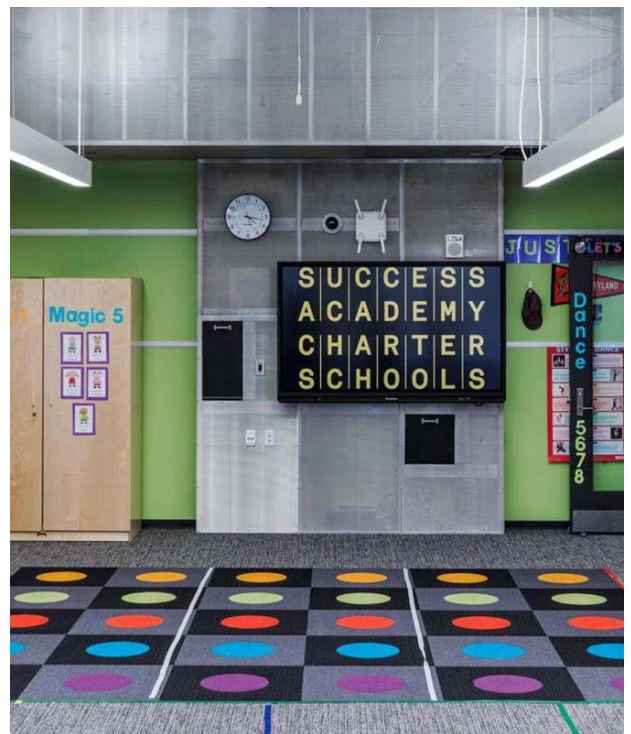


# DOE OVERSPENDING ON CHARTER SCHOOL FACILITY COSTS AND UNDERSPENDING ON MATCHING FUNDS TO PUBLIC SCHOOLS

CONFIRMATION OF CLASS SIZE MATTERS' ORIGINAL FINDINGS



**CLASS SIZE MATTERS**

MARCH 2021

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## Executive Summary

In October 2019, Class Size Matters released a report, *Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies*.<sup>1</sup> The report concluded that the New York City Department of Education (DOE) had underspent by many millions of dollars on matching funds provided to public schools co-located with charter schools that had engaged in facility enhancements, even though supplying these matching funds within three months was required by a New York State law passed in 2010, Education Law §2853(3)(d).<sup>2</sup>

We also found that the DOE had overspent by many millions of dollars in direct payments or subsidies for private space for charter schools, over and above the mandate of another state law passed in 2014, Education Law Section 2853(3)(e),<sup>3</sup> including, in some cases, for charter schools that owned their own buildings.

As a result of this report, New York City First Deputy Comptroller Alaina Gilligo sent a letter to Chancellor Richard Carranza in November 2019 asking him to respond to our findings.<sup>4</sup> In January 2020, Deputy Chancellor Karin Goldmark responded, substantiating most of our conclusions while leaving certain questions unanswered.<sup>5</sup> She also provided new documents, with amounts purporting to show how much in matching funds were spent on renovating public schools co-located with charter schools between FY 2014 and FY 2019.<sup>6</sup>

The documents provided by the DOE included information different from the data that the DOE had provided to the City Council and to us previously, via Freedom of Information requests. In some cases, these new documents also provided supposed rationales for why millions of dollars in charter school facilities expenditures were not matched by the DOE, excuses that do not appear to be aligned with the state law or Chancellor's regulations. Analysis of the new data and the DOE response to the Comptroller's Office's inquiries raise additional concerns about the DOE's underspending on matching funds to co-located public schools and overspending on charter facilities.

This report provides new and updated findings and offers policy recommendations to ensure stronger oversight and accountability for the DOE's spending on facility upgrades for public schools and private space for charter schools. The DOE is the only district in the state and indeed the nation with the obligation to either provide space for charter schools, lease buildings for them directly, or help subsidize

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<sup>1</sup> *Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies*.

<https://www.classsizematters.org/wp-content/uploads/2019/10/Charter-School-Facility-Costs-10.21.19.pdf>.

<sup>2</sup> Charter matching funds law found in New York Education Law § 2853. <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>.

<sup>3</sup> Ibid.

