive’s proposal. Reorganization Building Aid is funded at \$14.8 million for the 2007-2008 school year.

***Instructional Materials Aids***

The Legislature accepted the Executive’s recommendation to increase funding for instructional materials aids:

- Computer Hardware Aid - increased by \$8.55 million over the 2006-2007 school year for total funding of \$37.3 million. Per pupil amount increased from \$19.25 to \$24.20 per pupil.
- Library Materials Aid – increased by \$580,000 over the 2006-2007 school year for total funding of \$19.8 million. Per pupil amount increased from \$6.00 per pupil to \$6.25 per pupil.
- Textbook Aid - increased by \$654,000 over the 2006-2007 school year for a total funding amount of \$186.2 million. Per pupil amount increased from \$57.30 to \$58.25 per pupil.
- Software Aid - increased by \$678,000 for a total present law level of \$46.6 million for the 2007-2008 school year.

The Legislature also accepted the Executive’s proposal to expand the Computer Hardware Aid program to include students enrolled in non-public schools. This instructional computer hardware loan program is based on non-public student requests made to the public school district to have access to computer equipment otherwise made available to students attending the public schools and on the level of State funding received by the public school district for these purchases. The equipment loaned to non-public school students may only be used for instructional purposes.

***Charter School Transition Aid***

The Legislature modified the Executive’s proposal to create Charter School Transition Aid by changing the eligibility requirements for this program and adding \$7.3 million in additional funding over what the Executive had recommended. The Legislature provided a total of \$22.5 million in Charter School Transition Aid for the 2007-2008 school year.

### ***Aid for Nonpublic Schools***

The Legislature provided a total of \$166.4 million in Nonpublic School aid for the 2007-2008 school year. This total amount includes \$39 million that the Assembly Majority had sought in additional funding for the 2007-2008 school year.

### ***Contract for Excellence (Article VII)***

One of the cornerstones of the Executive Budget's accountability plan was the requirement that school districts receiving either a \$15 million or 10% increase in total foundation aid would be required to adopt and implement a Contract for Excellence. The Contract for Excellence focuses expenditures of additional Foundation Aid on certain approved program areas. The Legislature accepted the Governor's concept and made several changes including adding an academic component to how school districts are identified, using existing state and federal academic benchmarks in addition to the monetary threshold the Executive proposal included, and also providing flexibility to school districts by allowing them to use funds to maintain existing allowable programs during the first year under the Contract for Excellence. The Assembly Majority also fought to include a provision requiring that New York City's Contract for Excellence include a plan to reduce class sizes within five years.

The enacted Contract for Excellence statute requires that 56 school districts statewide to prepare and implement a Contract of Excellence for the 2007-2008 school year.

### ***Charter Schools (Article VII)***

The New York Charter School Act of 1998 was amended by the enacted 2007-2008 State budget to authorize the creation of a limited number of new charter schools and to increase public notification and input at the local level. As a result of these changes, 100 additional charter schools may be created in New York State, with at least 50 to be located within the New York City School District. The State budget also included the following significant amendments:

- Providing that if a charter school enrollment reaches 250 students within the first two years of its operation, the employees (including non-instructional employees) will be represented by an employee organization. (Applicable to employees of charter schools approved by a Charter Entity after July 1, 2007)
- A Charter Entity must provide parental notice and hold a public hearing when it is proposed that a charter school be located in part of an existing public school building.
- A charter school will have to demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities and limited English proficiency to those of the school district where the charter school is located.

