



**Department of
Education**

Carmen Fariña, Chancellor

**Testimony of the NYC Department of Education
on Overcrowding in NYC Schools
Before the NYC Council Committee on Education**

March 3, 2015

Testimony of Elizabeth Rose, Acting Deputy Chancellor, Division of Operations

Good afternoon Chair Dromm and all the Members of the Education Committee here today. My name is Elizabeth Rose, Acting Deputy Chancellor for the Division of Operations at the New York City Department of Education (DOE). I am joined by Lorraine Grillo, President and CEO of the New York City School Construction Authority (SCA). We are pleased to be here today and discuss our work as it relates to overcrowding in NYC schools.

This Administration is committed to ensuring that all our students have access to a high-quality education in school facilities that provide a sound instructional environment. Overcrowding in NYC is a complex issue with many causes and solutions. In September of 2014, we opened 11 new sites, creating over 5,000 new seats for our students, and we are on track to open 42 new locations this September, for an additional 13,324 seats in the 2015-2016 school year, including new Pre-K sites. Even with new seats, we recognize that overcrowded buildings exist in certain geographic pockets throughout the City.

We define a school building as overcrowded if its utilization rate is greater than 100 percent, as reflected in our annual report on Capacity, Enrollment and Utilization, commonly known as “The Blue Book.” To assess capacity and utilization, we apply citywide standards for space requirements and class sizes at every grade level. For kindergarten through third grade, the standard is 20 students per class; in grades 4-8, the standard is 28 per class; and in high school, the standard is 30 students per class. Based on the 2013-2014 Blue Book, the most recent year available, the system is at 93 percent utilization. While the 93 percent utilization figure suggests that the DOE has sufficient seat capacity to meet demand, we know that in districts across the City, the supply of seats is not perfectly aligned with where students live or wish to attend school. As a result, we have individual buildings, and in some cases entire neighborhoods, that are overcrowded, and in other cases, we have buildings and neighborhoods that are under-utilized.

By borough, the utilization rates are 86 percent for Brooklyn, 88 percent for Manhattan, 93 percent for the Bronx, 99 percent for Staten Island, and 105 percent for Queens. Of our approximately 1,311 buildings (excluding TCUs and other buildings that do not have student capacity), 575 buildings—or about 44 percent—have a utilization rate that exceeds 100 percent. Almost three fourths of these buildings house a single school, and only one quarter of these buildings hold co-located schools. Of the overutilized buildings, 80 percent are elementary school buildings, and the vast majority house a zoned school.



**Department of
Education**

Carmen Fariña, Chancellor

We also find that overcrowding is prevalent in our most in demand high schools, such as Francis Lewis, Townsend Harris, Midwood, Brooklyn Tech, Curtis, Bronx High School of Science, and LaGuardia High School of Music & Art and Performing Arts. Schools that offer attractive programs and a wide array of programming are attractive to students and may draw students from all boroughs. The DOE places a high priority on meeting student demand and ensuring that students have access to high-quality programs; addressing overcrowding here would require we limit our students' ability to gain access to such highly sought after schools and programs.

For our school communities, overcrowding is primarily experienced as larger class sizes, compared to the class size standards used by the DOE to calculate capacity. In all cases, the DOE applies class size figures that are below the maximum allowed by the United Federation of Teacher's contract. While class sizes may be larger than the targets used by the DOE to calculate capacity in the Blue Book, students still receive specialty instruction such as art, music and science. In the last Capital Plan the DOE funded upgrades to ensure science laboratories were available to all high school students. When specialty instruction rooms are not available, students may receive specialized instruction in their main classrooms.

The Office of Space Planning (OSP) within the Division of Operations is responsible for monitoring building and school overutilization and devising appropriate strategies to reduce overcrowding. OSP regularly conducts cross-departmental meetings with the SCA, the Office of District Planning, Office of Student Enrollment, Division of School Facilities, and Superintendents to evaluate seat need and consider strategies to relieve overcrowding. Strategies to alleviate and address overcrowding include grade expansion, grade truncation, rezoning of elementary and middle school catchment areas, opening of new schools, conversion of inefficient spaces in existing school facilities, and building new capacity. Among other projects, the Office of Space Planning is implementing a system to better track overutilization, and monitor the strategies we are using to alleviate overcrowding.

An example of our efforts to reduce overcrowding include our work with Community Education Councils (CECs), which have the authority to approve zoning lines, and other community stakeholders to rezone the catchment areas of elementary and middle schools. Since the 2010-2011 school year, 217 schools have been rezoned. Of these schools, nearly 60 percent have experienced a decrease in utilization in the first year after rezoning. After three years, 70 percent of these schools' utilization rates declined. Because rezoning only impacts the incoming grade level each year, the full impact of a rezoning is felt after six years for elementary schools and after three years for middle schools.

For instance, District 20 in Brooklyn has seen extreme population growth and an increased number of overcrowded buildings over the past several years, especially at the elementary school level. In 2011 and 2012, two rezoning plans were put forth by the DOE and were approved by CEC 20 to shrink the zones of P.S. 69 and P.S. 105, among others. In just three years, by shrinking the size of the P.S. 69 and P.S. 105 zones and by utilizing new and additional capacity at nearby schools, both P.S. 69 and P.S. 105 have seen decreases in enrollment and had fewer students on a waitlist. In fact, for the first time in several years, P.S. 105 did not need to cap and



**Department of
Education**

Carmen Fariña, Chancellor

overflow kindergarten students this year. Moreover, the full effects of the rezoning will not be realized for several more years after larger cohorts graduate and smaller cohorts of students enroll.

In some cases, we may open a new school or program in existing underutilized space to attract students from outside a zone and alleviate overcrowding in nearby buildings. Last year in District 24 in Queens, we relocated a Gifted and Talented program from I.S. 61 in Corona to I.S. 73 in the Maspeth and Elmhurst neighborhoods. The majority of students attending the program were actually zoned to I.S. 73, so relocating the program both shortened the travel distance for most students and alleviated I.S. 61 overcrowding.

Currently, over half of our overcrowded buildings are located in areas where we have funded new capacity in the 2015-2019 Capital Plan. New capacity is an important tool to tackling areas of overcrowding; however, resource constraints mean we cannot depend solely upon new capacity to address overcrowding. The proposed \$13.5 billion FY2015-2019 Capital Plan reflects a citywide seat need of 49,000 seats, and will create approximately 33,000 new seats. Within our Capital Plan, we prioritize funding to address overcrowded areas where we are unable to rezone or there is no underutilized capacity nearby.

The Capital Plan also includes funding for this Administration's priority to remove all Transportable Classrooms Units, known as TCUs, in the system and to reduce class sizes. Specifically, \$480 million has been allocated to remove TCUs and redevelop the yard space where the TCUs are located. Since January 2014, we have removed 47 TCUs and have developed plans to remove 94 additional TCUs. We are also working with principals and superintendents to develop plans to enable the removal of remaining TCUs. Plans include building new capacity in overcrowded areas, supporting schools to better use the space in their main buildings, and assessing the need for potential changes to zoning or other enrollment adjustments.

The Class Size Reduction Program in the Capital Plan recognizes the need for targeted investments of additional resources to bring class sizes down in areas that might not otherwise require new capacity. Funding set aside in the Class Size Reduction program will allow us to build approximately 4,900 new seats. An inter-departmental working group within the DOE is in the process of conducting an analysis to determine the areas where these seats will be allocated.

In addition to the significant financial investments in the Capital Plan, and in response to long-standing concerns raised by school communities and other stakeholders, last spring, Chancellor Fariña established a Blue Book Working Group to review the way space is reflected in the Blue Book. The group, comprised of parents, teachers, principals, advocates, elected officials, and SCA and DOE staff, has focused its work on understanding the underlying formulas that determine current Blue Book utilization figures and discussing recommendations that would improve the way our communities understand how school space is used. Changes we have already implemented as a result of this group's recommendations include adjusting the Blue Book formulas so that enrollment in TCUs is now included in the main building's total



**Department of
Education**

Carmen Fariña, Chancellor

enrollment and creating a more user-friendly Blue Book format for school communities. The group has recently submitted its preliminary recommendations to the Mayor and the Chancellor, and we will soon publicly release a final report.

It is important to note that over the past six years, total enrollment in New York City school buildings has increased by over 34,000 students; at the same time, the number of overcrowded buildings has remained relatively constant. The increased enrollment and relatively constant number of overcrowded buildings over the past several years suggest that the strategies the DOE has been using to address overcrowding have allowed us to enroll and educate an increasing number of students in our public schools. That said, we know that far too many of our students attend an overcrowded school, and we are committed to working creatively and systemically to reduce the number of overutilized school buildings in the City.

Finally, one of the most vital tools to help reduce overcrowding is to ensure that every neighborhood school provides its students with a high-quality education. This remains the Administration's top priority.

The City Council has been a strong partner in our efforts to reduce overcrowding, and we look forward to our continued collaboration.

Thank you for the opportunity to testify today. We will now take your questions.

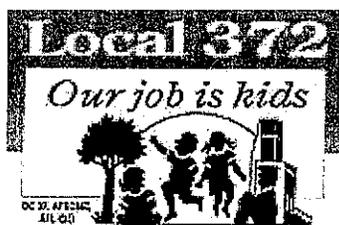
TESTIMONY

New York City Council Committee on Education
Oversight - Overcrowding in NYC Public Schools

and

Res 0563-2015 - Resolution calling upon the New York State Legislature
to reject any attempt to raise the cap on the number of charter schools.

March 3, 2015



Shaun D. Francois – President
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District Council 372 – AFSCME, AFL-CIO
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Good Morning Chairman Dromm and members of the committee. My name is Jaquelin Febrillet, Political Director for Local 372 and I am here on behalf of Shaun Francois, President of Local 372. I would like to thank you for the opportunity to provide testimony in response to Council Resolution 563, calling upon the State Legislature to reject any attempt to raise the cap on the number of charter schools.

Local 372 is comprised of 23,000 Department of Education employees who perform essential services for the children of New York City. Our local is the largest of DC37 locals, with the titles of School Aides, Health Aides, Substance Abuse Prevention and Intervention Specialists (SAPIS), School Crossing Guards, Family Paraprofessionals, Parent Coordinators, Annual School Lunch Employees and Hourly School Lunch Employees.

Most Local 372 members work in the communities in which they live, spend money, pay taxes, and vote. While most of our members do perform services in traditional public schools, some are also based in charters.

I am here today on behalf of Local 372 to urge the City Council to acknowledge the need to unionize all public school staff. The staffers who work in charter schools are no different than those who work in public schools; they are entitled to fair wages, due process, benefits and union representation.

First, if a charter school is co-located within a traditional public school, we run the risk of burdening our students with overcrowding. Subsequently, this possibility of overcrowding will overwhelm school staff—especially when a mixture of union and non-union employees are housed in the same building. Our members have experienced school principal staff and charter school staff requesting help however our members are not being compensated.

Second, will a unionized school crossing guard be responsible for or even capable of carrying out their duties upon co-location? A school crossing guard takes responsibility for pedestrian safety at their post, no matter if that person is heading to a school or to work. How will school crossing guards be able to handle the additional influx of charter school students crossing streets without more hands on deck? Currently, we have 300 School Crossing Guard vacancies, if the student body increases significantly, how can we ensure that the current staff to student ratio is upheld in streets, hallways, cafeterias, and the nurse's office without also ensuring that these staff are unionized?

Simply put, the unionization of all school staff, both public and charter, will ensure that our students receive quality support in all areas outside the classroom, providing them with the foundation they need for academic success. The unionization of all school staff ensures that our education dollars are being spent on servicing the students rather than enriching outside interest groups to the detriment of the students.

We applaud the committee for addressing concerns surrounding the very important issue of charter schools in New York City, and we thank you for your time.



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Testimony of Leonie Haimson before the NYC Council Education Committee On school overcrowding and the deficiencies of the capital plan

March 3, 2015

Thank you for the opportunity to speak to you today. My name is Leonie Haimson; I head Class Size Matters a citywide advocacy group devoted to providing information on the benefits of smaller classes to parents and others nationwide.

Last June, Class Size Matters released a report, *Space Crunch*, which analyzed the school overcrowding crisis in New York City, and pointed out the need to improve the City's proposed five year capital plan for school construction.¹ We found that given enrollment projections and existing overcrowding, it is likely that the real need in our schools is likely over 100,000 new seats, though the current capital plan would create less than half that number.

By averaging the enrollment projections of the two DOE consultants, Statistical Forecasting and Grier Partnership, and then adding the additional growth from housing starts, as DOE does, one can estimate that there will be approximately 84,000 additional students in grades K-8 by 2021; and an additional 32,000 high school students.²

There are only 38,654 seats in the proposed five year capital plan – with 4,000 of those seats still unsited as to district and with undetermined grade levels. Unless the plan is significantly expanded, our students are likely to be sitting in even more overcrowded schools in the years to come.

School overcrowding has significantly worsened in the last six years, especially at the elementary grade level. Last year, elementary school buildings had an average 97.5 percent utilization rate, according to the DOE's figures in the Blue Book, with the median rate at a shocking 102 percent. High schools were not far behind at an average of 95.2 percent. About half of all students were enrolled in overcrowded schools last year, according to DOE's figures, with 60% of elementary school students, totaling more than 490,000 students in all.

At the same time, most experts believe that the official utilization figures reported by the DOE are faulty and actually underestimate the actual level of overcrowding in our schools. The Chancellor has appointed a taskforce to improve the formula, which will hopefully take account of the real needs of children for smaller classes, and a well-rounded education, with dedicated rooms for art, music and science, as well as mandated services.

The result of all this overcrowding is that class sizes are pushed above reasonable levels, students have lost their cluster rooms, are assigned to lunch as early as 10 a.m., and/or have no access to the gym. Many special needs students are forced to receive their services in hallways or closets rather than in dedicated spaces.

¹ <http://www.classsizematters.org/wp-content/uploads/2014/06/SPACE-CRUNCH-Report-Final-OL.pdf>

² This is because the consultants do not take into account building starts, so the DOE says they “overlay” the estimates from residential development using the City planning formula, above the estimates of the consultants.

In eleven NYC school districts, elementary schools average above 100 percent capacity; in 20 out of the 32 districts, above 90 percent. In addition, high schools in Queens and Staten Island average above 100 percent. More than 30,000 additional seats are needed in just these districts to bring schools down to 100 percent.

Even more seats are needed if overcrowding is to be eliminated at the neighborhood level, as evidenced by thousands of students sitting in trailers, and thousands prospective kindergarteners on wait lists for their zoned schools.

Recent and past policies have worsened overcrowding. During the Bloomberg administration, fewer schools built than in earlier administrations, as shown in our *Space Crunch* report. In addition, the DOE insisted on inserting hundreds of small schools and charters into buildings that already housed existing schools, eating up classrooms by replicating administrative and specialty rooms – a very inefficient use of space when the infrastructure is already inadequate to meet most students’ needs. In the effort to squeeze in more schools, DOE also redefined the size of a full size classroom down to only 500 square feet in their instructional footprint, at the same times as increasing class size. As more and more children were pushed into smaller and smaller rooms, the result has been a violation of the building code in many cases, which requires 20 square feet per student.