<sup>4</sup> Gilligo's letter can be found in Appendix E and at <https://www.classsizematters.org/wp-content/uploads/2020/04/DOE-Charter-School-letter-11.21.19.docx.pdf>.

<sup>5</sup> Goldmark's letter can be found in Appendix F and at <https://drive.google.com/file/d/11WU00slyXuDOUzINNo18RPHFiM3Xeatz/view?usp=sharing>.

<sup>6</sup> Goldmark supplied the documents as PDFs, which are posted here: [https://drive.google.com/file/d/1\\_i5y9EI7CdVwINTPqQGI3KMs-fyXvRpe/view?usp=sharing](https://drive.google.com/file/d/1_i5y9EI7CdVwINTPqQGI3KMs-fyXvRpe/view?usp=sharing). We converted them into searchable spreadsheets, posted at <https://drive.google.com/file/d/1Kpp6WHDRD7eKeWJ-oEInf0-deTzudb1O/view?usp=sharing>.

their rental payments. The cost is especially onerous given the revenue declines and school budget cuts planned by the city, as well as the fact that the Governor has now proposed eliminating all State reimbursements for these rental subsidies in his FY 2022 Executive Budget, **which would cost the city an additional estimated \$100 million in lease aid for FY22 and even more thereafter.**<sup>7</sup>

### ***DOE Denied Millions in Required Matching Funds to Public Schools for Facility Enhancements***

After analyzing the new spreadsheets provided by the DOE,<sup>8</sup> we found that when co-located charter schools spent funds on facilities enhancements of more than \$5,000, the DOE matched the correct amount to the co-located public school during the same year less than one percent of the time between FY 2014 to FY 2019 (by law, the DOE is required to provide matching funds within three months of charter school expenditures). **Only four public schools out of 812 cases received matching funds equal to the amount spent by their co-located charter schools on facility enhancements in the same year.**

We reviewed the spreadsheets to see if these public schools had received matching funds equal to the total cumulative amount spent by their co-located charter schools from FY 2014 to FY 2019. Our analysis found that not a single public school received the same cumulative amount as their co-located charter school spent on upgrades over this six-year period, **and 127 co-located public schools were owed a total of \$15.5 million.**

The new spreadsheets also included explanations in some cases as to why the DOE believed it did not need to allocate equal amounts to public schools when their co-located charter schools spent more than \$5,000 on facility upgrades. As explained in this report, many of the reasons they offered appear to be inconsistent with State law and/or the DOE regulation adopted to implement the law in Chancellor's Regulation A-190, section 1-H.<sup>9</sup> Reasons cited for not matching these funds included the cost of purchasing air conditioners, new floor coverings, and repainting rooms, though these expenditures are not exempted from triggering matching funds. In other cases, no rationale or only vague language was provided to justify why matching funds were not provided.

**However, even if one were to assume that the DOE's reasons for excluding these expenditures were correct, public schools received the correct amount of matching funds in any one year less than 5 percent of the time.** In only 40 instances out of 812 cases did public schools receive the proper amount.

We found other discrepancies and ambiguities in the new spreadsheets that warrant further explanation from the DOE, including many instances of charter school facility expenditures reported in the new

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<sup>7</sup>According to the Independent Budget Office, the city's Office of Management and Budget estimates that if the state eliminates charter lease aid, this would cost the city an additional \$85 million for FY21, as the state reimburses the city the following year, and at least \$100 million in lease aid for costs incurred in FY22. Email from Sarita Subramanian of the IBO to Leonie Haimson, Feb. 13, 2021. See Gov. Andrew Cuomo, FY 2022 Executive Budget Briefing Book, January 2021, pp. 62-63, for information about the proposed reimbursement elimination: <https://www.budget.ny.gov/pubs/archive/fy22/ex/book/briefingbook.pdf>.

<sup>8</sup> See our analysis of the new DOE spreadsheets and the amount the DOE spent in matching funds to public schools whose co-located charter schools made facility enhancements of more than \$5,000: <https://drive.google.com/file/d/1Kpp6WHDRD7eKeWJ-oEInf0-deTzudb1O/view>.

<sup>9</sup> Regulation of the Chancellor A -190: <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-190>.

spreadsheets but not the previous ones for the same year. In addition, the new data included *negative* matches made by the DOE to co-located public schools, in which large amounts of money were subtracted from the amount owed, in some instances exceeding \$100,000. No explanation is given for this practice, and the amount subtracted did not appear to correlate with DOE overspending on these schools from previous years.