- Requires students planning to attend a charter school to submit a timely application by April 1<sup>st</sup> of each year.
- In school districts with charter school enrollments greater than five percent of the student population, applications for new charter schools may only be approved if “granting the application would have a significant educational benefit to the students expected to attend the proposed charter school,” or if “the school district in which the charter school will be located consents to such application.”
- Where a revision to a charter involves the relocation of a charter school to another school district, the newly affected school district has to be provided with at least a 45-day notice regarding the proposed relocation and the applicant has to give the school district an analysis of the community support for the relocation and the fiscal and programmatic impact of the charter school on the proposed new school district.
- The chartering entity or Board of Regents must provide the public with notification of an application for the formation of a new charter school, or for the renewal of an existing charter school, within 30 days after receiving the application and at least 45 days prior to the initial approval of the charter application by the chartering entity.
- School districts must conduct a public hearing prior to the issuance, revision, or renewal of a charter for a charter school within their district. School districts affected by a proposed relocation of a charter school will also have to conduct a public hearing. The Board of Regents is required to carry out this requirement if the school district fails to do so.
- Requires the chartering entity to consider the comments of the school district affected by the proposed charter and to submit them to the Board of Regents with the application for the issuance, revision or renewal of the charter.
- Authorizes school districts to exclude expenditures for payments to charter schools when determining total spending under a contingency budget.

## **B. SCHOOL BUDGETS/DISTRICT ELECTIONS**

### *Contingency Budgets – Self-Supporting Programs*

**A.832, M/A Englebright; Chapter 422 of the Laws of 2007** This law authorizes school districts to exclude expenditures for “self-supporting programs” when determining total spending under a contingency budget and provides a definition of what “self-supporting programs” will constitute.

### *Contingency Budgets - Increased Fuel Costs*

**A.3248, M/A Nolan; Veto Memo # 143** This bill would allow for the exclusion of the amount of increased fuel costs when calculating a school district's total spending under a contingency budget. This authorization would have commenced with the 2006-2007 school year. The Governor indicated in his veto message that he was "...concerned that making a permanent exemption for increased fuel costs could result in routine, recurring expenditures being excluded from the spending cap, and thereby result in higher school property taxes."

### *Surplus Fund Balance*

**A.3249A, M/A Nolan; Chapter 238 of the Laws of 2007** This law permits school districts to increase the amount of funds that a school district may retain in its surplus fund balance from two to three percent in the 2007-08 school year, and up to four percent for the 2008-09 school year and all years thereafter. School districts will have to include certain information regarding these funds in their property tax report card.

### *Tax Certiorari Reserve Fund*

**A.6117-A, M/A Galef; Chapter 445 of the Laws of 2007** This law provides clarifying language regarding the length of time funds may be retained in a Tax Certiorari Reserve Fund by a school district.

### *Voting Machines – School Districts/BOCES*

**A.8425, M/A Nolan** This bill would require voting machines, used by school districts and boards of cooperative educational services, to be approved by the State Board of Elections. This bill passed the Assembly and died in the Senate Committee on Rules.

## **C. STUDENT HEALTH SERVICES & STUDENT NUTRITION**

**A.581, M/A Paulin; Chapter 281 of the Laws of 2007** This law authorizes school authorities to request that each student furnish a dental health certificate at the same time that health certificates are required. Each requested certificate is to be signed by a New York State licensed dentist and must describe the dental health condition of the student and state whether such student is in fit condition of dental health to attend public schools. If obtained, dental health certificates are to be filed with the student's cumulative health record within thirty days after the student's entrance to school. This law takes effect September 1, 2008.

### *Healthy School Act*

**A.8698, M/A Nolan** This bill would require the State Education Department to promulgate regulations establishing nutritional and dietary standards, acting in consultation with the Commissioner of Health, for healthy school meals, snacks and

beverages. These nutritional and dietary standards would apply to all public schools, nonpublic schools that participate in the National School Lunch or the Child Nutrition Act programs, boards of cooperative educational services (BOCES) and charter schools. This bill would also provide for the following:

- Require school districts that participate in the Federal school lunch program to establish a school breakfast program in all middle and high school facilities that are not subject to this requirement currently.
- Increase the State reimbursement to school food authorities operating a breakfast and/or lunch program under the National School Lunch or the Child Nutrition Act programs by 15 cents per free and reduced meals beginning September 1, 2010.
- Provide a State subsidy for a reduced price breakfast and lunch in order to eliminate any cost to a student qualifying for a reduced price meal commencing with the 2008-2009 school year.
- Require school districts, private schools that participate in the National School Lunch or the Child Nutrition Act programs, boards of cooperative educational services (BOCES) and charter schools to establish a local wellness policy, in addition to the applicable federal requirements, to comply with certain requirements.
- Require the Commissioner of Education to conduct a physical education survey by February 1, 2008 detailing statewide and regional compliance/non-compliance with physical education curriculum requirements and the condition of facilities or areas being used for physical education purposes. Also, aspects of the State's Childhood Obesity Prevention Program are modified.

This bill passed the Assembly and died in the Senate Committee on Rules.

#### ***Best Practices - Access to School Meals***

**A.8699-A, M/A Nolan** This bill would require the Commissioner of Education to disseminate information on best practices utilized by school districts and schools which simplify access and eliminate the distinction between students receiving a free or reduced price meal and those paying a full price. This bill passed the Assembly and died in the Senate Committee on Rules.

#### ***Student Access to Nebulizers***

**A.4588-B, Rivera P; Chapter 672 of the Laws of 2007** This law requires, subject to an appropriation, that the board of education, or trustees of each board of education and board of cooperative educational services, provide and maintain a nebulizer in buildings in which full or part time nurse services are provided.

## **D. SCHOOL BUSES/DISTRICT TRANSPORTATION SERVICES**

### ***Transportation Contracts - RFPs***

**A.1189-A, M/A Gantt; Chapter 165 of the Laws of 2007** This law extends for an additional five years current law provisions that authorize school districts to award transportation contracts pursuant to a request for proposals process. These provisions are scheduled to sunset on June 30, 2012.

### ***Transportation Contracts – Amendments***

**A.8974, M/A Maisel; Chapter 267 of the Laws of 2007** This law continues, for three additional years, current law provisions that authorize school districts and pupil transportation providers to amend their transportation contracts when needed to comply with federal, State or local law or to enhance transportation safety.

### ***School Vehicles – Minimizing Idling***

**A.8486-B, M/A Rivera, P; Chapter 670 of the Laws of 2008** This bill would require the Commissioner of Education to promulgate regulations by July 1, 2008 requiring school districts to minimize the idling of school vehicles in front of schools and on school grounds. These regulations would apply to school districts with a significant number of children with asthma and other districts that the Commissioner of Education deems appropriate.

This bill would also require the Commissioner of Education to provide school districts with a notice detailing the idling restrictions provided by law and regulations. School districts would have to distribute this notice to their employees.

## **E. SPECIAL EDUCATION/SPECIAL EDUCATION**

### ***Interagency Council for Services to Persons Who are Deaf, Deaf-Blind, or Hard of Hearing***

**A.2461-A, M/A Morelle; Chapter 174 of the Laws of 2007** This law will create the New York State Interagency Council for Services to Persons Who are Deaf, Deaf-Blind, or Hard of Hearing to ensure that services for such persons are adequately provided. The Council would be administered and coordinated by the Commission on Quality of Care and Advocacy for Persons with Disabilities and include representatives from various New York State agencies and nine Board of Regents appointees. Functions of this Council would include promotion of a statewide program for coordinated services to persons who are deaf, deaf-blind and hard of hearing, the maintenance of data on the incidence of deafness and other hearing loss, and the development of a statewide directory of services.

### ***CSE/CPSE – Identifying Community Assistance***

**A.4373-A, M/A Weisenberg; Veto Memo # 122** Requires the Committees on Special Education (CSE) and Committees on Preschool Special Education (CPSE) to provide parents or persons in parental relation of a child with a disability with a list of programs and services that may be available and accessible to such child or child's family in the community, including but not limited to health and mental health programs and services. The Governor noted in his veto message that "...[a]lthough the purpose behind this bill is laudable - i.e., providing families with information about resources for their children - the bill will not accomplish that goal, and instead would impose an undue burden on CSEs and CPSEs."