This administration has also undertaken policies that have worsened overcrowding. This year, in the push to expand pre-Kindergarten, at least 11,800 preK seats were added in 254 schools that were already overcrowded, according to DOE figures.³ The DOE’s plan to create community schools with wrap-around services also requires space, for offices and other programmatic needs. And none of this takes into account the need to reduce class size, which remains at a 15 year high in the early grades.

In addition, the Mayor’s new ambitious plan to build an additional 160,000 additional market-rate units, on top of the 200,000 affordable units over the next ten years will create the need for even more school seats.⁴

Just as this capital plan is totally inadequate to relieve overcrowding, it is also unlikely to achieve the DOE’s widely-publicized promise to eliminate trailers or temporary classroom units (TCUs). While the NY Times has reported that 7,158 students are enrolled in classes in these trailers,⁵ the actual number is likely 50 percent higher – as the DOE has omitted from its count thousands of high school, middle school and elementary school students, as well as severely disabled students, who attend classes in these substandard structures.

Moreover, although DOE officials have promised that the capital plan will accomplish the goal of eliminating trailers, many of which are in disrepair and long past their expected lifetime, and have allocated nearly \$500 million to remove them and recondition the school yards on which they sit, there is not a single dollar in the capital plan dedicated specifically to replacing their seats. In the November capital plan, 81 TCUs are identified for removal with a minimum enrollment of 1126 students; but 236 TCU’s will remain with at least 6,265 students. The actual enrollment figure in the TCUs remaining is probably much higher, as 32 of these TCUs are at high schools and the DOE does not report how many students use these trailers.⁶

³ Pre-Kindergarten data from DOE Directory for the 2014-2014 Admissions (September 2014) <http://schools.nyc.gov/NR/rdonlyres/AAEE65E0-8326-4E33-BACA-A462A2ECC65E/0/201415PreKDirectoryUPDATED09032014.pdf>; Utilization Data from Blue Book report, 2013-2014 <http://www.nycsca.org/Community/CapitalPlanManagementReportsData/Pages/EnrollmentCapacityUtilization.aspx>

⁴ Michael M. Grynbbaum, “In 2nd Year, Mayor de Blasio Will Focus on Making Housing Denser and More Affordable, NY Times, Feb. 2, 2015.

⁵ Al Baker, “Push to Rid City of Classrooms That Are Anything but Temporary,” NY Times, March 31, 2014

⁶ http://www.nycsca.org/Community/CapitalPlanManagementReportsData/CapPlan/11052014_15_19_CapitalPlan.pdf

Our report concluded with a number of policy recommendations, suggesting how the DOE can improve the school utilization formula, enhance the planning process, and institute a more aggressive capital plan, using eminent domain and funded in part by "impact fees".

Just recently the DOE signed a five year contract with an IT vendor, Computer Consultant Specialists, to wire NYC schools at a cost of \$127 million a year, and renewable for four more, potentially at a cost of more than \$1 billion. Originally the cost of this contract was nearly twice that high, at \$225 million per year, for up to nine years, at a potential cost of \$2 billion. After I blogged about this questionable contract, and reporters started asking questions about it, the DOE managed to cut about \$100 million out of the annual amount.⁷

There has been considerable controversy over this contract, especially as the company was implicated in a kickback scheme that robbed DOE of millions of dollars only a few years ago. But I wanted to make a separate point: for only \$125 million in city funds per year, according to the Independent Budget Office, just a bit more than the DOE cut out of this contract, the number of seats in the capital plan could be doubled and we could eliminate school overcrowding and begin to meet the real needs of our students. I strongly urge the Council to do so.

I also strongly support the resolution against raising the charter cap. If the Governor's proposal was adopted, with the cap raised to 100 and all geographical limits eliminated, NYC could be subjected to 250 new charters, all obligated to receive space at the city's expense. I hope the DOE or some other body gave you a cost estimate of how much the new charter amendments are projected to cost the city. I assume that they will surpass \$40million per year very quickly, with the state obligated to reimburse 60% of the cost thereafter.

But if 250 charters were imposed on the city, the cost to providing them with space could be immense. Our rough estimate is that this could cost an additional \$833 million per year. Of that amount, the cost to the city would be roughly \$357 million per year, with the state covering the remaining portion at \$476 million per year.⁸ The annual city payments for charter rent alone could nearly triple the number of seats in the capital plan if used to build new schools.

If the cap is lifted, and 250 more charters were targeted to NYC, the likely outcome would be that the only schools to be leased or built in the future would be charter schools, and as our public schools became increasingly overcrowded, parents would be forced to send their children to these schools whether they wanted to or not.

Conclusion: None of the goals of parents, advocates or the de Blasio administration can be achieved without a better and more ambitious capital plan – so that our public schools have the space for preKindergarten, smaller classes, a well-rounded education, and wrap-around services. Only with significantly improved planning, policies, and funding can our public school students be provided with the learning opportunities they deserve. And all this would be nearly impossible to achieve if the state lifts the cap on charter schools.

⁷ See <http://nycpublicschoolparents.blogspot.com/2015/02/news-update-on-immense-doe-contract.html>; also Yoav Gonen, "DOE hiring tech firm linked to kickback scheme," NY Post, Feb. 24, 2015 and Juan Gonzalez, "New contract from city's Department of Education to questionable technology firm does not compute," NY Daily News, Feb. 24, 2015.

⁸ This was based on the following estimated figures: 250 new schools with up to 1200 students each (400 students at each level: elementary, middle and high school) to be paid a minimum of \$2,775.40 per student for rental costs, which is the amount required for next year, though the per student amount likely to rise in the future. This equals \$832.6 million – with the city covering the first \$40 million and then 40% of the total cost thereafter, as specified in the new state law.



Chancellor's Parent Advisory Council (CPAC)

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Testimony before the Committee on Education of the City Council, March 3, 2015
regarding 1) Resolution No. 563 urging the state legislature not to raise the
charter cap and 2) Overcrowding of New York City Schools by
Nancy Northrop, Co-Chair, Chancellor's Parent Advisory Council (CPAC)

Good afternoon. My name is Nancy Northrop. I am the Co-Chair of the Chancellor's Parent Advisory Council (CPAC), which represents all the Presidents Councils, and through them all, all the PAs and PTAs in New York City.

I am here today to advise you of the positions approved by CPAC on both of these issues as part of our Lobby Day One Sheet we are taking with us tomorrow when we head up to Albany to lobby our state legislators. We have copied our Lobby Day one-sheet on the back.

We are urging our state legislators to build more schools: "CPAC strongly supports the urgent need to build more schools in New York City. Aside from the government, we invite developers to invest in our schools as well, in particular by constructing early childhood education centers in new residential and office space. Currently, students are stuffed into jam-packed classrooms with average class-sizes well above those mandated by the courts. Many first graders throughout NYC sit in classrooms of 30 or more students. Many high schools have so many students they are forced to hold sessions in shifts, thousands of high school students are forced to travel for hours via subway and buses to attend high schools in other boroughs, and the DOE has turned warehouses into schools that lack gyms and auditoriums. Approximately 10,000 students, including 3,000 D75 students, are currently housed in trailers. Construction is booming in NYC, suggesting the need for schools will only grow and the space needed to build schools will only become more expensive and harder to find. Until more schools can be built and overcrowding reduced, extra support needs to be provided in overcrowded classrooms."

We are urging our state legislators to maintain the current charter cap: "CPAC supports maintaining the current charter cap at 460 schools in NYS until issues can be resolved. We fundamentally oppose the co-location of any schools, with the exception of D75 schools, without meaningful community involvement. The city and state need to work together to find appropriate space for new charters before the cap is raised."

We therefore urge you as well to maintain the current charter cap and work with both the DOE and private developers to ensure that more schools are built. Thank you.



Chancellor's Parent Advisory Council (CPAC) 2015 Lobby Day Positions

- **The State needs to fulfill its obligations under the 2006 court ruling requiring it to increase state funding of NYC schools.** Estimates vary but the state owes public schools \$4-6 billion, and approximately \$2.5 billion to New York City schools. This funding is more critical than ever as New York City grapples with the need to build additional schools; renovate existing schools; and implement common core, which requires additional professional development and new school materials.
- **We support mayoral control** but we believe the sunset clause on mayoral control should remain to allow for periodic review and assessment of the law.
- **Build more schools:** CPAC strongly supports the urgent need to build more schools in New York City. Aside from the government, we invite developers to invest in our schools as well, in particular by constructing early childhood education centers in new residential and office space. Currently, students are stuffed into jam-packed classrooms with average class-sizes well above those mandated by the courts. Many first graders throughout NYC sit in classrooms of 30 or more students. Many high schools have so many students they are forced to hold sessions in shifts, thousands of high school students are forced to travel for hours via subway and buses to attend high schools in other boroughs, and the DOE has turned warehouses into schools that lack gyms and auditoriums. Approximately 10,000 students, including 3,000 D75 students, are currently housed in trailers. Construction is booming in NYC, suggesting the need for schools will only grow and the space needed to build schools will only become more expensive and harder to find. Until more schools can be built and overcrowding reduced, extra support needs to be provided in overcrowded classrooms.
- **Old school buildings need major renovations:** Aging school buildings need significant modernization. Schools should not need to beg their city council members for funding to ensure their bathrooms, kitchens, gyms, and auditoriums are functioning or that structural and safety repairs are completed. Most schools need electrical upgrades to ensure they can support technology and air conditioners in their classrooms. Worn out furniture needs replacing.
- **Provide all junior and high school students with access to a college preparatory curriculum to ensure that students are college and career ready:** The DOE needs to ensure that during school hours all students can complete the coursework recommended by the National Association of College Admission Counseling for admission to college as well as AP/IB/college-equivalent coursework. The DOE needs to provide additional support for struggling students to ensure that no child requires remediation when they attend college.
- **Provide a dedicated stream of funding for both K-12 STEM (Science, Technology, Engineering, and Math) instruction and CTE programs:** We need to ensure that our students are prepared to compete in the 21st century workforce. Funding is needed not only for teachers, but for retrofitting classrooms and purchasing special equipment.
- **Co-locations:** With the exception of D75 schools, CPAC is strongly opposed to co-locations without meaningful input from parents, school staff, and communities. Co-locations exacerbate overcrowding and reduce funding that could go to classrooms by creating another administrative layer. Sharing common spaces (cluster rooms, libraries, gyms, auditoriums, labs, and spaces for special needs students) has been difficult to navigate. Co-mingling of different age groups, especially elementary and high school students, is problematic, creating a safety issue. And smaller high schools created through co-location often cannot support necessary coursework (calculus, physics, foreign language, and AP courses).
- **Maintain the current charter cap:** CPAC supports maintaining the current charter cap at 460 schools in NYS until issues can be resolved. We fundamentally oppose the co-location of any school, with the exception of D75 schools, without meaningful community involvement. The city and state need to work together to find appropriate space for new charters before the cap is raised.

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January 27, 2015

Honorable Daniel Dromm
Chair, Education Committee
New York City Council
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New York, NY 10007

Dear Chairman Dromm,

Thank you for the opportunity to submit my testimony on school overcrowding. I am the President of the Community Education Council District 2 (CECD2) and submit this official testimony on behalf of my Council.

We are grateful that since 2009 in District 2 the City has created six elementary schools, two K – 8 schools and two middle schools as well as increased capacity of some existing schools. While the new capacity has provided relief to some degree, overcrowding remains a problem in Community School District 2. We appreciate this opportunity to share the problems and some potential solutions with the Education Committee of the City Council. The CECD2 has passed three resolutions on the topic of overcrowding. I have attached the resolutions to this testimony for your review.

We see four major problems with school overcrowding: 1) the School Construction Authority's method for projecting school age population is not adequate; 2) the City's residential development policies do not provide for resources needed to provide infrastructure, such as schools; 3) the Enrollment, Capacity and Utilization Report (the "Blue Book") does not accurately reflect the true extent of overcrowding; and 4) the DOE's funding formula incentivizes overcrowding.

SCA's projection method

The School Construction Authority hires two outside consultants to generate projections. While we are told the consultants analyze new residential development, the projections have historically been inadequate across areas of District 2. The projections have been particularly inaccurate in Community District 1 in Lower Manhattan. The area that covers Tribeca, Battery Park, the Financial District and the Seaport has seen dramatic growth in residential units since 9/11. However, the SCA under the prior administration was reluctant to provide sufficient number of school seats, leading to severe overcrowding and chronic waitlists for Kindergarteners. In fact, were it not for the intense community advocacy and pressure from the elected officials, the three new schools – PS276, 397 and 343 – would not have been built. Likewise building new schools in the rest of District 2 also required significant advocacy from the parents and elected officials.

Thanks to Senator Squadron and Speaker Silver, the State passed legislation that requires the SCA to use better data and to collaborate with other city agencies (such as the NYC DHMH, HPD, and DOB). These measures

will undoubtedly lead to better projections. However, we believe there are some other relatively simple fixes to improve the projections. The SCA uses geographic units called the Planning Sub-districts. Projections are based on data within these sub-districts and new school seats are allocated to the sub-districts in the Capital Plan. However, the sub-districts are rather arbitrary and do not correspond to elementary school zone boundaries or Community School District or Community District boundaries. They encompass neighborhoods that are distinctly separate and often cover a relatively large area (e.g., south of 14th Street to the Battery and west of Broadway). These sub-districts may be adequate for planning for middle school capacity in a district where there is a middle school choice program. However, in a district where elementary schools are zoned, the sub-districts severely hinder the ability of the SCA to project capacity needs accurately and more meaningfully. We recommend that the SCA re-evaluate the Planning Sub-districts so that they reflect neighborhood and/or elementary school zone boundaries.

The model used by the SCA and the DOE for projecting enrollment has some inherent flaws. The SCA and the DOE use a growth formula that allocates demand at the sub-district level using actual enrollment data from schools. Using this method, demand may be grossly misrepresented because schools with waitlists or ones that are overcapacity show no growth in enrollment even though there is likely growth in demand. To better understand demand, we recommend the SCA and the DOE consider using the number of applications, rather than the number of students enrolled. In addition, the enrollment projections can vary considerably due to small changes in the assumptions that underlie the model. For example, a small increase in birth rate can lead to significantly increased student demand. With this in mind, we recommend some form of sensitivity analysis on the model. The expectation is that we plan conservatively and build a buffer to ensure all students can attend neighborhood schools. The fear is that by using static assumptions there is no flexibility in the projections to manage variances between the assumption and the actual data.

The SCA also relies on borough-based coefficients for birth yield (proportion of children attending public schools in a given birth year cohort) and CEQR number for school seats (expected number of school seats as a result of residential development). We have found in District 2 that birth yield varies significantly from neighborhood to neighborhood. On the Upper East Side, it is approximately 35% while in Community District 1 it has been as high as 60%. Clearly using one uniform coefficient will lead to under- or overestimates in some neighborhoods. Similarly the coefficient for estimating the number of school seats needed as a result of residential development subject to CEQR has been shown to be inadequate. The coefficient does not distinguish among sizes of the residential units. In some neighborhoods, such as Tribeca, developers are creating units with multiple bedrooms to attract families with children. However, the CEQR coefficient is the same for these units as it is for a building full of studio units targeted to single professionals. The coefficient should vary depending on the size of the unit.