We also found that in certain years, some public schools received excess matching funds and in other years, they received none of the funds owed. No pattern or logic seemed to guide the DOE's spending or the actual amount these co-located public schools received in any given year. We analyzed the data under different potential scenarios to see if a pattern to explain these disparities in funding could be ascertained but found none.

#### ***Four High-Needs Public Schools Identified as Most Deprived by the Lack of Matching Funds***

Using the new data provided by the DOE, we identified four public schools with the largest shortage of matching funds over the six-year period for a total of over \$4.1 million in missing funds: P.S. 368 in Brooklyn, Mosaic Preparatory Academy in East Harlem, and The Mickey Mantle School and The Urban Assembly School for the Performing Arts in Harlem. However, in the new spreadsheets, the DOE claimed specific reasons for exempting nearly \$4 million of those expenditures, which do not appear to comply with the law or the Chancellor's regulations. All four schools have significant facility needs as detailed in this report, according to parents and administrators as well as DOE inspection reports.

All four schools also have a large proportion of low-income students, and both P.S. 368 and The Mickey Mantle School are District 75 schools that serve seriously disabled students. Each of these schools are co-located with different branches of Success Academy charter schools.

#### ***DOE Never Disapproved Excessive Spending by Charter Schools on Facility Upgrades***

Despite the provisions in the State law and the Chancellor's Regulations which give the Chancellor specific authority to disapprove excessive charter school expenditures on facility upgrades, the letter sent by Deputy Chancellor Goldmark to the Deputy Comptroller confirmed the conclusion in our original report: that *"...no request has been denied since [New York Education Law §2853(3)(d)] was enacted in 2010."*

As a result, certain charter schools, such as KIPP and Success Academy schools, continue to spend many thousands of dollars each year on renovating nearly every one of their facilities, much of which goes unmatched by the DOE to their co-located public schools. Success Academy alone spent a total of close to \$95 million between FY 2014 and FY 2019 in renovating each of its co-located schools nearly every year.

#### ***DOE Overspent on Charter School Leases***

In our original report, we documented that the DOE directly leased twelve private buildings for fifteen charter schools, including nine charter schools that were the sole occupants of their buildings. If the DOE had asked the nine charter schools to find space on their own and the schools had gone through the appeal process described by State law, the DOE payments for lease subsidies would have been eligible

for state reimbursement, **which would have saved the city \$36 million from FY 2015 to FY 2019, and approximately \$9.5 million in FY 2019 alone.**

In her reply to the Comptroller's letter, Deputy Chancellor Goldmark did not respond directly to the question about why the DOE chose to lease buildings directly for charter schools. Instead, she wrote, *"The law provides that the DOE can offer a charter school space in a privately-owned facility at the DOE's expense and at no expense to the school."*

To see how much money the DOE sacrificed in FY 2020 by directly holding leases for these nine charter schools, we used enrollment data and the DOE Lease Report FY 2020 and **calculated an estimated loss of nearly \$9.6 million in state reimbursements in FY 2020.** The list of these charter schools and the amount lost to city taxpayers is reported in Figure 1 on page 28.

### ***DOE Overspent on Rent Subsidies***

In our earlier report, we found that the DOE's projected FY 2019 rent subsidy payments to 39 charter schools that rented space on their own **exceeded their total base rent by \$20.9 million,** in contradiction to State Education Law §3602(6)(g).<sup>10</sup> At six sites, payments exceeded base rents by over \$1 million for each site.

In response to our findings about these excessive rental subsidies, Deputy Chancellor Goldmark simply asked for a list of these schools. They are listed in Appendix A, along with the excess amount paid by the DOE for each charter school.

As we also explained in our original report, eight charter schools appear to have received a total of \$14.8 million from the DOE between FY 2015 and FY 2019 in lease subsidies, even though their charter management organization or an affiliated LLC or foundation owned their spaces. In FY 2019, this amounted to \$8.8 million in payments. In four of these schools - East Harlem Scholars, Metropolitan Lighthouse Charter School, and two Success Academy charter schools housed at Hudson Yards - the amount paid by the DOE exceeded the total base rent by \$2.66 million.