### ***Burden of Proof (Schaffer v. Weast)***

**A.5396-A, M/A Nolan; Chapter 583 of the Laws of 2008** In 2005, the U.S. Supreme Court's decision Schaffer v. Weast stated that the burden of proof, in an impartial hearing relating to a student's individualized education program, would be placed on the person or entity bringing the claim (usually tending to be the parent or guardian of the student). Prior to this decision, it had been a longstanding practice in New York State to place the burden of proof on the school district or state agency. This law returns New York State to the practice used prior to this court decision and provides that in an impartial hearing concerning services provided to students with disabilities, the burden of proof shall be on the boards of education or trustees of the school district or state agency and not the parent or guardian of the student. This law provides that burden of proof is only placed on the parent or guardian when he or she is seeking tuition reimbursement for an alternative educational placement that was not agreed upon by the school district or state agency.

### ***Rate-setting Methodology***

**A.8337-A, M/A Nolan; Veto Memo # 156** This bill would require that the Commissioner of Education develop and promulgate regulations for a multi-year tuition rate-setting methodology in which tuition rates for approved private special education schools and special act school districts would be set in the following manner:

- Tuition in the first year would be based on allowable historical costs as determined by the Commissioner of Education and approved by the Director of the Budget;
- Tuition in the second year would be calculated by applying a cost of living factor to the approved year one rate; and
- Tuition in the third year would be determined by applying a cost of living factor to the approved year two rate.

The cost of living factor for each year would be determined by the Commissioner of Education and approved by the Director of the Budget. The multi-rate setting methodology would be implemented on a staggered three year basis and would affect tuition rates beginning with the 2008-09 school year.

This bill would also allow, commencing in the 2008-09 school year, tuition rates to include a two percent surplus factor of that school year's allowable and reimbursable costs and for tuition rates for approved special education itinerant teacher programs to be established on a regional basis.

The Governor in his veto message noted the several concerns of the Division of the Budget with this legislation and wrote that "...this bill would deny the State administrative flexibility to establish the most appropriate rate for each particular program in each particular year."

### ***IDEA Compliance Legislation***

**A.9273 M/A Nolan; Chapter 378 of the Laws of 2007** This law makes additional amendments to the Education Law relating to special education services and programming to ensure compliance with the federal Individual with Disabilities Education Act (IDEA), as amended by the Individuals with Disabilities Education Improvement Act of 2004, and its implementing regulations. The provisions in Chapter 352 of the Laws of 2005 and Chapter 430 of the Laws of 2006 are also extended for two additional years to continue compliance with IDEA. The new amendments and those being extended for compliance are set to expire on June 30, 2009.

## **F. BOARDS OF EDUCATION**

### ***Oversight Training***

**A.2469, M/A Sweeney** This bill would require that every trustee or voting member of a board of education or board of cooperative educational services, elected or appointed for a term beginning on or after July 1, 2007, would have to, within the first year of his or her term, complete a training course on the powers, functions and duties of members of the board of education, as well as the powers and duties of other governing and administrative authorities affecting public education. This training could be taken as a separate course or taken together with the training that is already required by law regarding financial oversight, accountability, and fiduciary responsibilities. This bill passed the Assembly and died in the Senate Committee on Rules.

### ***Financial Disclosure – CEC Members/Candidates***

**A.9030, M/A Nolan; Chapter 285 of the Laws of 2007** This law authorizes the New York City Board of Education to set the financial disclosure requirements applicable to members of Community Education Councils (CECs) and candidates for CECs.

## **G. SCHOOL SAFETY**

### ***Dignity for All Students Act***

**A.3496, M/A O'Donnell** This bill would enact the "Dignity For All Students Act" to provide students with a learning environment that is free of discrimination and harassment. This bill would:

- Prohibit harassment of students by school employees and other students on school property or at school functions;
- Prohibit the discrimination of a student on school property or at a school function based on their race, color, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex;
- Require boards of education to amend the district's code of conduct to include anti-harassment and anti-discrimination policies and provide training to school employees so they are aware of and sensitive to harassment and discrimination and are able to properly respond to situations concerning these issues; and,
- Require the Commissioner of Education to provide assistance to school districts to implement these policies and requirements and establish a procedure for the reporting of material incidents involving discrimination and harassment.