City's residential development policies

Unfortunately CEQR analyses are only required for developments seeking variances or going through ULURP, and even for those projects it does not require developer to build school seats. As we have seen in the last several years in District 2, many of the residential developments are as-of-right projects. The cumulative effects of these projects are now keenly felt in many neighborhoods across District 2. We are fortunate to have superb schools in District 2 but the developers use this fact to promote their units, while not contributing a dime to address our already overcrowded schools. During our school rezoning in Lower Manhattan, we learned that many families were led to believe they were purchasing units in a school zone of their choice only to learn that their children could not attend the school because of overcrowding. We are keenly aware that we cannot build all the seats we need everywhere in the city with limited resources available through public funds. Public-private partnerships through the Educational Construction Fund are an excellent way to leverage private resources. However, the city needs to take a more aggressive approach if we are truly committed to reducing overcrowding. We recommend the City consider creating a mechanism by which developers are required to contribute toward providing adequate public infrastructure such as school seats.

Improving the Blue Book

Projecting demand is only half of school facilities planning: we also need an accurate assessment of supply, which is reported in the Enrollment, Capacity and Utilization Report (the “Blue Book”). For a long time advocates and educators have criticized the Blue Book as inaccurately portraying the utilization of school buildings. Schools where children are receiving instruction in the hallway and stairwell are rated underutilized. Schools without an art room or lunch period starting at 9:40AM are rated underutilized. Fortunately Chancellor Fariña, having been a principal of an elementary school in District 2, recognized the problem and convened the Blue Book Working Group in March 2014. I am the co-chair of the Working Group, which has met monthly or more and has developed a preliminary set of recommendations to improve the formula. Many advocates, who are members of the Working Group, wish to make the Blue Book a visionary document, which shows the true conditions of our schools and which aspires to provide sound basic education to all our students. The advocates believe NYC children deserve the same caliber of school facilities as their peers in the rest of the State and this vision should be our aspiration. The SCA has been a collaborative partner, who has shown a willingness to think outside of the box through this process and we look forward to our continued collaboration in improving the Blue Book.

School funding formula

Finally we are now faced with the most perverse consequence of the former Mayor’s school funding formula coupled with budget cuts. Schools are now funded by a per pupil based formula, with various levels of additional funding attached to students who require services. The former administration claimed this change was made to make school funding more equitable across schools. Whether this claim has been achieved should be a subject for its own hearing. The funding formula change was followed by a series of budget cuts to schools. Today many principals worry about making their budget every year and anxiously wait for the enrollment numbers for the new school year. More troubling is the fact that DOE central offices – both District Planning and Student Enrollment – plan for 25 students in incoming Kindergarten classes, even though the Contract for Excellence requires that the K classes have no more than 20 students. Because of budget cuts, schools have unfortunately become accustomed to the level of funding that comes with 25 students in each K classes, and more than 30 students in many upper grades. This has made it nearly impossible to reduce overcrowding in some of our most overcrowded schools. Having accommodated the extra students and programmed the funding at the enrollment level that is far above what is educationally sound, some schools with enrollment that is more appropriate for the school are now faced with excessing teachers or cutting programs.

Even in school buildings where there is space available to reduce class sizes, principals are unable to do so because of funding. Furthermore in schools that have been overcrowded for the past several years, the current funding formula is an incentive to keep the enrollment level at the unacceptably high level, because to reduce enrollment to the level that is more appropriate for the physical plant of the school building would mean eliminating programs or excessing teachers. We recommend the DOE re-evaluate the funding formula so that we can move toward class sizes that are mandated under the Contract for Excellence and provide incentives for schools to reduce overcrowding.

I thank the City Council for this opportunity to share our concerns and suggestions. We look forward to working with the City Council, the Department of Education and the School Construction Authority to develop a comprehensive approach to addressing the problem of school overcrowding.

Sincerely,

Shino Tanikawa
President

RESOLUTION #50
For Better Public School Capacity Planning in New York City

WHEREAS, the School Construction Authority (SCA) is responsible for developing enrollment projections and the Capital Plan accordingly;

WHEREAS, the SCA's projections have underestimated the school capacity needs in some neighborhoods in District 2, such as Lower Manhattan, and elsewhere in the city, resulting in severe overcrowding in our schools;

WHEREAS, in order to develop accurate enrollment projections, it is necessary to make forecasts for each school zone regarding important demographic factors, including 1) population growth, 2) fertility rates, 3) birth yield, which depends on the number of children born in a school zone who stay in that zone, the number of children who move in or out, and the number of children who attend public vs. private school, 4) attrition or growth from grade to grade, and 5) the number of schoolchildren who will live in new residential development;

WHEREAS, the methods used by the SCA and the consulting firms that provide it with forecasts incorrectly assume that the demographic factors used to forecast enrollments are the same in all neighborhoods in a borough, or in a school district;

WHEREAS, these factors actually differ considerably across neighborhoods in the same borough or school district, such as the differences between the Upper East Side and Lower Manhattan, both of which were examined by the CEC as part of the rezoning process in 2009, 2010, and 2011, which leads to underestimates of future enrollments, which has been the case in Lower Manhattan;

WHEREAS, assuming that these factors are the same across entire boroughs and school districts not only underestimates enrollments in faster growing neighborhoods, but also underestimates total borough-wide enrollment, as a result of statistical biases that occur in these methods when the demographic factors that lead to higher enrollments increase together, as they often do in New York City neighborhoods;

WHEREAS, the data and statistical techniques needed to study each of these demographic factors, and forecast enrollments, at the neighborhood level instead of the borough or school district level are available to the DOE;

WHEREAS, in the last three years the SCA and the Department of Education created five new elementary schools and re-opened a school that was closed for more than a decade in District 2;

WHEREAS, as a result of new schools the CECD2 has rezoned elementary school zones in Lower Manhattan and the Upper East Side;

WHEREAS, the SCA projections are based on "planning sub-districts" which encompass multiple school zones, are not co-terminus with any school zones and cannot be used to evaluate school rezoning proposals;

WHEREAS, the CECD2 has requested projections at school zone levels to better evaluate school rezoning proposals but neither the SCA nor the DOE was able to supply such projections;

WHEREAS, the DOE uses the number of Kindergarten applicants to draw zone lines for new schools even though such numbers are neither projections based on relevant data nor adequate indicators of future enrollment:

WHEREAS, the lack of school zone level projections was likely to have contributed to overcrowding at PS234 even after the zone was made smaller to accommodate two new schools in Lower Manhattan and to under-enrollment at PS267 after the first Upper East Side rezoning in 2010; and

WHEREAS, the DOE and the CECD2 will be creating zones for the Solow School and the Foundling School with opening dates of September 2013 and 2014 respectively;

THEREFORE BE IT RESOLVED, that the Community Education Council District 2 urges the School Construction Authority to:

1. develop neighborhood-level projections using neighborhood specific variables, such as births and residential development, in areas where school overcrowding is a problem and where increases in the school age population are expected,
2. provide such projections to the Department of Education to develop school rezoning proposals as well as proposals for co-locations and other changes in school building utilization involving zoned elementary and middle schools;
3. consider amending the planning sub-districts such that they are co-terminus with school zones; and

THEREFORE BE IT FURTHER RESOLVED, that the CECD2 urges the DOE to utilize neighborhood-level projections for all zoning proposals.

Adopted and approved by CECD2 on January 25, 2012.

RESOLUTION #52
For Reforming the City Environmental Quality Review

WHEREAS, all residential construction results in an increased number of families;

WHEREAS, an increase in the residential population is accompanied by an increase in needs for community and social services, such as schools, parks, police, and medical care;

WHEREAS, a good public education is a right that should be afforded every resident in every neighborhood;

WHEREAS, overcrowding continues to be a concern in schools in District 2;

WHEREAS, the City Environmental Quality Review formulas to calculate school seats for new residential development are based on long outdated assumptions [for example, the CEQR Technical Manual calculates new residential units to yield .55 K-8 public school children in the Bronx but only .16 in Manhattan] leading to inadequate planning for school capacity;

WHEREAS, while all new residential construction and residential conversions, regardless of size, can potentially increase the school age population, only residential projects with a minimum of 310 units are required to conduct a detailed analysis of the potential impact on a public elementary or middle school in Manhattan according to the CEQR Technical Manual (Chapter 6 Table 6-1); and

WHEREAS, multiple projects that individually do not trigger a detailed analysis nonetheless can, in an aggregate, have a significant impact on the school age population and increase the demand for public school seats;

THEREFORE BE IT RESOLVED, that the Community Education Council District 2 urges the Department of City Planning to develop more accurate formulas and factors based on current data.

Adopted and approved by CECD2 on January 25, 2012

RESOLUTION #56
Creation of a School Capital Fund Tied to Residential Growth

WHEREAS, the city's population is growing, projections from the Department of City Planning anticipate a 1.1 million increase by 2030, bringing the city's population total to 9.1 million;

WHEREAS, as a result of the population growth, the demand for City services, including fire, police, libraries, and schools has increased;

WHEREAS, the demand for public schools has increased in all districts especially in District 2 and in lower Manhattan, demand for public school seats has increased by 50% over the last 10 years;

WHEREAS, in District 2 between 30% to 55% of families, depending on particular neighborhoods, are sending their children to public school;

WHEREAS, District 2 has had more capacity added but overcrowding and wait lists still exist. More than 60% of District 2 schools are over 100% of capacity. And more than 50% of 4th and 5th grade classes have over 28 students per class;

WHEREAS, District 2 parents and the Community Education Council District 2 have requested that more schools be built, and the NYC Department of Education has stated that there are not sufficient funds to build new schools;

WHEREAS, since having a good public education is a right and a mandate, and it is beneficial to all of NYC citizens to have properly educated children;

WHEREAS, the City has an obligation to the citizens of NYC to have sufficient school seats for its children, and to match school capacity to our growing population;

THEREFORE BE IT RESOLVED, that the Community Education Council District 2 calls upon the City to think creatively to fund development of more school capacity;

BE IT FURTHER RESOLVED, that the CECD2 urges the City and the School Construction Authority to recalculate the demand for school seats based on each school zone and take into consideration residential development and birth rates by neighborhood rather than the Capital Plan sub-districts; and

BE IT FURTHER RESOLVED, that if the City continues to provide incentives and benefits to developers to build new residential housing, then the CECD2 urges the City to require having new residential developments contribute to the construction of more school seats for our children within that neighborhood and sub-district.

Approved and Adopted by CECD2 on March 28, 2012

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RESOLUTION #58
Moratorium on Charter Applications in District 2

WHEREAS, charter schools were originally intended as pedagogical laboratories for innovation in teaching to better meet the needs of all our students, but particularly those at-risk, and to improve District schools by collaborating with District schools and sharing best practices with District schools;

WHEREAS, many charter schools in the City today are not pedagogical laboratories for educational innovation, do not serve students at-risk, and neither collaborate nor share best practices with District schools;

WHEREAS, some charter schools have discharged struggling students to improve school-wide test scores;

WHEREAS, many charter schools compete against District schools for per-student funding and school facilities and have created tension in the very community they serve and have even pitted parents against parents;

WHEREAS, according to the NY State Education Department, the educational needs in District 2, which was designated as a District in Need of Improvement (DINI), are 1) improving progress made by Special Education students in elementary and middle schools and 2) improving struggling high schools;

WHEREAS, the applications submitted by Success Charter Network and the Great Oaks Foundation do not address the educational needs in District 2;

WHEREAS, resources available to students in District 2 should be used to address the educational needs in District 2, rather than to create more school choice for students not at risk;

WHEREAS, families in District 2 have good options for their children's education through their zoned or district wide option schools or Gifted & Talented programs for elementary school and through the middle school choice program;

WHEREAS, it is not clear if families in District 2 desire more options in the form of charter schools;

THEREFORE BE IT RESOLVED, that the Community Education Council District 2 urges the SUNY Charter Institute and the NY State Education Department to institute a moratorium on charter school applications in District 2 unless proposed charter schools directly serve at risk students or until educational and community needs for charter schools are assessed and articulated by families, educators, advocates and students in District 2;

THEREFORE BE IT FURTHER RESOLVED, that the CECD2 rejects the applications made by Success Charter Network and Great Oaks Foundation.

Approved and adopted by CECD2 on March 28, 2012



Community Education Council For District One

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Testimony of Lisa B. Donlan CEC 1 President in favor of Res. No. 563 - Resolution calling upon the New York State Legislature to reject any attempt to raise the cap on the number of charter schools. Oversight: Overcrowding in NYC Public Schools

March 2, 2015

Manhattan Charter School was originally authorized by the NYC Department of Education in 2005 and is currently co-located in PS 142, in District 1. On January 13, 2015, the NYC DoE held a Charter School Renewal and Revision hearing for the school, which seeks approval for a five year renewal of its charter and an expansion to middle school grades, effective for the 2016-2017 school year. The school would grow to approximately 555 students in grades K-8 from its current level of 274 students in grades K-5.

NYC DoE, as the original authorizer of Manhattan Charter School (MCS), is currently making a determination as to whether to authorize its renewal and expansion to include middle school grades. The Chancellor has the final word if the decision is to not renew or not allow the school to expand. If the Chancellor approves either of these proposals, the Board of Regents will make the final decision. We have urged the NYC DoE not to renew the charter school on the grounds that over the past ten years MCS has enrolled far fewer students with disabilities (SWDs) and English language learners (ELLs) than the District 1 public school average.

According to 2014 Progress Report data, MCS serves far fewer students in these high needs categories than District 1 public schools:

| | 2011-2012 | 2012-2013 | 2013-2014 | D1 2012-13 | Diff |
|--|-----------|-----------|-----------|------------|------|
| % English Language Learners | 0% | 1% | 2% | 12% | -10% |
| % Students with IEPs | 14% | 13% | 18% | 23% | -5% |
| % Students with IEPs (Inclusion and self-contained) | 0% | 0% | 0% | 20% | -20% |
| % Free Lunch Eligible | 70% | 74% | 70% | 75% | -5% |

As part of the First Charter Renewal for Manhattan Charter School (for the renewal period July 1, 2010 – June 30, 2015), MCS reported that for 2009-2010, it did not serve any (0%) students identified as English language learners (ELL).¹

¹ <http://www.regents.nysed.gov/meetings/2010Meetings/Mav2010/0510emsca4.doc>

The Manhattan Charter School continued to served zero (0%) English Language Learners from 2010-2012. MCS enrolled only 2% ELLs in 2013-2014, despite the school's co-location at PS 142, in which 12% of students are ELLs, the same percentage as the district average. The charter school enrolled no students with disabilities in inclusion or self-contained classes.

Nonetheless, MCS was allowed to "replicate" by SUNY in 2011, creating an additional K-5 charter school in District 1. MCS and MCS II school officials claim to have engaged in targeted marketing efforts for high needs students, and to have created a set aside for ELLs (18% of remaining K seats after other preferences). However, their schools provide no ESL or bilingual programs. Instead, these schools offer "full immersion" and/or limited academic intervention services for ELL students, indicating that the schools are not equipped to meet the needs of the high percentage of ELL students in District 1. It is no wonder that, as a result, and despite the set aside, very few parents have chosen to enroll their ELL children in these schools.

