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Testimony before the Assembly Standing Committee On Education on the need to reform Mayoral control

December 16, 2019

Thank you for holding these hearings today. My name is Leonie Haimson and I am the Executive Director of Class Size Matters, a organization dedicated to providing information on the benefits of smaller classes nationwide and advocating for class size reduction in the city schools. I am also the co-chair of the Parent Coalition for Student Privacy.

Mayoral control as it exists in NYC is inherently undemocratic and provides no real checks and balances to autocratic rule. Education policies and decision-making too often lack sufficient input from parents and community members and too often result in damaging policies and unwise spending priorities. Our nation's entire system of governance, from the federal government on down, relies on a separation of powers.

Because the Mayor receives his authority from the state, the City Council cannot make law when it comes to the Department of Education unlike any other city agency, except for laws requiring reporting.

What is the record of Mayoral control here in New York City? Since it was introduced in 2002, more than 200 public schools have been closed, and our schools have been forced to share space with more than 150 charter schools. Overcrowding has worsened, especially at the elementary school level, and currently, more than half a million students are crammed into overutilized schools.

We have analyzed the trend in student achievement according to the NAEPs, the national assessments and the only ones reliable enough to track achievement over time. During the Bloomberg years, NYC students made less progress on the NAEPs than students in any other large city except for Cleveland, when their scores are disaggregated by race, ethnicity, and economic status.¹ Since Mayor de Blasio took office, our NAEP scores have been flat or declining, with a five-point drop in fourth-grade math scores.² While graduation rates have increased, this has occurred in nearly every other school district in

¹ <http://www.classsizematters.org/wp-content/uploads/2015/05/NAEP-powerpoint-08-2014-final.pptx>.⁶

² <https://chalkbeat.org/posts/ny/2019/10/30/nyc-scores-are-flat-on-national-reading-and-math-test/>

the nation, here and elsewhere partly as a result of via low-quality credit recovery schemes and by persuading teachers to pass a higher percentage of their students.³

The justification for mayoral control is that the previous system was scandal-ridden, with local school boards engaging in patronage. But any ability of Community School Boards to hire and fire school or district staff or award contracts was eliminated in 1996, years before Mayoral control was instituted.⁴ Moreover, the waste and corruption that has occurred under Mayoral control far outstrips what occurred previously.

Under Mayor Bloomberg, multi-million-dollar contracts turned out to be fraudulent or wasteful. The data system known as ARIS cost more than \$100 million, was rarely used, and was eliminated in 2014.⁵ The special education data system called SESIS cost more than \$130 million and is now being replaced by another system.⁶ Several contracts have been awarded to corrupt vendors at hugely inflated amounts.⁷ Yet never to my knowledge, has the Panel for Educational Policy voted to reject a single one.

One of the most egregious examples is the contract to be awarded to Custom Computer Specialists for internet wiring. As a sub-contractor, CCS had been involved in a massive kick-back scheme that stole millions from the DOE from 2002 to 2008.⁸ As a result, the FCC excluded the DOE from more than \$100 million of annual E-rate reimbursement funds because of the resulting scandal.

Yet in February 2015, DOE proposed that a new contract be awarded CCS, amounting to \$1.1 billion over five years, renewable to \$2 billion over nine years.⁹ After we alerted reporters, the contract was hurriedly renegotiated and the amount to be paid was cut in half to \$627 million, with no other change in terms, suggesting how inflated it was in the first place.¹⁰ The Panel for Educational Policy still rubberstamped the contract, 10-1, with only the Bronx representative voting no.¹¹ Because investigative journalists such as Juan Gonzalez continued to write about this scandal, City Hall eventually cancelled the contract and forced DOE to rebid it, at a savings of between \$163 million and \$727 million.¹⁶

³ https://www.washingtonpost.com/news/education/wp/2017/12/04/u-s-high-school-graduation-rates-rise-tonew-high/?utm_term=.b887867fe5b6 See also <https://nypost.com/2015/08/09/teachers-say-they-feel-pressure-to-meet-citys-pass-quota/>

⁴ <http://www.gothamgazette.com/index.php/archives/1630-school-boards>

⁵ <https://www.nydailynews.com/new-york/education/city-schools-dumping-95-million-computer-system-article1.2012454>

⁶ <https://www.chalkbeat.org/posts/ny/2019/02/22/sesis-special-education/>

⁷ <https://www.classsizematters.org/wp-content/uploads/2011/10/testimony-on-contracts-10.31.11.pdf>

⁸ <https://nycsci.org/wp-content/uploads/2018/Reports/04-11-Lanham-Rpt.pdf>

⁹ <http://nycpublicschoolparents.blogspot.com/2015/02/was-company-due-to-receive-125-billion.html>

¹⁰ <https://www.nydailynews.com/new-york/education/dept-ed-contract-sketchy-tech-firm-not-compute-article-1.2128207>

¹¹ <http://www.nydailynews.com/new-york/education/gonzalez-nyc-backs-huge-school-contract-saves-163m-article-1.2474357> and <http://nycpublicschoolparents.blogspot.com/2015/12/how-class-size-matters-helped-citysave.html>