This bill passed the Assembly and died in the Senate Education Committee.

### ***Conditional Appointments***

**A.9090, M/A Ramos; Chapter 90 of the Laws of 2007** This law extends the ability of school districts (except for the New York City school district), charter schools and Board of Cooperative Educational Services, upon the recommendation of the superintendent or chief executive officer of such schools, to make conditional appointments and emergency conditional appointments of certain prospective school employees for an additional two years, until July 1, 2009. Schools would be required to undertake the prescribed safety measures before making such a conditional appointment.

This law also extends the authority of the Commissioner of Education to promulgate rules and regulations regarding conditional appointments and emergency conditional appointments and to develop the form used for such appointments for an additional two years, until July 1, 2009.

## **H. EDUCATIONAL FACILITIES**

### *Educational Facilities - Public Notice*

**A.8838, M/A Nolan** This bill would require the New York City School Construction Authority to file a site plan with the City Council for its review, prior to leasing any building or property to be used as an educational facility.

This bill would also require the New York City School Construction Authority to provide certain public notice regarding the proposed site plan for the leased space and to require the community education council of the affected community school district to hold a hearing on such proposal. This bill passed the Assembly and died in the Senate Committee on Rules.

## **I. SCHOOL PERSONNEL**

### *Permanent Teacher Certification - U. S. Residents*

**A.8975, M/A Young; Chapter 612 of the Laws of 2007** This law extends provisions of current law which allow non-U.S. citizens with lawful permanent resident status to serve as a teacher, or to apply for permanent certification as a teacher in New York.

### *Programs - BOCES/School Districts*

**A.3524, M/A Nolan** This bill would extend current law protections relating to situations when a school district takes over a program formerly operated by a Board of Cooperative Educational Services (BOCES), or vice versa, to persons certified to the state civil service commission pursuant to § 35(g) of the Civil Service Law providing instructional, ancillary or supportive educational services, and any licensed health professional who is principally engaged in providing health services. This bill passed the Assembly and died in the Senate Committee on Rules.

## **J. PARENT ASSOCIATIONS**

### *PA/PTA – Grandparents*

**A.2684, M/A Cook** This bill would allow a grandparent of a child attending a school within a New York City community district to be a member of the parent association or parent-teacher association when the child's parent or guardian states in writing that the grandparent provides direct care to the child on a regular basis. This bill passed the Assembly and died in the Senate Committee on Education.

## **K. SCHOOL TECHNOLOGY**

### *Computer Equipment/Software donations*

**A.8970, M/A Benedetto; Chapter 158 of the Laws of 2007** This law extends until July 1, 2010 the ability of political subdivisions to donate surplus computers, software and computer equipment to schools, public libraries and other entities.

### **III. PUBLIC HEARINGS**

#### **A. ENGLISH LANGUAGE LEARNERS/LIMITED ENGLISH PROFICIENT (ELL/LEP) STUDENTS - EDUCATIONAL NEEDS**

The Committee on Education held a hearing to examine the Educational needs of English Language Learners/Limited English Proficient (ELL/LEP) students and the New York State and federal policies affecting this student population in Albany, New York on October 2, 2007. This hearing served as a continuation of last year's ELL/LEP student assessment discussion and as a forum to broaden the discussion on the educational needs of this student population.