In July 2013, in its first year school visit report, SUNY Charter School Institute criticized MCS 2 for "not having an adequate program to serve English language learners (ELLs)." The report added:

"Additionally, one classroom teacher, who is provisionally certified in ESL, provides individual tutoring sessions after school. *The minimal service the school provides not do (sic) constitute a consistent and coherent program for serving ELLs.*" [emphasis added] ... *The Institute is concerned that Manhattan Charter School 2 is not complying with federal law mandates that it provide an Ell program that (i) is based on a sound educational theory, (ii) is adequately supported with effective staff and resources such that the program has a realistic chance of success, and (iii) is periodically evaluated and revised as appropriate.*" In conclusion, the report required MCS 2 to develop and have operational a formal and effective program for meeting the needs of ELLs, to be documented by August 2013.²

On February 19, 2014, CEC1 President Lisa Donlan met with the Executive Director of the MCS 1 and 2, Sonia Parks, the former head of the NYC DoE charter office. Ms. Parks confirmed that neither school has an ESL teacher or an ESL curriculum, and that both continue to place ELLs in general education classes with only Academic Intervention Services in a pull-out setting and/or tutoring by an ESL certified staff member.³

² <http://www.newyorkcharters.org/wp-content/uploads/Manhattan-Charter-School-II-First-Year-School-Visit-7-29-2013.pdf>. The letter also stated that, "[t]he school's principal, who has extensive experience teaching English-as-a-Second language ("ESL"), oversees and occasionally provides small-group instruction to the schools four ELLs." However, that principal left in June 2014, MCS 2's second academic year, and the new principal is not known to be qualified in this area.

³ In its 2013-14 annual report, dated August 1, 2014, the MCS 2 administration offered to undertake a number of strategies to increase ELL enrollment to meet its mandated targets, including continued enrollment preference and set-asides for ELLs, and translated marketing materials, mailers and website, and recruiting more bilingual instructional staff. Yet none of these strategies address the fundamental design flaw that discourages the families of ELL students from applying, any more than they address the Federal law that requires adequate services and programming to support these students. http://www.newyorkcharters.org/wp-content/uploads/Manhattan-II-2013-14-Annual-Report_Redacted.pdf

As a condition of renewal, according to §2851(4)(e) of the NY State Education Law, charter authorizers must consider how any proposed charter will enroll and retain students with disabilities and ELLs.⁴ The statute at §2855(1)(e) refers to “repeated failure to comply with the requirement to meet or exceed enrollment and retention targets”.

Despite this requirement, Julian Cohen, the head of the NYC DoE's Office of School Design & Charter Partnerships (OSDCP) told Lisa Donlan on January 16, 2015 that he interprets the state law to mean that MCS's charter should only be held to these targets at its next renewal period--another five years from now.⁵ Indeed, the DoE's OSDCP maintains that the targets have not been set, a contradiction with the Regents and SED June 2010 Performance Framework used to inform the charter renewal decisions (see excerpts below).⁶

⁴“The means by which the charter school will meet or exceed enrollment and retention targets . . . shall be considered by the charter entity prior to approving such charter school's application for renewal.”

⁵ This interpretation of the law appears based upon an interpretation of an NYSED/SUNY document -- not the law itself. See <http://www.p12.nysed.gov/psc/documents/ERTargetsFAQDoc5-27-2012.pdf>
Q9: Where in the statute is the "ten year window" authorized? Why not a two year window - i.e., evidence that minimum admission/retention targets are not met?

A. The “ten year window” references the clear statutory language that provides charter school authorizers the discretion to terminate a charter upon the “repeated failure” to meet or exceed enrollment and retention target. Because the legislature also set renewal as the appropriate time to measure a school's performance against the enrollment and retention targets, a school would necessarily have at least two renewals before the termination provision could be triggered. Based on the *Practices, Policies and Procedures for the Renewal of Charter Schools Authorized by the State University Board of Trustees*, this would generally be between eight (8) and ten (10) years following the assignment of enrollment and retention targets.

⁶ *Benchmark 9: Enrollment, Recruitment, and Retention: The school is meeting or making annual progress toward meeting the enrollment plan outlined in its charter and its enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced priced lunch program; or has demonstrated that it has made extensive good faith efforts to attract, recruit, and retain such students.*

The Importance of Enrollment and Retention Targets: As enacted, section 2854(2)(a) of the Education Law required that schools demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities and limited English proficient students when compared to the enrollment figures for such students in the school district in which the charter is located. In 2010, the legislature modified the law to provide more stringent guidance regarding enrollment and retention targets. In addition to requiring a demonstration of efforts, the Charter Schools Act now requires that public charter schools enroll and retain students with disabilities (“SWD”), English language learners (“ELL”), and students eligible for the Federal free and reduced price lunch program (“FRPL”), and charged the Board of Regents (“Regents”) and the Board of Trustees of the State University of New York (“SUNY”) to set specific numeric enrollment and retention targets tailored to each individual charter school.

This would mean that not until 2020, at the earliest, a full decade following the passage of the charter law, would MCS have to adhere to the legal requirements to enroll and retain high-needs students.

Yet the law also makes clear that the DOE or any charter authorizer may choose to terminate a charter at any time, if it fails to meet its enrollment or retention targets, so this interpretation makes no sense.⁷ We are asking your office for clarification on this point, which we believe misapplies the law.

Additionally, §2855(1)(e) of the law requires that unless the charter school makes “extensive efforts to recruit and retain such students, including outreach to parents and families in the surrounding communities, widely publicizing the lottery for such school, and *efforts to academically support* [emphasis ours]’ this warrants termination. As far as we know, MCS has not taken any steps to academically support ELL students, as indicated by the fact that it offers no bilingual or ESL programs, contrary to federal guidelines.⁸ And despite several formal requests in person, in writing and through DoE’s office of Family And Community Engagement, OSDCP has said that the MCS renewal site visit report, renewal application, and updated (2014-15) renewal process/timeline will not be made available at this time.⁹

All charter schools that were initially chartered after August 2010 or renewed after January 1, 2011, are expected to meet or exceed the enrollment and retention targets set by the Regents and SUNY. When submitting an application for renewal of the charter, schools are required to provide information detailing the means by which they will meet the enrollment and retention targets (2851(4)(e), and this information is considered by the Regents in the review of the school’s performance over the charter term. Schools are also required to submit information regarding the targets in their annual reports (2857(2)(d)). A school’s repeated failure to comply with the requirement to meet or exceed their enrollment and retention targets is cause for termination or revocation of the charter pursuant to section 2855(1)(e) of the Education Law.

⁷ “The charter entity, or the board of regents, may terminate a charter upon any of the following grounds.... (e) Repeated failure to comply with the requirement to meet or exceed enrollment and retention targets.”

⁸ The NYC DoE 2013-2014 Charter School Renewal Application also states that any charter school seeking renewal should “address the means by which the school will meet or exceed enrollment and retention targets prescribed by NYSED, as mandated by charter law [Ed.L. §§2851(4)(a)(e)], and whether the school is planning any changes in its recruitment or other policies to meet these targets..” We have asked NYC DoE’s Office of School Design & Charter Partnerships (OSDCP) and FACE for the MCS renewal application, site visit report and updated renewal process and timeline, but have not yet received them.

⁹ OSDCP reports that the posting of the 2014-15 Accountability Handbook is pending the refresh of the entire charter website with 2014-15 versions, meaning the DoE will make it public when the process period is nearly over. OSDCP claims that renewal applications are not public and would require a FOIL, whereas SUNY CSI will send a redacted renewal application upon request via email. OSDCP will only post the site visit report on the DOE website prior to the Board of Regents meeting, well after the Chancellor renews the charter, apparently a forgone conclusion.

The Board of Regents has already expressed concerns about this issue, including Regent Rosa, who said at a recent meeting that *“too many of the charter schools seemed to be out of compliance with a state law that requires them to make efforts to serve high-needs students.”*¹⁰

We strongly urge the NYS legislature ensure that, until there is clarification on the status of the enrollment and retention targets and the obligation of the charter school authorizer to consider enrollment and retention of ELL and special needs students, the cap on charters in NYC not be raised. Furthermore, we request that the NYS and Board Of Regents grant no new charters, renewals or expansions until charter schools uniformly provide ELL students and students with disabilities with full services so they can begin to meet or exceed the targets as the law requires.

¹⁰ See Geoff Decker, “City’s charter-school oversight again questioned by Regents”, Chalkbeat, Feb. 9, 2015 at http://ny.chalkbeat.org/2015/02/09/citys-charter-school-oversight-again-called-into-question-by-regents/#.VONh_S7F-Rg



Advocates for Children of New York

Protecting every child's right to learn

Testimony to be delivered to the New York City Council Committee on Education

Re: Overcrowding in NYC Public Schools & Resolution No. 563

March 3, 2015

Thank you for the opportunity to speak with you today about overcrowding in the New York City public schools, as well as Resolution No. 563. My name is Randi Levine and I am Policy Coordinator at Advocates for Children of New York (AFC). For more than 40 years, Advocates for Children has worked to promote access to the best education New York can provide for all students, especially students of color and students from low-income backgrounds.

When AFC does workshops for families on the transition to kindergarten, parents often gasp when we mention the typical class size. Families, especially those whose children have disabilities, worry about how their children will get the specialized attention they need when the teacher has to focus on 22, or many more, additional children. AFC is concerned about students sitting in large classes, where the delivery of appropriate instruction is difficult, and about schools with insufficient space for arts, physical education, and other subjects critical to helping children develop into well-rounded citizens.

Over the past year, we had at least four cases in which parents sought assistance to keep their children in a school that was working well for them, but had notified them that they would need to transfer during the school year as a result of overcrowding. In one of these cases, a whole District 75 class was told to move. The families that reached out to us did not want to move their children to another school. Their children had made friends and settled into their placements. In each instance, the family had been notified with little turn-around time and offered no alternative but to transfer. Not only is this practice disruptive, even when the students are asked to move early in the semester, but it's completely ironic when you consider how difficult it is for families actually seeking transfers to obtain those transfers. The DOE throws up obstacle after obstacle for students and families seeking to find seats in schools where they are not currently enrolled. We get those calls as well.

AFC has also heard from families of students with disabilities receiving related services, such as speech therapy, physical therapy, or counseling, in hallways and supply closets. There are issues of privacy and safety implicated here, as well as logistical difficulties for providers and students in terms of juggling materials and

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Matthew Lenaghan



equipment needed for these services. Students with disabilities who require related services outside of their classrooms should always have a safe, secure, and comfortable place to go for those services so critical in supporting their progress in school.

This fall, we received a particularly troubling call from a parent of a student with special needs in a high school self-contained class that was meeting in the school's locker room – bathroom stalls and all. Only after the parent complained were the students moved to a small office – too small, though, to comfortably hold 15 adolescents. We look forward to working with the City Council to address the issue of overcrowding in schools.

Turning to City Council Resolution No. 563, AFC supports the ultimate goal of this resolution, as we believe it is premature to raise the cap on the number of charter schools before putting laws and practices in place that adequately protect students' civil rights in the context of school discipline and ensure that charter schools serve high-needs populations. In our recent report, *Civil Rights Suspended: An Analysis of New York City Charter School Discipline Policies*, we found that many charter schools have discipline policies that fail to meet due process requirements of the U.S. Constitution and state law. For example, out of 164 NYC charter school discipline policies we reviewed, 107 policies allow suspension or expulsion for any infraction, no matter how minor, and 61 charter school policies fail to provide students with required opportunities to be heard prior to suspension, in violation of state and federal laws. AFC is calling upon state lawmakers to make changes to the charter school law that would address the issues we see in charter school discipline policies and in our casework.

In addition, at AFC, we have received calls over the years from families of students with disabilities that wanted to enroll their children at a charter school but were being told by school staff that the school was not a good fit or that the students would not be able to receive all of their mandated special education services at the charter school. Furthermore, enrollment figures have shown that many NYC charter schools are not enrolling English Language Learners in numbers comparable to the City's district schools, as required by law. Because charter schools are public schools, they must serve all students, including high-needs students. For these reasons, we support the goal of Resolution No. 563 and oppose raising the cap on the number of charter schools at this time.

Thank you for the opportunity to speak with you today. I am happy to answer any questions you may have.



THE COALITION FOR ASIAN AMERICAN CHILDREN AND FAMILIES

**New York City Council
Committee on Education
Oversight Hearing on Overcrowding in NYC Schools
March 3rd, 2015**

**Testimony of Yuxuan Liu, Tianhao Zhang
Asian American Student Advocacy Project (ASAP) Youth Representatives,
The Coalition for Asian American Children and Families (CACF)**

Good afternoon, my name is Yuxuan Liu. I am a senior in Fort Hamilton High School. I live in Brooklyn, and I immigrated to this country 2 years ago. I am also a youth leader from the Asian American Student Advocacy Project (ASAP) under the Coalition for Asian American Children and Families (CACF). CACF is the nation's only pan-Asian children's advocacy organization, and works to improve the health and well-being of Asian Pacific American (APA) children and families in New York City in three key policy areas: education, health and child welfare. ASAP, a youth leadership program, comprises of NYC public high school students from all five boroughs. It has been a program under CACF for over ten years working to empower young people to learn to make positive changes in education through advocacy.

I would like to thank Chairperson Dromm and members of the education committee for holding this important oversight hearing on the issue of school overcrowding. Overcrowding has long been a major issue in my school. Fort Hamilton High School is one of the most populous high school in New York State, with around 4400 students attending school everyday. In my school, a class of typical size contains around 40 students. Our seats are very close to each other's. Once the air conditioning is broken down on a day of May or June, it will be unbearably hot to stay in a cramped room for one period. When the bell rings, one can see that from each door bursts out a stream of students wearing backpacks or carrying books and folders. They converge into the narrow hallway, forming a flood rushing toward the staircases, as everybody is trying to get to the next class as soon as possible. The staircases are fully packed at that moment. If anyone trips, it is not unlikely that a serious stampede would happen. It is a rather dangerous situation for students relying on wheelchairs or canes to move from class to class. Apart from discomforts and safety issues, Overcrowding also causes a disproportionately high student-faculty ratio. Student are not getting enough attention from teachers and guidance counselors. A guidance counselor who is assigned to over 300 students is impossible to take care of every single student. Every time I go to my guidance counselor for help, there are always students waiting on line. If students stop coming to school, some guidance counselors don't even bother to ring up a phone call to the parents. Overcrowding is undermining students' ability to achieve success in schools.

(Tinhao) Hi, my name is Tianhao Zhang. I'm a youth leader from the Asian American Student Advocacy Project (ASAP). I am a junior at Francis Lewis High School, Queens and live in district 19. Me and my family immigrated to this country 4 years ago. Thank you again to Chairperson Dromm for holding this hearing and I'm honored to be able to testify on the issue of overcrowding schools in NYC.

With over 4000 students, Francis Lewis High School is one of the most crowded public schools in New York City, and we see a trend of increasing student population in recent years. Overcrowded classrooms not only cause safety issues but also impede students' ability to receive proper academic and personal support.

Hallways become a dangerous place between classes. Impatient students will push others to get through the crowd, posing a significant threat to student safety. Additionally, getting to class on time can be fairly difficult sometimes due to the sheer amount of traffic in the hall. Since the main building has reached its maximum capacity, some students have to go to trailers outside the main building to take classes. This causes considerable inconvenience for both students and teachers, especially during rainy and snowy days.