To investigate the amount that the DOE paid in lease subsidies to these eight charter schools in FY 2020, we examined new data from the DOE's 2020 report to the City Council. **Our analysis showed that base rents increased at six of the eight schools, with increases as high as 681 percent over the course of a year.** In addition, while the DOE paid \$8.8 million in FY 2019 in rental subsidies for the eight charter schools, **in FY 2020, that amount increased to more than \$11.6 million.** A list of these schools is included in Figure 2 on page 33.

**The base rent for the two Success Academy charter schools housed at Hudson Yards increased from approximately \$793,000 to over \$3.4 million** – more than quadrupling in rent – despite the fact that the space is owned by the Success Academy Charter Management Organization. Similarly, at the Beginning

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<sup>10</sup> See New York Education Law § 3602(6)(g)(c) for charter matching funds mandate: *"c. For purposes of this subdivision, the approved expenses attributable to a lease by a charter school of a privately owned site shall be the lesser of the actual rent paid under the lease or the maximum cost allowance established by the commissioner for leases aidable under subdivision six of this section."* <https://codes.findlaw.com/ny/education-law/edn-sect-3602.html>.



with Children Charter School in Brooklyn, which is housed in a building that their Foundation purchased for ten dollars in 2017, the rent nearly doubled between FY 2019 and FY 2020, causing DOE payments to increase by over 45%.

The base rent of many other charter schools increased sharply between FY 2019 and FY 2020 for unexplained reasons, resulting in an increase of 41 percent in rental subsidies by the DOE. A table showing these base rent and rental subsidy changes for charter schools that hold their own leases is included in Appendix B.

### ***Executive Budget Proposal to Eliminate State Reimbursement for Charter Schools***

**In Governor Andrew Cuomo's FY 2022 Executive Budget, the Governor proposed eliminating all State reimbursement** to New York City for the cost of charter school rental assistance in order to save State funds and to persuade the city to provide more space for charter schools within public school buildings – even though doing so would further increase overcrowding and deny public school students the opportunity for smaller classes, either for social distancing or enhanced and equitable academic support.<sup>11</sup>

Eliminating all State reimbursement **would cost the city an additional estimated \$100 million in lease aid for FY22 and even more thereafter** and would create additional financial hardship on the DOE, especially since New York City is the only district in the State required to spend any funds for charter school space.<sup>12</sup> Currently, more than half a million New York City public school students are enrolled in overcrowded buildings and the city has some of the highest school construction and rental costs in the nation. In addition, Success Academy, the fastest growing charter school network, is now recruiting students from outside the city to attend its charter schools within the city.<sup>13</sup> This means that we might be obligated to provide space to house charter school students from outside the city, either in our overcrowded public schools or in private buildings that the DOE would have to pay for, without any state reimbursement.

### ***Class Size Matters' Policy Recommendations***

The findings from this report should trigger further investigation by the New York City and State Comptroller's Offices, as well as the State Education Department. To address these issues, Class Size Matters recommends the following action items:

1. The DOE should agree to provide the amount owed to public schools from FY 2014 to FY 2019, including expenditures made by charter schools on air conditioners and on repainting and reflooring. If the DOE does not agree to do so, the State or City Comptroller should audit these expenditures.

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<sup>11</sup> Gov. Andrew Cuomo, FY 2022 Executive Budget Briefing Book, January 2021, pp. 62 - 63.  
<https://www.budget.ny.gov/pubs/archive/fy22/ex/book/briefingbook.pdf>.

<sup>12</sup> See footnote 7 above.

<sup>13</sup> See "You must be a resident of New York state to apply to any Success Academy school."  
<https://www.successacademies.org/apply>. This sentence was added to the Success website recently; with no mention of a non-NYC student eligible to apply to one of their schools in Nov. 2020 for example.