The New York State public school system has a very diverse student enrollment with English Language Learners/Limited English Proficient (ELL/LEP) students significantly represented. A great deal of work and resources have been devoted to assist ELL/LEP students at the State and local level. Most recently, the enacted 2007-2008 State budget included a provision that required school districts receiving Total Foundation Aid to develop a comprehensive plan to meet the educational needs of ELL/LEP students as a way to better coordinate local efforts and State oversight. In addition to this educational services and support requirement, there have been federal policy changes regarding the assessments utilized to evaluate the performance of ELL/LEP students and there is potential for further changes as Congress moves to reauthorize the federal No Child Left Behind Act.

The Committee on Education had convened this hearing to receive testimony on the implementation of the required comprehensive education plans and an update on the ELL/LEP assessment policy changes since last year's Committee hearing on this issue. The Committee had also requested testimony regarding the makeup and other relevant information of the ELL/LEP student community, the experiences of educators and administrators in providing educational services to these students and other information that may be used by the Committee as it prepares for a new legislative session and budget cycle so to better understand the needs of these students and those charged with educating them.

The information gathered through this hearing was very informative and will guide the Committee's budgetary and policy deliberations during the upcoming legislative session as they relate to ELL/LEP students.

The following groups/individuals presented testimony at this hearing: Richard P. Mills, Commissioner, New York State Education Department; Dr. Marcia V. Lyles, Deputy Chancellor, Office of Teaching and Learning, New York City Department of Education; Maria Santos, Senior Instructional Manager, Office of English Language Learners, New York City Department of Education; Diana V. Hernandez, Supervising Director of Bilingual, ESOL and Hispanic Services, Rochester City School District; Sonia Lisa Otero, Coordinator of ESL/Bilingual Education, Syracuse City School District; Joanne Beard, ESL Department Chair, Utica City School District; Robert Lowry, Deputy

Director, New York State Council of School Superintendents; Catalina Fortino, English Language Learners Coordinator, United Federation of Teachers; Charles Santelli, Director, Policy and Program Development, New York State United Teachers; Louis O. Reyes, Ph.D., Coordinator Coalition for Education Excellence for English Language Learners; Billy Easton, Executive Director, NYS Alliance for Quality Education; Milagros M. Escalera, Principal, Porter Magnet School, Syracuse City School District; Jennifer Wheeler, ESL Teacher Brighton High School; Simon Levy, ESL Teacher, Guilderland Central School District; Chojoy Schroeder, ESOL and Sheltered Classroom Teacher, Rochester City School District; Jose Davila, Director of State Government Affairs, New York Immigration Coalition; Arlen Benjamin-Gomez, Staff Attorney, Advocates for Children; Eudas Buhda; Lynn Ellingwood; and Marie Perkins.

#### **IV. OUTLOOK 2008**

The Committee on Education will continue to focus on additional resources for our public school system and accountability. The Committee will also work to advance measures which improve our public school system.

The Committee will continue its commitment to ensuring that special education students, English language learners/Limited English Proficient students and other at-risk student populations have access to quality educational and necessary support services.

**V. 2007 SUMMARY SHEET**  
**Summary of Action on All Bills**  
**Referred to the Committee on Education**

<u>FINAL ACTION</u>	<u>ASSEMBLY</u> <u>BILLS</u>	<u>SENATE</u> <u>BILLS</u>	<u>TOTAL</u> <u>BILLS</u>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE	1	0	1
TO FLOOR; RECOMMITTED AND DIED	0	0	0
TO WAYS AND MEANS	35	0	35
TO CODES	5	0	5
TO RULES	15	0	15
TO JUDICIARY	0	0	0
TOTAL	56	0	56
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO <u>Higher Education</u>	6	0	6
TOTAL	6	0	6
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		15	15
RECALLED		6	6
TOTAL		21	21
<b>BILLS DEFEATED IN COMMITTEE</b>	0	0	0
<b>BILLS NEVER REPORTED, HELD IN COMMITTEE</b>	444	43	487
<b>BILLS NEVER REPORTED, DIED IN COMMITTEE</b>			
<b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>	8		8
<b>MOTIONS TO DISCHARGE LOST</b>			
<b>TOTAL BILLS IN COMMITTEE</b>	514	64	578
<b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>	11		