Overcrowded classrooms also prevent personalized attention in and out of the classroom. Teachers almost never have time to give personal attention to individual students. Teaching in these classrooms often turn into a conversation between the teacher and the most active students, as more reserved students tend to hold back opinions in a fast-paced classroom. Sometimes because of time restraints, not everyone's questions can be answered, a situation often causes anxiety in students. Also, teachers occasionally seem tired, which leads to ineffective and low-quality teaching. Last but not least, hundreds of students to one guidance counselor ratio make it almost impossible for students to get the proper support. Setting up an appointment to meet one's guidance counselor is difficult, and a meeting typically last under 10 minutes. People usually meet with their guidance once or twice a year. Some of my friends even told me that they did not meet with their guidance for the entire year. Many immigrant students like myself cannot get a desirable schedule because our guidance counselors has little knowledge of our backgrounds. Worse yet, counselors hardly ever seek out to talk to the immigrant students if the students do not go to them ourselves. These students usually end up in classes that do not fit their ability, therefore causing detrimental academic effects in addition to their struggles with their language barrier.

In NYC public schools, **1 out of 5 Asian Pacific American (APA) students is an English Language Learner.** As immigrants, or being children of immigrants, many APAs face the daunting challenges of learning how to navigate the education system, learn English, and stay on track to graduate and to be "college ready". These challenges become even more apparent in our overcrowded schools. We would like to recommend that for many overcrowded schools, that in addition to reducing class sizes and improving teacher/student ratios, that guidance counselors also be expanded with job descriptions that can handle newly arrived immigrants and also assist in the college-readiness process.



FOR THE RECORD

MEMORANDUM OF SUPPORT

Res. No. 563 - Resolution calling upon the NYS Legislature to reject any attempt to raise the cap on the number of charter schools

March 3, 2015

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The Council of School Supervisors and Administrators (CSA) strongly believes that there is no need at the present time to raise the charter school cap in NYC. Given the clear evidence that our traditional public schools are already suffering from an overcrowding epidemic, with insufficient space to accommodate our students, it is unwise to exacerbate this unfortunate condition by increasing the number of charter schools.

Furthermore, we believe the present cap is appropriate to serve the principal purpose of charter schools, which is to serve as educational laboratories whose innovative and effective practices are to be shared and replicated. The current number of charters is more than sufficient for that purpose and it is therefore further unwarranted to raise this cap.

We are hopeful that the City Council also believes that there is currently no need to increase the number of charter schools and risk displacing traditional public school students from their home schools merely to create more experimental charter schools.

March 1, 2015

To Chair Dromm and members of the City Council's Education Committee,

Thank you for the opportunity to testify at this oversight hearing on overcrowding in NYC public schools. I'm a parent at the Columbia Secondary School (CSS). CSS is a highly diverse, underfunded, 8-year-old public middle- and high- STEM school in Harlem.

CSS is co-located along with P.S. 125 and KippSTAR, a charter school, in the euphemistically called "Ralph Bunche Campus." Problem is, the "Ralph Bunch Campus" it's not a campus; it's an old elementary school with no fields or school-dedicated playground. Our 770 middle- and high-school students, plus faculty and staff, are warehoused in 2-1/2 floors of the 6-floor building.

In 2007 we were told we were being temporarily housed at P.S. 125 while our own building was in the planning stages. That building, as well as promised funds, never materialized. Meanwhile, before we had finished growing per our agreement with the DOE, the DOE moved KippSTAR into the building.

The co-location was based on an inaccurate Blue Book footprint that ignores storage, offices, and shared spaces. Students in three schools from kindergarten through 12th grade share the same small hallways, auditorium, stairwells, cafeteria and gyms. While CSS is the only overcrowded school in the building with 32-34 students per classroom, the shared space is negatively affecting all three schools:

- Lunchtimes for all schools are as early as 9:30AM and as late as 2:30PM.
- Three students at CSS have to share one locker.
- Students changing for P.E. spill over into the hallways because of small bathrooms.
- In inclement weather, there are 64 students per gym class in order to fulfill P.E. requirements. In good weather, the students have to find space in the park.
- Afterschool sports are limited, since all schools need the same facilities from 3-6PM.
- Testing is compromised in a building that houses K-12. In April, H.S. students have to stay in their classrooms so hallway noise and P.E. classes won't interrupt state testing for K-5 and M.S. students. For the June H.S. Regents, the reverse happens. Feeding all students at the end of the exams in the tiny cafeteria is nearly impossible.

In 2012, the DOE asked CSS parents to choose whether we wanted a bigger cafeteria or adequate bathrooms or classrooms – an impossible choice, and one we shouldn't have to make. The school's only library – a NY State requirement -- was eliminated, becoming two small classrooms last year. How is this even remotely OK by educational standards?

Due to space issues at our STEM school, there are no computer labs, music rooms, art rooms. Schools are required to keep student records and exams on file, but there's no adequate space. There's no appropriate meeting or work space for APs, deans, special ed,

afterschool programs, guidance, parents, teachers, or students, though most or all of these are considered educational rights under New York State law.

Poorly planned space formulas affect year-long instruction and place a huge burden on co-located schools to operate effectively. These Blue Book space formulas are both terribly conceived and inaccurately applied. As a result, education and all of our communities suffer.

For those of you dedicated to addressing these issues, thank you. I hope your efforts can soon alleviate this horrendous situation for us and school communities across NYC.

A handwritten signature in black ink, appearing to read "Alison Loeb". The signature is written in a cursive style with a large, stylized initial "A".

Alison Loeb
Parent, Columbia Secondary School for Math, Science and Engineering

Phys Ed for All Coalition
Statement to the New York City Council Committee on Education
Oversight Hearing: Overcrowding in NYC Public Schools
March 3, 2015

The Phys Ed for All Coalition would like to thank Chairperson Daniel Dromm and the Education Committee for drawing attention to the critical problem of overcrowding in New York City schools.

We would like to highlight one of the many costs of overcrowding: New York City is failing to meet state requirements for providing our children with physical education.

Research shows that participation in quality physical education enhances students' academic achievement, instills good habits for healthy living and teaches critical skills such as teamwork. PE can help improve children's grades and standardized test scores, as well as their concentration and classroom behavior. PE improves physical fitness for all school children, and is especially critical for students with obesity and related health problems. Approximately one in five NYC public school students in grades K-8 are obese, and obesity rates are higher in low-income communities of color.

Despite these well-documented benefits, DOE schools routinely fail to provide their students with the physical education required by State regulations and part of the "opportunity for a sound basic education" to which all students are entitled under the state constitution.

Part of the problem is overcrowding. A health teacher in the Bronx shared the story of her school, where overcrowding has meant that students with special needs are unable to get the accommodations they need to effectively participate in Phys Ed, Health, and Arts classes. Our schools do not have enough gymnasiums, playing fields or playgrounds. Too many of the spaces we do have are falling into disrepair. Co-located schools struggle to schedule sufficient time for PE in shared gymnasiums. As a result, it is impossible to give our children the physical education that they need to promote lifelong habits for healthy living.

Citywide efforts to improve access to PE, however, are hampered by the DOE's failure to make public, and in many instances even track, basic data on the quality and amount of PE instruction being afforded our schoolchildren or the spaces utilized for PE instruction. This is why the Phys Ed for All coalition urges the Council to enact Intro 644, which will require the DOE to begin reporting on all aspects of physical education, including space and facilities, in NYC schools.

A City Council reporting bill will be a critical first step to addressing PE issues in NYC by giving parents, communities and elected officials the information they need on whether City schools are meeting PE requirements. A reporting bill can also cast light on the extent to which overcrowding or lack of space serve as a barrier to providing students with quality PE instruction.

Intro 644 was introduced on February 12 by Councilmember Elizabeth Crowley, and it already has the support of 19 councilmembers including the Chairs of the Education and Health Committees. We urge the Council to hold hearings on this bill, and to bring it to a vote, as soon as possible.

For more information on the Phys Ed for All Coalition, please contact Sascha Murillo, Community Organizer at New York Lawyers for the Public Interest, at 212-244-4664 or smurillo@nylpi.org.

Phys Ed for All Coalition (List in Formation): Advocates for Children, Alliance for Quality Education of New York, American Cancer Society Cancer Action Network, American Heart Association | American Stroke Association, Bronx Health REACH, The Campaign for Educational Equity, Coalition for Educational Justice, Citizens' Committee for Children, Community Education Council District 1, Community Education Council District 17, New Settlement Parent Action Committee, New York Lawyers for the Public Interest, Phys Ed Plus, Physical Education Taskforce of Women's City Club of New York, United Parents of Highbridge, Wellness in the Schools



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Testimony of Sarita Subramanian
Senior Education Budget and Policy Analyst, New York City Independent Budget Office
To the New York City Council Education Committee
On Overcrowding in the City's Public Schools and Plans for Increasing Capacity

March 3, 2015

Good afternoon Chairman Dromm and members of the City Council Education Committee. My name is Sarita Subramanian and I am a senior education budget and policy analyst at the New York City Independent Budget Office. Thank you for your invitation to testify today on overcrowding in New York City's public schools and the Department of Education's (DOE) plans for new seat construction.

Overcrowding has been a persistent and well-documented problem in certain pockets of the New York City public school system for many years now. To alleviate overcrowded conditions, the School Construction Authority (SCA) dedicates a significant portion of its capital plan to adding new capacity each year either by new construction or leasing private space.

IBO examined the SCA's current plans for increasing capacity in each community school district for school years 2014-2015 through 2023-2024 in the context of the existing state of overcrowding in buildings in 2013-2014 plus the need for seats beyond what is currently planned. Since funding is limited, SCA must prioritize where to add capacity based on where it will be most needed. Residential development and expected enrollment growth are two of the factors that SCA takes into account when estimating the need for seats in the future. (Enrollment projections are provided by Statistical Forecasting, a consulting firm under contract to the SCA.) SCA acknowledges that with the resources available, its current five-year plan will not be sufficient to fund construction of all the seats its projections indicate will be needed, let alone to eliminate overcrowding entirely. To quantify these additional needs, SCA distinguishes between seats that are funded and those seats they project will be needed but are not provided for during the current five year planning period.

Our analysis identifies one district in Brooklyn (district 20) and three districts in Queens (districts 24, 25, and 26) that require the greatest number of seats to eliminate overcrowding. Two of those districts—20 and 24—are expected to receive the most new seats in the current capital plan, although both are projected to face significant need that is not funded in SCA's five-year plan.

Existing Overcrowding Conditions in 2013-2014

To put planned new capacity in the context of existing overcrowding conditions in public school buildings, IBO looked at the Enrollment, Capacity & Utilization Report, commonly referred to as the "Blue Book." The most recent version available is from the 2013-2014 school year. For overcrowded buildings, we calculated the number of additional seats a building would need to accommodate all of its students and still maintain a utilization rate below 102.5 percent. The total for each district is shown in column (1) of the attached table. In the table, we call attention to the five districts that require the greatest number of seats to eliminate existing overcrowding.

In 2013-2014 about 75,000 additional seats would have been needed to ensure that every building was at or below 102.5 percent of capacity. Looking forward, the number of seats needed is even greater because enrollment citywide is projected to grow by 5.7 percent from 2011-2012 through 2021-2022; enrollment in Queens is projected to grow nearly twice as fast, rising 10.4 percent. The SCA plans to increase capacity by 47,000 seats through 2023-2024 through its new capacity initiative. Despite this investment, a significant number of students would be left in overcrowded schools.

One of the largest impediments to alleviating overcrowding is managing the mismatch between where seats in overcrowded buildings are located and where unused seats are located. Some relief from overcrowding could be found in buildings where enrollment was below capacity in 2013-2014. There were over 156,000 unused seats across the city in 2013-2014, though a portion of those are already committed to schools that are in the process of phasing in.

There are several reasons why using those seats to alleviate overcrowding in other buildings is difficult. First, while the DOE could shift attendance boundaries and school admissions policies to redirect enrollment away from over-enrolled schools towards under-enrolled schools, this has proven to be politically contentious in the past. Moreover, given that much of the mismatch stretches across boroughs, the potential for reducing overcrowding by administrative changes is probably limited to a few areas of the city. Second, ongoing DOE initiatives—such as the expansion of prekindergarten and the phasing in of charter and other co-located schools in district school buildings—will continue to put pressure on existing space. As these schools add grades each year until they reach their full complement of grades, excess capacity in the system will decrease. Third, changes to the Blue Book’s definition of capacity based on recommendations by the Blue Book Working Group will likely reduce the measured capacity of the system, thereby increasing the number of buildings considered overutilized. Still, it will likely remain true that some unused seats can be used to alleviate overcrowding in other buildings.

New Capacity

SCA’s proposed first amendment to the five-year capital plan for school years 2014-2015 through 2018-2019, released in November 2014, allocates almost \$3.5 billion over the five years to new capacity. This is in line with the previous five-year capital plan’s allocation of roughly \$3.6 billion for fiscal years 2009-2010 through 2013-2014. Although the SCA allocates projects into five-year periods for planning purposes, planning and building a new school sometimes takes longer than five years from start to finish. As a result, in addition to the seats funded in the current plan, many seats that began the design and/or construction phase under the previous plan will become available from 2014-2015 through 2018-2019. Likewise, some of the seats funded in the current plan are not expected to be completed until 2020 or later.

IBO compiled a complete list of seats in newly constructed space or new lease facilities using the Blue Book (for seats that became available in fall 2014) and the proposed amendment to the capital plan, which reports seats expected to become available by 2023-2024. This information is reflected in column (2) of the attached table. All of the seats reported in column (2) have been funded either in current or prior plans. There are a total of 47,030 seats planned and funded by 2023-2024. Column (3) shows SCA’s estimate of the additional seats in each district that will be needed but which are not included in the current plan. There are a total of 13,759 such seats, or nearly a quarter of the total number of seats that SCA estimates need to be added if funding were not a constraint.

District-Level Analysis

The table shows that the four districts with the greatest number of seats required to eliminate current overcrowding (more than 5,000 seats in each district) are, in descending order of necessary seats: districts 20, 24, 26, and 25. The four districts are expected to receive new seats in the current capital plan, but also have significant additional need that cannot be met in the current capital plan, which suggests that overcrowding will likely persist.

District 20 in southwest Brooklyn, the district with both the greatest need for seats to eliminate existing overcrowding and the greatest expected enrollment growth, is expected to get over 4,500 new seats—second only to district 24. Most of the seats would come online by 2021-2022. However, the additional seats represent just 58 percent of the seats needed to eliminate the existing overcrowding identified by IBO in the district.

District 24 in western Queens, where more than 7,250 seats are needed to eliminate existing overcrowding, also has the most planned new seats in the SCA plan. More than 8,500 seats would come online by 2021-2022, more than sufficient to eliminate existing overcrowding in the district. But SCA projects that more than 4,400 additional seats will be needed due to the rapid increases in enrollment expected for prekindergarten through eighth grade.

Districts 25 and 26 in eastern Queens require more than 5,200 and 6,200 seats, respectively, to eliminate existing overcrowding identified by IBO and will gain fewer seats than necessary to do that. District 26 is only expected to gain 924 seats, falling more than 5,300 seats short of what would be needed to eliminate the current level of overcrowding. In district 25, the 2,280 planned seats will fall about 2,000 seats short of what would be needed to eliminate existing overcrowding. Additionally, both districts have some projected need that is not funded in SCA's current plan.