2. A list of all the amounts approved by the DOE and spent by charter schools on facility upgrades should be posted online and provided to principals and School Leadership Teams at the co-located public schools within three months of these expenditures, including any matching funds provided. If any of the charter school facility expenses over \$5,000 is excluded from DOE matching funds, the reasons should be clearly described, along with the citation in the law or regulations that allows for this exemption. According to one public school principal, school administrators currently receive **no written record** of charter school facility expenditures or the funds their school is due.
3. From this point forward, the Chancellor should use her legal authority to reject any excessive spending proposed by charter schools on facility upgrades that the DOE is not willing to match, including repeated re-painting and re-flooring projects. If a charter school goes ahead with these projects anyway, the school itself and/or its management organization should be obligated to provide full matching funds to the public school whose building it shares, as the regulations require.
4. The Chancellor should also require that charter schools rent their own buildings rather than have the DOE lease space for them, which under the current law, triggers State reimbursement of 60 percent to the DOE for those schools that win their appeals. In FY 2020, this would have yielded an estimated savings of \$9.6 million.
5. The Chancellor should ensure that the DOE never pay charter schools more in lease subsidies than their base rent, which appeared to have occurred at a loss of \$21 million in FY 2019. If this did indeed happen, the DOE should demand the charter schools reimburse those funds in future years or subtract the amounts from future payments. If DOE does not agree to do so, the City Comptroller should audit these payments.
6. The City Comptroller should analyze closely whether the rents charged to charter schools by their CMOs or allied organizations are fairly assessed on an annual basis so that the city is not forced to expend excessive amounts on rent subsidies.
7. The New York State Legislature should eliminate the DOE's obligation to cover any facilities cost where CMOs or related organizations own their charter school spaces.
8. The New York State Legislature should reject the Governor's proposal to eliminate state reimbursement for the DOE's lease subsidies to charter schools, and instead amend the law to remove any obligation on the part of the city to cover the cost of private facilities for charter schools going forward.

New York City is the only district in the State and the country with this financial obligation, and it is especially onerous to require this at a time of economic crisis and potential budget cuts to schools. In FY 2020, this legal mandate cost city and state taxpayers nearly \$108 million, an amount that is projected to increase to \$160 million by FY 2022 as charter schools continue to expand in enrollment and the per-student subsidy for rent rises over time.

## Background

In 2003, when Mayor Michael Bloomberg and Chancellor Joel Klein encouraged charter school expansion in New York City, they began to provide charter schools with space in New York City Department of Education (DOE) buildings. Soon thereafter, many administrators, teachers, and parents sounded the alarm that these charter schools were significantly more modern and well-equipped than the public schools in the same building. With the help of considerable private funding, these co-located charters had created “separate but unequal conditions” in public school buildings.<sup>14</sup>

In 2010, the New York State Legislature passed a series of amendments relating to co-located charter schools, including State Education Law §2853(3)(d) that required the DOE to provide matching funds within three months to public schools if a co-located charter school spent more than \$5,000 for facility upgrades.<sup>15</sup> In recognition of how these expenditures could trigger significant costs to the DOE, the law also gave the Chancellor the authority to approve or disapprove any facilities spending in excess of \$5,000 by charter schools. Chancellor’s Regulation A-190, § III.B, issued to enact the law, stated that if a charter school went ahead with any upgrades without the approval of the DOE, the charter school would itself be financially responsible for covering the cost of the matching funds:

*“Any charter school which proceeds with a capital improvement or facility upgrade that has not been approved by the Chancellor or his/her designee shall be responsible for funding improvements or upgrades to be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of the charter school’s improvements or upgrades. The Chancellor may also choose to exercise any other remedy available by law.”<sup>16</sup>*

In 2014, the State amended the charter law once again in State Education Law §2853(3)(e) to require the DOE to provide public school space or leased private space for all new charter schools or those expanding in grade levels. If the city refused to offer such space or the space provided was deemed unacceptable to the charter school, the school could file an appeal with the State Education Department. If the charter school prevailed on appeal, then the DOE would be required to provide the school with a substantial per student subsidy to cover the cost of renting their own space, with 60 percent of the DOE lease assistance cost reimbursed by the State. In addition, as stated by the law, the DOE should never pay more in per-student subsidies than the actual rent paid by the charter school.

Against the backdrop of these two state laws, Class Size Matters released a report in October 2019, *Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies*, to analyze

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<sup>14</sup> Leonie Haimson and Diane Ravitch, “The Education of Michael Bloomberg”, *The Nation*, April 17, 2013.