To this day, there are many state and city laws that the DOE fails to comply with. One relates to the matching funds supposed to be provided to all public schools which share their buildings with co-located charter schools. According to the state law passed in 2010, public schools are supposed to receive matching funds for all expenditures by the co-located charter for all facility upgrades over \$5000.¹² Yet we found in that between FY 2014 and FY 2019, more than \$22 million in charter school expenditures on facility upgrades were **not** matched in 175 public schools that shared their buildings, according to data provided by DOE. In FY 2019, only one third of co-located public schools received their full complement of matching funds.¹³

The DOE is no better at complying with legislation passed by the City Council. Local Law 167 was approved in Oct. 2019, requiring DOE to provide a more transparent methodology and data to back up their estimates of how many new seats are needed in NYC schools to relieve overcrowding.¹⁴ Yet much of the information required by this law has still not been provided by the DOE.¹⁵

But the law with the largest negative impact on NYC students relates to the DOE's refusal to lower class size. In June 2003, in the Campaign for Fiscal Equity case, the state's highest court wrote that the number of NYC children in overcrowded classes "*is large enough to represent a systemic failure*", and concluded that that our students were deprived of their constitutional right to a sound basic education in part because their class sizes were too large.¹⁶

In 2007, the Legislature approved the Contracts for Excellence (C4E) law, which among other things, required NYC to reduce class size in all grades. Yet class sizes increased sharply instead and in grades K-3 are now 14 percent larger than when the law was passed. The number of students in very large classes has also ballooned, with the number of children in classes of 30 or more in grades 1st through 3rd has surged by nearly 3000%.¹⁷ This is despite the fact that during his campaign for mayor, Bill de Blasio repeatedly promised if elected, he would comply with the original class size reduction targets in the

12 See New York Education Law § 2853(3)(d) at: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.htm>

13 Class Size Matters, Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies", Oct. 2019; posted here: <https://www.classsizematters.org/wp-content/uploads/2019/10/Charter-School-Facility-Costs-10.21.19.pdf>

14 See the Local Law 167 page on the SCA website <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Local-Law-167-Reports-352> Missing is data related to housing starts, seat loss, how they factor in existing overcrowding, and projected seats need disaggregated by grade level, or even preK vs. elementary vs middle school students. Finally, there is no explanation provided of what methodology they use to estimate the need for school seats given all the discrete data sources.

15 <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3458222&GUID=753D0240-EC6E-4727-84CC-23837D1B7ACC&Options=&Search=>

16 Court of Appeals decision, Campaign for Fiscal Equity, Inc., et al. v. State of New York, et al., 100 N.Y.2d 893, 91112, June 2003.

17 The Nov. 2019 class size data is posted here: <https://infohub.nyced.org/reports-and-policies/government/intergovernmental-affairs/class-size-reports> This fall, there were more than 275,780 students in classes of thirty or more in core subjects in all grades. The figure of 275,780 is a minimum, as we only used the figure of high school students in social studies classes of 30 or more, to avoid double-counting.

city's original Contract for Excellence plan, of no more than 20 on average in grades K-3, 23 in grades 4th-8th, and 25 in core high school classes.¹⁸

In 2018, nine parents as well as Class Size Matters and the Alliance for Quality Education sued NY DOE for not complying with the state law and failing to reduce class size, as required by the C4E law, and our case will be heard in the Appellate Court next month. We believe that win or lose, the state legislature needs to tighten that law to ensure that the DOE is prevented from using whatever additional foundation aid or C4E funds it receives from the state by withdrawing dollars spent on classroom teachers to lower class size at the same time.

The one major education accomplishment of de Blasio administration, the expansion of PreK, was a laudable goal but poorly implemented. The DOE insisted on placing excessive numbers of pre-K children in elementary schools that were already overcrowded and even in schools that had waiting lists for Kindergarten. As documented the report, *The Impact of PreK on School Overcrowding in NYC*, PreK classes were installed in 352 schools that were at 100% utilization or more, thus contributing to worse overcrowding for about 236,000 elementary school students.¹⁹

So, what should be done? We support the creation of a Commission, with independent members appointed from different stakeholder groups, including parents, educators, community members, and advocates. This Commission should hold hearings and gather public input on how an improved governance system would be structured. In the meantime, a DOE Ombudsperson should be appointed to address parental concerns and complaints, increase transparency, and provide regular reports on how education services and programs could be improved.

The DOE should also be made subject to city law as are other city agencies. Why should our public schools have fewer checks and balances than any other part of our government, especially when it comes to something as important as our children's education?

Thank you for your time, and I'd be happy to answer any questions you might have.

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¹⁸ <https://web.archive.org/web/20131105074711/http://www.billdeblasio.com/issues/education> See also the survey he personally filled out and signed in June 2013 here: <https://www.classsizematters.org/wp-content/uploads/2013/06/Bill-deBlasio.pdf> and the survey his campaign completed the same month here: <https://nyckidspac.org/wp-content/uploads/2013/06/NYC-Kids-PAC-Questionnaire-Bill-de-Blasio.pdf>

¹⁹ <https://www.classsizematters.org/wp-content/uploads/2018/12/PreK-report-12.17.18-final-final.pdf>