Finally, two districts with no planned new capacity could experience greater need as they were among the six neighborhoods targeted for increased residential units through upzoning under the Mayor's affordable housing plan. The targeted neighborhoods and their school districts are: East New York in Brooklyn's district 19 and East Harlem in Manhattan's district 4.

In conclusion, the SCA's capital plan for new capacity generally targets those districts with the greatest need due to existing overcrowding and future expected enrollment growth. While there are some districts in the city where planned new capacity would be sufficient to alleviate existing overcrowding, there are other districts where the anticipated new seats would fall short. Districts 20 and 24 have the greatest current and future need, but are also expected to receive the largest number of new seats in the current capital plan. Districts 25 and 26 are also among the districts that need the most seats to alleviate existing overcrowding, but are expected to receive significantly fewer new seats than districts 20 and 24. Given the high cost of constructing new capacity, the DOE will also have to continue to explore ways of using its excess capacity—currently 156,000 seats—whenever possible. In conjunction with adding new capacity to the system, the DOE should continue to encourage students to enroll in buildings with unused seats by placing attractive programs or schools in those facilities.

Thank you again for your invitation to testify and I would be happy to answer any questions.

| District Level Existing Overcrowding Conditions Compared With Planned New Capacity | | | | |
|--|----------|--|---|--|
| | District | Overcrowding in 2013-2014 | New Capacity | |
| | | Number of Seats Required to Eliminate Overcrowding (1) | Total New Seats Expected 2014-2015 Through 2023-2024* (2) | Seats Identified by SCA as Needed But Not Funded in Plan (3) |
| Manhattan | 1 | 167 | 0 | 0 |
| | 2 | 2,960 | 4,209 | 42 |
| | 3 | 1,310 | 692 | 0 |
| | 4 | 511 | 0 | 0 |
| | 5 | 79 | 0 | 0 |
| | 6 | 934 | 0 | 0 |
| Bronx | 7 | 477 | 456 | 0 |
| | 8 | 867 | 924 | 0 |
| | 9 | 2,067 | 0 | 0 |
| | 10 | 4,696 | 3,260 | 456 |
| | 11 | 2,481 | 1,943 | 0 |
| | 12 | 1,376 | 912 | 0 |
| Brooklyn | 13 | 1,170 | 1,090 | 0 |
| | 14 | 403 | 991 | 0 |
| | 15 | 3,315 | 3,281 | 2,154 |
| | 16 | 5 | 0 | 0 |
| | 17 | 1,338 | 0 | 0 |
| | 18 | 79 | 0 | 0 |
| | 19 | 400 | 0 | 0 |
| | 20 | 7,764 | 4,541 | 3,329 |
| | 21 | 2,323 | 912 | 0 |
| | 22 | 4,295 | 1,213 | 0 |
| 23 | 0 | 0 | 0 | |
| Queens | 24 | 7,252 | 8,512 | 4,425 |
| | 25 | 5,201 | 2,280 | 874 |
| | 26 | 6,273 | 924 | 172 |
| | 27 | 3,338 | 1,416 | 764 |
| | 28 | 4,408 | 2,325 | 418 |
| | 29 | 1,217 | 1,103 | 0 |
| | 30 | 3,401 | 4,345 | 941 |
| Staten Island | 31 | 4,696 | 1,701 | 184 |
| Brooklyn | 32 | 125 | 0 | 0 |
| TOTAL | | 74,928 | 47,030 | 13,759 |

SOURCES: School Construction Authority's 2013-2014 Enrollment, Capacity & Utilization Report Book One (Target Calculation) and November 2014 Proposed First Amendment to the Five-Year Education Capital plan for 2015-2019.

NOTES: *New seats include seats in process and planned new capacity. Two new high school projects planned for Queens that are not yet sited are excluded from the analysis of expected new seats and need that is not funded because we do not know what districts those seats would be for.

March 2, 2015

To Chair Dromm and members of the City Council's Education Committee,

Thank you for the opportunity to testify at this oversight hearing on overcrowding in NYC public schools. I have a 6th Grader and 10th Grader at the Columbia Secondary School (CSS). CSS is an incredible unique school; I think you would find it very hard to find a school quite like it anywhere let alone in NYC. We have a completely diverse student body AND a very high academic reaching curriculum, yet we are a totally underfunded and overcrowded middle- and high- STEM school in Harlem.

CSS is co-located along with P.S. 125 and KippSTAR, a charter school Ralph Bunche Campus, which as an old elementary school with no fields or school-dedicated playground. Our 770 middle- and high-school students, plus faculty and staff, are warehoused in 2-1/2 floors of the 6-floor building.

In 2007 we were told we were being temporarily housed at P.S. 125 while our own building was in the planning stages. That building, as well as promised funds, never materialized. Meanwhile, before we had finished growing per our agreement with the DOE, the DOE moved KippSTAR into the building.

The co-location was based on an inaccurate Blue Book footprint that ignores storage, offices, and shared spaces. Students in three schools from kindergarten through 12th grade share the same small hallways, auditorium, stairwells, cafeteria and gyms. While CSS is the only overcrowded school in the building with 32-34 students per classroom, the shared space is negatively affecting all three schools.

Examples that are negatively impacting my sons are absurd lunchtimes, my 10 grade son eats lunch at 10:30 in the morning, which is obviously detrimental to him and his studies being that he's absolutely ravenous come the afternoon and has difficulty focusing on afternoon classes.

My sons have to share a locker with 3 other kids and it's so ridiculously overcrowded they don't even bother so have to walk around school all day with ridiculously heavy bags and nowhere permanent to put jackets etc.

Students changing for P.E. spill over into the hallways because of small bathrooms.

In inclement weather, there are 64 students per gym class in order to fulfill P.E. requirements. In good weather, the students have to find space in the park.

Afterschool sports are limited, since all schools need the same facilities from 3-6PM.

Testing is compromised in a building that houses K-12. In April, H.S. students have to stay in their classrooms so hallway noise and P.E. classes won't interrupt state testing for K-5 and M.S. students. For the June H.S. Regents, the reverse happens. Feeding all students at the end of the exams in the tiny cafeteria is nearly impossible.

In 2012, the DOE asked CSS parents to choose whether we wanted a bigger cafeteria or

adequate bathrooms or classrooms – an impossible choice, and one we shouldn't have to make. The school's only library – a NY State requirement -- was eliminated, becoming two small classrooms last year. How is this even remotely OK by educational standards?

Due to space issues at our STEM school, there are no computer labs, music rooms, art rooms. Schools are required to keep student records and exams on file, but there's no adequate space. There's no appropriate meeting or work space for APs, deans, special ed, afterschool programs, guidance, parents, teachers, or students, though most or all of these are considered educational rights under New York State law.

Poorly planned space formulas affect year-long instruction and place a huge burden on co-located schools to operate effectively. These Blue Book space formulas are both terribly conceived and inaccurately applied. As a result, education and all of our communities suffer.

For those of you dedicated to addressing these issues, thank you. I hope your efforts can soon alleviate this horrendous situation for us and school communities across NYC.

Yours sincerely,

Debbie Taylor-Kerman

Testimony of the
United Federation of Teachers

Before The City Council Committee on Education
Regarding Overcrowding in NYC Public Schools & Res. No. 563

March 3, 2015

The United Federation of Teachers would like to thank the Committee on Education and Chairman Dromm for holding this hearing. We appreciate the opportunity to share our views on strategies we believe will make a significant impact on improving outcomes for our children, beginning with the reduction of class sizes for early learners.

A child's ability to learn is compromised when classrooms and schools are overcrowded, and so we join with parents and education advocates in appreciation of the Council's strong leadership on this issue.

Everyone understands the value of individualized attention in the classroom. Unfortunately, thousands of our students are still jammed into oversized classes and thousands more are attending classes in so-called 'temporary' trailers that are, in reality, decades old. What's more, the Mayor's Management Report released in September 2014 indicated that one-third of New York City's elementary schools in the 2013-14 school year packed in more students than they were built for while simultaneously class sizes in the early elementary grades crept up for the sixth straight year.

Class sizes in New York City have continued to increase across all grades year after year. Across the board, New York City's class sizes are considered the highest in the region and are limited only by the collectively bargained safeguards in the UFT contract. This past October, there were more than 3,500 classes in excess of contractual limits, and although that was several hundred fewer than at the same time last year, the classes were dispersed over more schools than in the past.

In order to lower class size system-wide, we need the space. Yet we believe the unmet need for seats is far greater than the number being funded. The city is slated to build 32,000 new seats under the new capital plan, but as detailed in a recent Independent Budget Office report, only 62 percent of those seats will be completed within the five-year span of the plan. What's more, some estimates put the actual need for seats at between 45,000 and 70,000, meaning that we are not keeping pace with the demand. The city needs a comprehensive strategy to reverse this trend.

What Class Size is the Right Size?

In case there is any doubt, let us state unequivocally that the size of a class really does matter in the life of a student. It's a matter of common sense. Teachers will tell you that they can provide more individualized and differentiated instruction when their class sizes are reduced, even by just three to five students.

Critically, research shows that not only does classroom instruction in smaller numbers improve outcomes, but also the earlier children are able to be in smaller classes, the greater the impact on their reading achievement. Of particular note are the widely cited research trials from Tennessee's Student/Teacher Achievement Ratio Project. According to its findings, class sizes of 17 or less significantly raise achievement for early learners, especially for minority students, with measurable

gains documented through Grade 9. For children who spend their K-3 years in classes this small, there is, on average, an extra 7.1 months of learning, or almost a full year.

Moreover, the Center for Public Education, an initiative of the National School Boards Association, found after reviewing 19 studies that met its standards for rigor that “most of the research shows that when class-size reduction programs are well-designed and implemented in the primary grades (K-3), student achievement rises as class size drops.”

The UFT has determined, based on prevailing research on public schools as well as private day and boarding schools, that the early grades should be limited to 15 students per class. Reducing current class sizes to this level in elementary schools across the city would be a significant undertaking, both with respect to creating the infrastructure as well as recruiting certified educators.

We are optimistic. Mayor Bill de Blasio’s universal pre-K initiative, which involved creating the programs and enrolling more than 50,000 4 year-olds this past fall, shows what can be accomplished if the political will is there.

Cut Class Size By Closing Tax Loopholes

We were encouraged to hear that the Department of Education is opening nine new schools in September, as part of its ongoing effort to provide relief from overcrowding. But the system needs a greater investment that we believe should come from the state. Gleaned from cash settlements with banks and financial institutions, New York State has an unanticipated \$5 billion surplus. One-time payments are generally best suited for one-time expenses — like school construction.

On a larger scale, reducing class size will take the will and commitment of both the city and state governments, as well as additional revenue. The UFT is aggressively pursuing every possible avenue to fund the renovation of current space and the addition of new buildings, both of which are needed to make classes smaller. We seek the City Council’s support for creative approaches to generating revenues for critically needed class-size reduction.

This past December, the UFT unveiled the union’s proposal to lower class size by ending tax breaks for absentee owners of luxury coops and condominiums. The benefit that these non-New York City residents receive from an outdated tax incentive program is a loophole that nets them low property valuations. According to our analysis, the city could generate approximately \$900 million a year in incremental income from the roughly 90,000 absentee-owner units currently receiving the 421a tax benefit. We posit that this revenue would cover the costs of reducing class sizes to 15 students per class in kindergarten through Grade 3.

Not only is this a fair approach, but it also achieves our goal without adding a new tax. Residents who occupy their units would not be subject to the change in tax status that closing this loophole would achieve.

It is only fair that New Yorkers who actually reside in city dwellings should be the ones to enjoy the benefit of the tax break. Out-of-town owners should not be eligible for below-market valuation. We invite you to review our entire policy memo, which we have enclosed as an addendum to this submission, and we welcome your support on this proposal.

Support for Resolution No. 563

The UFT supports Resolution 563, which opposes raising the current cap on new charter school authorizations in New York City and across the state. As Resolution 563 articulates, the cap has been raised twice in the past eight years and the rent provisions specific to New York City that require the city to pay the rent for charter schools for which there is no available space within the city's already overcrowded school buildings would become even costlier if more charter schools sought the benefit. This financial impact is even more burdensome when you consider the fact that New York City schools have already been underfunded by more than \$2.5 billion in school aid.

What's more, the UFT opposes rewarding charter operators and management companies that have consistently refused to educate their fair share of high-needs students. No change in the charter cap should be considered until charters comply with the 2010 state law that requires them to enroll proportionate numbers of students with disabilities, English language learners and other special-needs students. Charter schools are also suspending students at up to 10 times the rate of district schools, another troubling fact that must be addressed.

Closing Thoughts

We urge the City Council to find ways to reduce class sizes for New York City schoolchildren before another school year begins. We also ask for the Council's support in pushing for additional state school aid that would make class-size reduction more achievable.

It's been more than 20 years since a coalition of concerned parents and community members filed the Campaign for Fiscal Equity lawsuit challenging the constitutionality of the state's school funding system, and seven years since the state enacted legislation in response to the settlement of that lawsuit that committed it to increase school aid to ensure fairer funding for poorer districts and reduce class size. In this timeframe, two generations of children have matriculated through New York City schools at a marked disadvantage to their suburban and wealthier district peers.

Our students have endured the market-based approaches to education of the prior city administration where there were preordained winners and losers. We are now facing a governor who is using his power over the state budget process to hold school aid hostage. The time is now to turn the tide and give these children the best chance for a fairly funded quality education in classes small enough for them to obtain the maximum benefit.

Instead of investing in what has proven to help student achievement — like small class sizes — the governor offers up a plate of failed ideas. Instead of providing fair funding for all school districts, he allows the gap between the richest and poorest school districts to grow. Instead of investing in small class sizes, Gov. Cuomo offers up a political choice: increased school funding only if lawmakers agree to his failed policies.

###

City should create smaller classes by closing tax loopholes

Dramatic step would help cement the gains of universal Pre-K program

"FAIR-TAX" APPROACH WOULD REDUCE BENEFITS FOR ABSENTEE OWNERS OF LUXURY APARTMENTS

New York City should embark next September on a long-term initiative to lower class size in the public schools to no more than 15 students in kindergarten through third grade.

This dramatic step would help cement the expected gains to children's learning from the universal pre-k program that started this fall. It would also reflect the independent research that has identified 15 students as the optimum size in early grade education.

And it would begin to offer to all the city's families the benefits now enjoyed by those who can afford to send their children to the city's most expensive and exclusive private schools.

While it will take a number of years and substantial capital investment to implement such a policy citywide, a UFT analysis shows that the administration could introduce it this fall in 100 schools – generally in the city's poorest communities – that now have spare classroom space.

The limited first-year cost would be easily accommodated in the overall Department of Education budget. The ultimate annual personnel costs would be approximately \$900 million for a citywide program.

This sum – the equivalent of little more than one-percent of the city's \$77 billion annual expense budget – can and should be raised by the city's adoption of a "fair-tax" proposal. This would make sure that absentee owners of nearly 90,000 apartments pay either reasonable real estate taxes on their properties, or that they become liable for the New York City income tax.

The city took an important first step in this direction in 2013 by limiting one condo/co-op tax benefit to primary city residents. And every year approximately one million New York City families have to meet this standard – that of primary residency and liability for the local income tax – to qualify for the rent stabilization and rent control programs that help maintain the presence of a middle class in the five boroughs.