<https://www.thenation.com/article/education-michael-bloomberg/>

<sup>15</sup> New York Education Law § 2853: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>.

<sup>16</sup> Regulation of the Chancellor A -190: <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-190>.

the DOE's FY 2014 to FY 2019 spending on matching funds to public schools as well as its spending on charter school leases and lease subsidies.<sup>17</sup>

Findings from the 2019 report included:

- **The total amount of public funds spent by the DOE on matching funds for co-located public schools, charter school leases, and lease subsidies totaled \$377.5 million between FY 2014 and FY 2019.**
- While \$131.6 million was spent by the DOE on matching funds to co-located public schools between FY 2014 and FY 2019, **175 public schools lacked matching funds totaling \$22.1 million** over this six-year period, according to spreadsheets provided by the DOE. In FY 2019, only one-third of co-located public schools received their full complement of matching funds.
- In FY 2019, **the DOE paid lease subsidies to 89 charter schools at a total cost of about \$77 million**, of which the State was obligated to reimburse the city at sixty percent. **However, for 39 of those schools, the DOE appeared to make lease subsidy payments that exceeded the schools' total reported base rent by nearly \$21 million**, according to the DOE spreadsheets and in contradiction to State Education Law §3602(6)(g).<sup>18</sup>
- Between FY 2015 and FY 2019, **the DOE lost an estimated \$36 million in reimbursements from the State for charter school lease assistance** by directly renting buildings for fifteen charter schools in twelve buildings. By holding the leases for these buildings instead of having the charter schools rent the space themselves, the DOE made itself ineligible for a sixty percent State reimbursement. **In FY 2019 alone, this loss amounted to \$9.5 million.**
- **Eight charter schools had received a total of \$14.8 million** from the DOE between FY 2015 and FY 2019 in lease subsidies, even though their charter management organization, an affiliated LLC or foundation owned the space.

Prior to the release of our 2019 report, we briefed members of the Chancellor's Office on the report's findings, and in November 2019, New York City First Deputy Comptroller Alaina Gilligo sent a letter to Chancellor Richard Carranza asking him to respond to the claims made within the report.<sup>19</sup>

The Comptroller's Office received a response in January 2020 from Deputy Chancellor Karin Goldmark<sup>20</sup> that included new and different spreadsheets on the DOE's spending on matching funds to co-located public schools and charter school facilities.<sup>21</sup> We submitted a Freedom of Information Law request to

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<sup>17</sup> *Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies.*

<https://www.classsizematters.org/wp-content/uploads/2019/10/Charter-School-Facility-Costs-10.21.19.pdf>.

<sup>18</sup> New York Education Law § 3602: <https://codes.findlaw.com/ny/education-law/edn-sect-3602.html>.

<sup>19</sup> Gilligo's letter can be found in Appendix E and at <https://www.classsizematters.org/wp-content/uploads/2020/04/DOE-Charter-School-letter-11.21.19.docx.pdf>.

<sup>20</sup> Goldmark's letter can be found in Appendix F and at <https://drive.google.com/file/d/11WU00slyXuDOUzINNo18RPHFiM3Xeatz/view?usp=sharing>.

<sup>21</sup> Goldmark supplied the documents as PDFs, which are posted here: [https://drive.google.com/file/d/1\\_i5y9EI7CdVwINTPqQGI3KMs-fyXvRpe/view?usp=sharing](https://drive.google.com/file/d/1_i5y9EI7CdVwINTPqQGI3KMs-fyXvRpe/view?usp=sharing). We converted them

the Comptroller's office to obtain the DOE's response to their letter. **In the letter, Deputy Chancellor Goldmark confirmed many of the findings from the previous report, though in some instances, she avoided answering questions directly.**

With the new DOE spreadsheets provided, purporting to show more detail and the actual amount the DOE allocated for matching funds for public schools, we undertook further analysis of the DOE's charter school facilities funding. The new spreadsheets augmented the original data we used for our 2019 report, which included FOIL data from the DOE; data the New York City Council had received from the DOE; data from the New York City Comptroller's Checkbook NYC website; audited financial statements of individual charter schools; charter renewal reports submitted to the SUNY Charter School Institute; and real estate transaction data posted by the city.