While there will be resistance from some parts of real estate industry and other quarters, improving the city's public schools is key to the city's economic and social future, and lowering class sizes in the early grades is a critical strategy to accomplish that goal. Out-of-town and foreign investors in New York City real estate need to share that vision, and also share in the responsibility to see that it comes about.

PART 1 THE PERSUASIVE LOGIC OF LOWER CLASS SIZE

Parents almost uniformly understand the importance of small classes. Experts agree.

The Center for Public Education, an initiative of the National School Boards Association, found after reviewing 19 studies that met its standards for rigor that "most of the research shows that when class size reduction programs are well-designed and implemented in the primary grades (K-3), student achievement rises as class size drops." (*italics added*)

While class sizes in surrounding areas are far smaller, including fewer than 20 students in the most affluent nearby suburbs, New York City has never made small classes a permanent strategy for student progress, and New York City classes on average are by far the highest in the region.

The only current limit on class sizes comes from neither state nor city regulations, but rather from the teacher's contract. The current contract caps – 25 to 33 students in grades 1-5 – serve principally to deter the Department of Education from making class sizes completely unmanageable.

New York State agreed as part of its Contracts for Excellence (the legislative response to the successful Campaign for Fiscal Equity lawsuit) to spend nearly a quarter of a billion dollars in new state aid on city schools, with lower class size a priority for the use of these funds.

But an independent survey commissioned by the UFT in 2008 showed that nearly half of the roughly 400 elementary and middle

schools that received class size reduction funds did not reduce class size – and that class sizes actually increased in one-third of them.

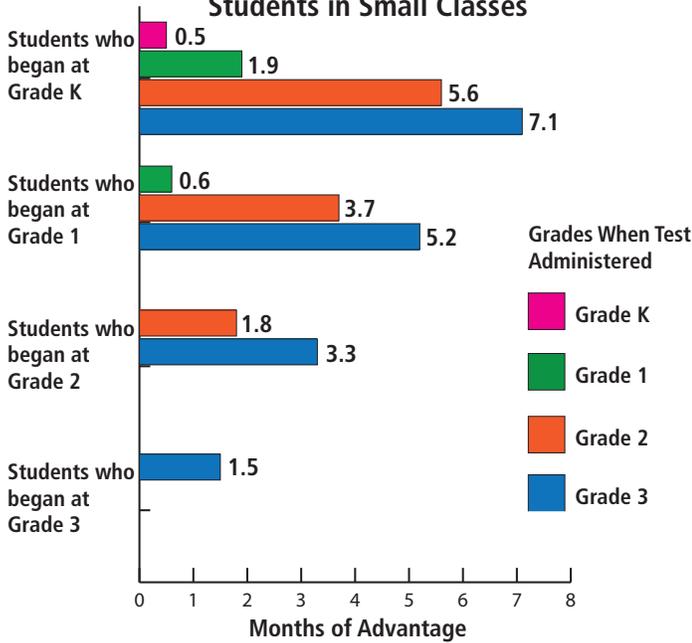
In fact, class sizes rose across the system for six years, coming down very slightly in elementary schools in 2014, while increasing slightly in high school.

An analysis by Class Size Matters, a group with a long history of activism on this issue, showed that despite this apparent good news, more than 30,000 kindergartners were in classes larger than 25, and hundreds of thousands of other students were in classes of more than 30.

The Class Size Matters analysis found that "at this gradual rate of decline, it would take 24 years in grades K-3 and 38 years in 4th-8th grades" to reach even the modest class size reduction goals of the Contracts for Excellence legislation.

| Average Class Sizes, 2012-13, from SED Personnel Master File | | | | |
|--|-----------|-----------|-----------|-----------|
| District | Grade 1 | Grade 3 | English 7 | Math 7 |
| East Ramapo | 25 | 21 | 20 | 20 |
| New Rochelle | 22 | 23 | 23 | 24 |
| Great Neck | 16 | 19 | 22 | 24 |
| Hempstead | 25 | 24 | 27 | 27 |
| Half Hollow Hills | 20 | 24 | 25 | 24 |
| New York City | 27 | 26 | 27 | 27 |

Average Months of Grade-Equivalent Advantage in Reading Achievement Scores for Students in Small Classes



Source: "In Pursuit of Better Schools: What Research Says", Bruce Biddle and David Berliner, WestEd Policy Perspectives, 2002

STUDIES DEMONSTRATE IMPACT OF LOWER CLASS SIZE

Tennessee's Project STAR (Student Teacher Achievement Ratio) is the example most cited by experts for its success.

The STAR program involved more than 11,500 students and 1,300 teachers and – most importantly – random assignment of students into low (13-17 students) or regular-sized (22-25 students) classes.

As the National Education Policy Center February 2014 study said, the random assignment meant that "any differences in outcomes can be attributed with great confidence to being assigned to a smaller class."

"DOES CLASS SIZE MATTER?" a study sponsored by the National Education Policy Center (NEPC) described STAR as "the best evidence on the impact of reducing class sizes." Among the "unequivocal" positive results were higher student achievement for those in the smaller classes on math and reading standardized tests by 5 percentile rank points.

In addition, "When the results were disaggregated by race, black students showed greater gains from being assigned to a small class, suggesting that reducing class size might be an effective strategy to reduce the black-white achievement gap," and that "small-class benefits in STAR were also larger for students from low socio-economic status families."

A 2002 follow-up study of Project STAR students showed the positive effects of small classes maintained over time, as "students who participated in small classes for at least one year continued to show higher scores on standardized mathematics tests at grade 9. Minority students in small classes had greater gains in achievement than white students in small classes, and girls in small classes had larger gains than boys in small classes."

Other studies that found significant benefits to lower class sizes include a program in Wisconsin – Student Achievement Guarantee in Education (SAGE), an Educational Testing Service (ETS) study of

student scores on the National Assessment of Educational Progress, and class size surveys in Israel and Great Britain.

HOW SMALL DOES A CLASS HAVE TO BE?

Based on the preponderance of reliable research and the example of many successful private schools, the UFT is recommending that the early-grade class size limit be set at 15.

Traditional prep schools such as Phillips Exeter, Hotchkiss and St. Paul's advertise class sizes of 12. Private day schools in the city (e.g. the Calhoun School, York Prep, Horace Mann, Nightingale-Bamford) have class sizes of 12-15 or even smaller.

Both the Tennessee STAR program and Wisconsin's SAGE focused on class sizes average or capped at 15 students. The National Education Association recommends an optimum class size of 15 students in regular programs, especially in the early grades, and a proportionately lower number in programs for students with exceptional needs, including children with disabilities and English language learners.

A 1978 analysis by Gene V. Glass and Mary Lee Smith of a number of class size studies found significant differences when classes were reduced from 20 to 15 students.

IMPLEMENTATION IN NEW YORK CITY

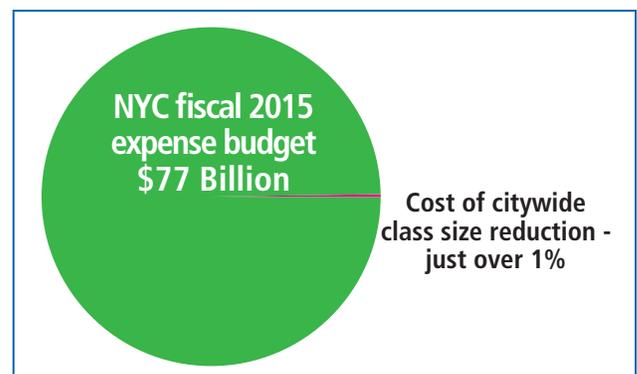
The Department of Education's space utilization reports – known as the Blue Book – have been the subject of much dispute, particularly during the previous administration. Critics charged that in its single-minded pursuit of space for charter schools, Bloomberg officials grossly overestimated empty space in school buildings that could be converted to charter school use.

While there has been some improvement under the de Blasio administration, there are still many questions about Blue Book methodology that shows that the average utilization rate of elementary schools at about 97 percent.

But those averages cover a wide range of utilization in the more than 600 elementary schools in the city. A UFT analysis indicates that at least 100 schools have the two to four additional classrooms necessary to immediately reduce class size to 15 for kindergarten and first grade – and in a few cases more.

These schools are generally concentrated in the city's most struggling districts, including District 9 in the Bronx, and Districts 17, 18 and 23 in Brooklyn – all of which could benefit from an immediate intervention.

Costs for additional staff of roughly 200 to 400 new teachers for this initial phase of the program should be easily accommodated



within the current budget of the DOE, which routinely hires two to four thousand new teachers or more every year.

When fully implemented in all schools for all four grades K-3, this initiative would require 7,000 – 8,000 new teachers in addition to the roughly 76,000 classroom teachers now in the system.

On the expense budget side, the personnel and associated costs for the full citywide implementation of the class size initiative is estimated at \$900 million per year – less than 3 percent of the Department of Education’s current \$26.5 billion annual budget, and just over one percent of the city’s overall FY 2015 expense budget of \$77 billion.

One immediate source of space will be closing Catholic schools, which have been hit by changing demographics and declining enrollments.

The Archdiocese of New York, which includes the Bronx, Manhattan and Staten Island, along with seven upstate counties, has closed more than 90 schools since the year 2000. While schools are not necessarily tied to parishes, the Archdiocese recently announced that 50 of its current parishes will be consolidated; the Diocese of Brooklyn, which covers Brooklyn and Queens, has shuttered dozens of its own schools in recent years.

The Department of Education should move immediately to buy or lease long-term school buildings in the five boroughs as soon as they become available.

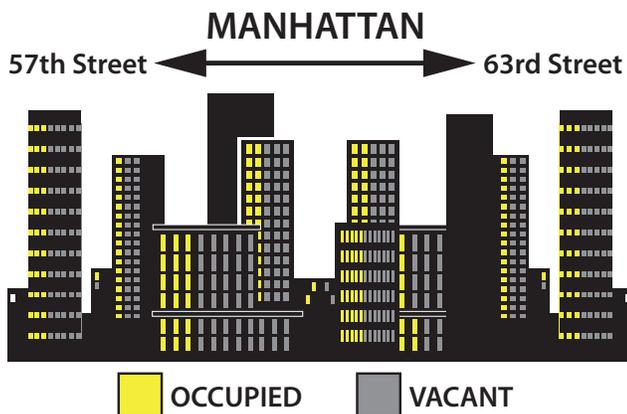
Even with the acquisition of potentially hundreds of classrooms in former Catholic schools, creating a citywide program of dramatically lower class size in grades K-3 will require major additions to the city’s current capital plan of \$12.8 billion for FY-2014-18, which includes about \$4 billion now set aside for new capacity.

Working on the assumption that as many as 7,000 new classrooms would be needed, we estimate that the construction program would mean an estimated \$1.5 billion in new capital spending per year for the next seven years. In addition, the longer the process takes – a particular issue in New York City because of difficulties of finding appropriate sites – the more costs will rise.

Nevertheless, there is a source for the revenues necessary to support this expansion – the city can begin limiting unnecessary real estate tax breaks, particularly for non-residents.

PART 2 NEW YORK CITY AS A TAX HAVEN FOR THE RICH

According to the New York City Department of Finance, approximately 90,000 condos or co-ops in New York City – primarily in Manhattan – are vacant most or all of the year. The most recent U.S Census Bureau survey showed that more than half the apartments in one of Manhattan’s highest-price neighborhoods – 57th to 63rd Streets, Fifth to Park Avenues – were vacant

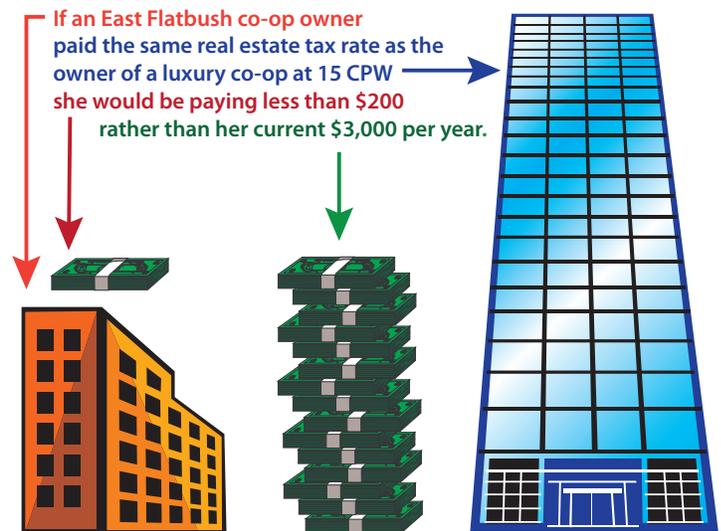


some or all of the year.

New York real estate is more affordable than similar units in London and other global capitals, and the city is seen as a stable site for investment. But it has a huge additional advantage for foreign buyers – a combination of outdated tax incentive programs such as 421A and a dysfunctional assessment system leave these multi-million-dollar units paying ludicrously low annual real estate taxes.

For example, the \$115 –million penthouse in the 57th street building known as One57 will have an estimated monthly tax bill of only \$1,700, compared to the just over \$2,000 a month paid by a Brooklyn Heights brownstone which sold in December 2012 for less than one-twentieth of the penthouse’s \$115 million price.

Using the standard applied to 15 CPW, the owner of the average single-family home in Bellerose, Queens, would be paying less than \$300 a year, rather than the nearly \$4,000 he now pays. If the owner of an East Flatbush co-op worth \$350,000 got an equivalent tax break, she would pay \$186 per year in real estate taxes rather than the \$3,002 in her current annual tax bill.



Federal and local laws and regulations make it relatively easy for foreign buyers not only to purchase property here, but to vest the ownership in a holding company, shell corporation or foreign bank account which screens the identity of the real buyer – and ensures that the owner is not liable for city income taxes.

The UFT suggests a new “fair-share” choice for foreign and out-state absentee owners: either pay taxes on the actual market value of their units; or become a New Yorker and be liable for the income taxes that other New Yorkers pay – including other affluent citizens.

Other jurisdictions around the country impose such restrictions. And in terms of fairness – more than one million middle- and working class families must annually prove their residence in New York City to receive the much more modest benefits of rent stabilization and rent control. Why should the ultra-rich be exempt from a similar requirement?

OUT-OF-TOWN OWNERS AND OUT-OF-TOWN SPENDING

A UFT analysis found that residents of 15 CPW include significant numbers who have out-of-town addresses: Southfork Holdings, a Florida firm; Tokolosh Holdings LLC of Seattle, Washington; and 693399 Ontario Ltd., of Toronto, Ontario. And while it is impossible

to determine from property records whether individuals are paying New York City income tax, some listed owners at 15 CPW have voting addresses in jurisdictions that range from Westchester County to New Jersey to Miami.

According to real estate agents, prospective buyers for One57 include millionaires from Britain, Canada, China and Nigeria. A new building at 432 Park Avenue will rise 1,400 feet and be the tallest residential building in the western hemisphere. According to published reports, [the new foreign buyers for units at the new 432 Park come from Britain, South America, China, the Middle East and Russia.](#)

Aside from occasional holiday visits – when the absentee owners use their vacant apartments rather than luxury hotels – little of their income circulates here. And because these units are effectively shelters for income, their purchases are generally cash deals and do not even generate local mortgages. (There is a very modest one-time local tax on the original purchase).

At the same time, the stratospheric prices for units in the newest high-end buildings – \$50 million or more – push up costs for more modest co-ops, and allow luxury builders to acquire development sites at prices developers of more affordable housing cannot match.

DECADES OF TAX BREAKS AND QUESTIONABLE ASSESSMENTS

New York City real estate tax breaks have a long and reform-resistant history.

In the 1970s, when the local real estate market was dormant, the city instituted the 421A program, which – with some modifications – continues to provide tax breaks for new apartment buildings.

[In addition to 421A, the city has retained a crazy assessment process that...provides owners of the luxury units in these areas with jaw-dropping tax discounts.](#)

While the simplest way to estimate the value of a piece of real estate is to look at sales of comparable properties, New York City co-op and condo tax rates are established by calculating the market value of neighboring rentals. There are a declining number of rental buildings in the city's hottest neighborhoods, and the rental buildings themselves are generally older, thus reducing their value and bringing down the assumed – not the real value – of luxury condos and co-ops nearby.

To make matter worse, these benefits are combined with a capping system that limits year-to-year increases. The result is that high-value properties are taxed at bargain-basement rates.

"FAIR TAX" CHOICE WOULD PRODUCE \$900 MILLION A YEAR IN NEW INCOME

Our UFT analysis assumes a very modest average market value of \$1.5 million for each of the roughly 90,000 absentee-owner units and a current tax bill that – with 421a benefits, phase-in caps and improper assessments – equals about one-quarter of the real market value of the unit.

With these assumptions, we estimate a 1.1 per cent tax rate on

true market value would produce more than \$900 million in new city revenues annually – an amount which would cover both personnel and debt service costs for the citywide k-3 class size reduction program.

The New York Fiscal Policy Institute, using a similar analysis, has recommended that the city introduce a graduated 4 percent tax based on comparable sales for all absentee-owner units with a market value of more than \$5 million. That proposal, which would concentrate the tax burden on units worth more than \$25 million, would bring in an estimated \$665 million in new revenue every year.

A MODEST PROPOSAL (AND NOT WITHOUT PRECEDENT)

New York and other states have publicly acknowledged that primary residents deserve more favorable tax treatment.

New York State's school tax relief program (STAR) program reduces the taxable value of homes, but only when they are the owner's primary residence. (The tax break also does not apply to those with incomes over \$500,000).

Florida offers a tax exemption to property owners who make their Florida home their primary residence. In addition to Florida, other states with such programs include Pennsylvania, Georgia and Illinois.

[In 2013 the city began enforcing a state law that ordered a phase-out for non-primary city residents of one of the disputed tax benefits – a 1996 condo/co-op tax abatement program that was originally designed to equalize the tax burdens of apartment vs. homeowners.](#)

While an important first step, the fiscal benefit to the city was limited by the fact that the same law increased the benefits for primary residences, and the law did not affect 421a or the assessment practices that so distort the taxable value of many Manhattan properties.

In addition to the state and city's action to limit one condo-co-op tax benefits to New York residents, the deBlasio administration has indicated a willingness to look at the concept of charging market tax rates for all absentee-owner units.

State Sen. Brad Hoylman has said he plans to introduce a bill in Albany in January that will help address this issue.

AN ISSUE OF FAIRNESS/INVESTMENT IN THE CITY'S FUTURE

Millions of working New York families make the city their primary residence in order to ensure their eligibility for rent regulated apartments. Thousands of high-income New Yorkers pay city income taxes as part of the price of maintaining their residence here.

Fairness dictates that out-of-town owners who escape city income taxes should not get a huge additional benefit from the city's dysfunctional real estate tax process.

And simple justice demands that the hundreds of millions of dollars in additional city revenue that a fair tax policy would produce should be spent where it is most needed and where it will potentially have the greatest positive effect – on New York City public school children.



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The New York City Charter School Center
James Merriman, CEO

Written Testimony Presented to the New York City Council Education Committee
Oversight Hearing on Overcrowding in NYC Public Schools and Resolution 563-2015

Tuesday, March 03, 2015

Thank you, Chairman Dromm for the opportunity to submit testimony today on Resolution 563, calling on the State Legislature to reject any attempt to raise the cap on the number of charter schools.

My name is James Merriman and I am the CEO of the New York City Charter School Center.

The New York City Charter School Center is an independent, not-for-profit organization established in 2004 to help new charter schools get started, support existing schools, and build community support so that highly effective schools can flourish.

We ask the members of the Education Committee to hold Resolution 563. New York City's 1800 public schools are a mix of world-class performance, mediocrity, and failure. The last category is widespread enough to merit serious consideration, and a conversation about capping the number of schools that deliver results is, at best, misplaced. The continued operation of the 197 charter schools in the city today depends on results. Unlike district schools, charters are subject to closure for failure to perform.

The number of charter schools has been capped by the NYS legislature since their inception 15 years ago. As the sector grew and the number reached its limit, the legislature raised the cap twice. In 2015, the Governor is proposing to lift the limit yet again by allowing another 100 charter schools state-wide. We should support this move, not inhibit it.

As the Partnership for New York City stated it in its testimony, charter schools are an important complement, not a threat to the city's district schools. I would like the Council to consider the positive impact that charter schools have provided in our city for the past decade and a half, and assess this resolution based on empirical evidence rather than philosophical concerns.

In NYC, among the poorest schools that serve students in primary grades, where a majority of the population is Black or Hispanic, charter schools are 12 times more likely to have at least 50% of students on grade level. Last year in NYC, of the schools that fit that demographic and actually educated their children (i.e., more than half tested proficient in math and English), 75% were charters. A low income student of color in a NYC charter school picks up 1.8 months in ELA and 5.4 months in math every year.^[1]

^[1] Stanford University CREDO Study, 2013

If we were to remove the name “charter” and simply show the above statistics for achievement in public education, would the Council still oppose the creation of these schools?

I am particularly dismayed that this resolution is introduced in the midst of a hearing about overcrowding in schools. Last year’s budget ensured that new and expanding charter schools can be provided with funding for private facilities. This ensures that co-location in public facilities is no longer an existential choice to be made by new charters.

I strongly believe that, once we put all politics aside, we can all agree that giving disenfranchised parents the option for quality schools is a no-brainer. I repeat our call for the Education Committee to reject the resolution and instead employ all available options to make sure every child has access to a quality public school.



Testimony of PS8 PTA Co-Presidents

We are testifying as Co-PTA Presidents of PS8, the public elementary school located in Brooklyn Heights and downtown Brooklyn. Our school has a long history with overcrowding. In the fall of 2011, an annex to our building opened, adding 7 classrooms to better manage the growing population; it was almost immediately filled to capacity. Since that time, we have made many compromises as we continue to address ever increasing student enrollment at our lower school building – including the loss of many specialty classrooms, class sizes approaching the UFT limit of 32 students/class in some grades, and this year, eliminating pre-K despite the mayor’s universal Pre-K priority.

As our overcrowding situation gets more dire, we have been conducting outreach to parents and speaking with our elected officials, community leaders and members of the Department of Education and the School Construction Authority to help create short, medium and long term solutions to our overcrowding problem

Our advocacy efforts thus far have taught us several things:

1. The SCA and the DOE may use different class size targets in making their decisions.

- a. The SCA appears to use the K-3rd grade targets recommended in the settlement that arose from the Coalition for Fiscal Equity lawsuit (not to exceed 20 students/class) in their Blue Book projections. However, it increased the recommended target for 4th-5th grade from 23 students/class to 28 students/class. Why? We don’t know.
- b. Our conversations with DOE officials about our school’s overcrowding problem have crystallized that the DOE’s approach in making enrollment decisions is based on a goal of 28 students/class (in grades 1-5) and the recognition that they can increase class size to the UFT limit of 32 students/class when a school is overcrowded.
- c. The target class size numbers from the settlement may also be ignored when making funding decisions. Many schools in NYC are underfunded under the Fair Student Funding formula. When those schools appeal for additional funding, the appeal is often denied. Why? Because the DOE contends that class sizes can be pushed up to 32 students before funding for an additional classroom teacher is necessary. This funding dilemma has led to overcrowded classrooms at PS8 in recent years – and at many other schools across the city.

While we recognize that meeting the targets established in the settlement of Coalition for Fiscal Equity lawsuit depends on adequate state government funding, the NYC DOE needs to demonstrate its commitment to meeting those targets, both by explicitly and publicly acknowledging them as targets and by making every effort to implement them with available funds.

LOWER SCHOOL

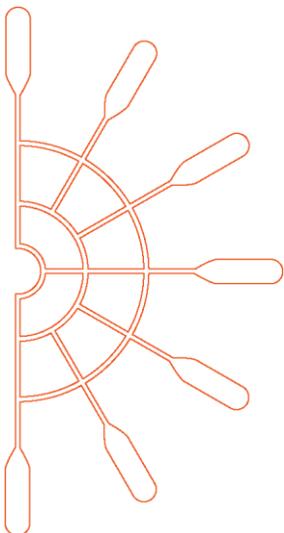
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2. When projecting enrollment trends for the following school year, the DOE does not explicitly account for rapid population growth due to new development. DOE officials have indicated that they use past trends in forecasting future enrollment. In school zones such as PS8's – with skyrocketing development – such an approach likely underestimates enrollment. In 2015 alone, nearly 550 new residential units are projected to come online in our school zone – translating to more than 150 new public elementary school students (according to the SCA's Public School Demand Brooklyn ratio). While not all of these 150 students will enroll at PS8, the DOE does not explicitly factor any of this growth into their enrollment projections. In fact, this year, PS8 saw a kindergarten pre-registration increase of 30 in-zone children over last year. With only 3 fifth grade classes exiting our lower school and an indicator that kindergarten demand may reach 7 classes, our school and our community are in a very challenging situation for the fall of 2015. More realistic enrollment projections could have left us all better prepared to address it.

The DOE needs to be proactive in determining how new residential construction will affect enrollment trends from year to year – not reactive.

3. Based on SCA data used by developers and data compiled by Downtown Brooklyn School Solutions, there is a clear need for a new school to accommodate increased public elementary school demand in our neighborhood. Based on SCA data, the utilization rate of the 8 elementary schools that comprise subdistrict 2 in District 13 has been predicted to reach 140+% of capacity collectively by 2018, indicating that rezoning alone will not solve our overcrowding problem. However, the SCA's Capital Plan does not include the need for additional elementary school seats to serve the PS8 zone, and the SCA continues to be profoundly un-transparent in terms of sharing the housing starts that they are incorporating into their capital needs projections. This needs to change.

Neighborhoods need better access to the information the SCA is using to project school capacity needs, as well as a clear process for the public to weigh in during the capital needs projection process to help ensure that the funds the SCA is setting aside for the creation of new seats will meet future demand.

4. Finally, the city needs to create clearer rules for developers to follow in addressing the impact of their development projects on school capacity. Current city guidance suggests new developments can assess the "significance" of their impacts (which may affect whether and how they minimize or mitigate those impacts) by comparing new public school students generated by their development against a large group of regional schools – a so-called subdistrict. In our case – our subdistrict has a capacity of almost 3,300 students and our school, PS8, only has a capacity of approximately 500 students. This approach is, at the very least, completely counterintuitive: a proposed development that would have a less than 5% increase in the collective utilization rate of a group of 8 schools with a capacity 3,300 students may still completely overwhelm its actual zoned public school (with a capacity of only 500 students).

Guidance for developers should clarify that the impact a proposed development will have on its zoned public school must be part of the assessment of the environmental impacts of a project.

Thank you for this opportunity to submit our testimony. We appreciate all that you are doing to effectively mitigate public school overcrowding in our city. We can be reached at president@ps8brooklyn.org should you have any follow-up questions.

Sincerely,

Kim Glickman & Ansley Samson
PTA Co-Presidents, PS8

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

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Name: Sarah Marbridge

Address: 17 Chittenden Ave NY NY 10033

I represent: years of experience

Address: _____

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Name: JOSH KARAN

Address: 160 CABRINI BLVD NYC 10033

I represent: former President CEC 6

Address: _____

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Address: _____

I represent: PS 19 MAKE THE ROAD NY

Address: _____

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Name: Angelica Salgado

Address: _____

I represent: Ps 143

Address: _____

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Date: _____

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Name: _____

Address: _____

I represent: Columbia Secondary School

Address: _____

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THE CITY OF NEW YORK**

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in favor in opposition

Date: 3/3/15

(PLEASE PRINT)

Name: SHINO TANIKAWA

Address: 119 SULLIVAN ST NY NY

I represent: CEC DISTRICT 2

Address: 333 SEVENTH AVE NY NY

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in favor in opposition

Date: 3/3/15

Name: Lisa Dunham (PLEASE PRINT)

Address: E 3rd St NY NY 10009

I represent: CBCI

Address: 1166 Essex St 10009

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THE CITY OF NEW YORK**

Appearance Card

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Date: 03/05/15

Name: Celia Green (PLEASE PRINT)

Address: N/A

I represent: New York Communities for Change

Address: 7-4 Nevins St

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Date: 3/3/15

Name: LORNAIO ONI (PLEASE PRINT)

Address: President + CEO

I represent: School Construction Authority

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Leone Harrison

Address: Class Size Member

I represent: _____

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: 3/3/15

(PLEASE PRINT)

Name: Tianhao Zhang

Address: _____

I represent: Asian American Student Advocacy Project

Address: CASAP

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THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sarita Subramanian

Address: 110 William St, 14th Floor, NY, NY 10038

I represent: NYC Independent Budget Office

Address: 110 William St, 14th Floor, NY NY 10038

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Nancy Northrop
Address: 60 Summer St Forest Hills NY
I represent: CPAC 11375
Address: Tweed

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THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: 3/3/15

(PLEASE PRINT)

Name: Haramba North
Address: Acting Deputy Chancellor
I represent: Division of Operations
Address: DOF

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THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: 3-3-15

(PLEASE PRINT)

Name: ALISON LOEB
Address: 730 Ft. Washington Ave. NYC.
I represent: Columbia Secondary School
Address: 425 W. 123RD

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THE CITY OF NEW YORK**

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in favor in opposition

Date: March 3, 2015

(PLEASE PRINT)

Name: Kevin Daly

Address: 237 W 109th St. NY, NY 10025

I represent: SLT - Columbia Secondary School

Address: 425 W 123rd St.

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THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: 3/3/15

(PLEASE PRINT)

Name: Randi Levine

Address: _____

I represent: Advocates for Children of New York

Address: 151 W. 30th St, NY, NY

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jackie Febrillet

Address: _____

I represent: local 372

Address: _____

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THE CITY OF NEW YORK**

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in favor in opposition

Date: 3-3-15

(PLEASE PRINT)

Name: Rachel Manning

Address: 308 W 103rd St Apt 6F

I represent: Phys Ed For All Coalition / Bronx Health REACT

Address: 10 E 16th St New York, NY

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I intend to appear and speak on Int. No. _____ Res. No. 0200

in favor in opposition

Date: 3/3/14

(PLEASE PRINT)

Name: Christopher Young

Address: 365 Bridge St

I represent: Downtown Brooklyn School Solutions

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3/3/15

(PLEASE PRINT)

Name: Yuxuan Liu

Address: _____

I represent: Asian American Student Advocacy Project

Address: _____ (ASAP)

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