This report further investigates the DOE's underspending on matching funds to public schools and overspending on charter school lease assistance, in apparent violations to the State laws outlined above.

## Discrepancies in Matching Funds Provided to Co-located Public Schools

### *No Chancellors have exercised their right to restrict excessive charter school spending on facility upgrades*

Despite the provisions in State Education Law §2853(3)(d) and the Chancellor's Regulation A-190 that provides the Chancellor with the authority to disapprove excessive charter school facility spending in co-located buildings, we found no evidence that any Chancellor had ever rejected a charter school's proposal to spend funds in excess of \$5,000 to upgrade their facilities.

As documented in our earlier report, Success Academy renovates 96 percent of all its schools every year at a cost averaging approximately \$273,000 per school annually between FY 2014 and FY 2019. This spending by Success Academy generated \$78.8 million in matching fund obligations for the DOE, of which approximately \$16 million in matching funds were **not** provided to their co-located public schools. While KIPP Charter Management Organization spent an average of about \$105,000 per co-located charter school every year, the DOE did not provide \$2.2 million in cumulative matching funds to their co-located public schools between FY 2014 to FY 2019.

First Deputy Comptroller Gilligo's letter to Chancellor Carranza requested the following documents:

- a. A complete list of all co-located charter school requests for capital improvements or facility upgrades since May 2010, indicating which, if any, were not approved by the DOE, and the reasons for the denial.*
- b. For all projects that were not approved, please indicate if the project proceeded and if the charter school provided matching funding to co-located schools."*

In response, Deputy Chancellor Goldmark provided new and different spreadsheets that purported to show all co-located charter school spending on facility enhancements from FY 2014 to FY 2019.

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into searchable spreadsheets, posted at <https://drive.google.com/file/d/1Kpp6WHDRD7eKeWJ-oEInf0-deTzudb1O/view?usp=sharing>.

Goldmark's response noted, "Please see attached spreadsheet, which includes all Fiscal Year (FY) 2014-2019 co-located charter school requests; **no request has been denied since the law was enacted in 2010** [emphasis added]." This statement confirmed the conclusion in our previous report that no Chancellor had ever denied any spending by charter schools on renovations.

Deputy Chancellor Goldmark also added in her response,

*"Please note, per State Education Law §2853(3)(d), it is the DOE, not the charter schools, that are required to provide matching funds for capital projects."*

However, as detailed in our previous report, the wording in the State law was ambiguous on whether the DOE or the charter school making facility improvements would provide the matching funds. As noted by the New York City Charter School Center at the time:

*"The law does not specify the source of funds. So far, the NYC Department of Education has indicated that it will seek to provide funds for this mandate—and has provided quick approval and matching funds for the vast majority of projects proposed for this summer. The Charter Center will continue to advocate for City funding, and against turning this provision into a one-sided and unfunded mandate for charter schools."*<sup>22</sup>

With the DOE's refusal to disapprove any co-located charter school expenditures, charter schools co-located with public schools spent a total of \$81 million for facility upgrades between FY 2014 and FY 2019. For a searchable list of charter school expenditures and the amount matched by the DOE for co-located public schools, see <https://drive.google.com/file/d/1Kpp6WHDRD7eKeWJ-oEInf0-deTzudb1O/view?usp=sharing>.

### *Further confirmation of DOE underspending on matching funds to co-located public schools*

The new data provided by the DOE differed in significant ways from the original data we had received via FOIL and from the City Council website. Not only did the new data include more instances of charter school spending on facility enhancements between FY 2014 and FY 2019, the spreadsheet also included the actual matched amount the DOE provided to co-located public schools, under the heading of "Total Spent DOE Matching." The earlier spreadsheets had different columns, called "DOE Match Obligations" and "Total DOE Costs," which we had wrongly assumed reflected actual expenditures by the DOE.

After analyzing the new data provided by the DOE, we found that of the 812 instances where co-located public schools were owed matching funds between FY 2014 to FY 2019, the correct amount of funds were provided to the public schools in the same year, as the law prescribes, **less than one percent of the time**. In fact, during this time period, only four public schools received equal matching funds in the same year that their co-located charter schools spent on facility enhancements.

In some years, some public schools received excess funds for facility upgrades, and in other years, less than or none of the funds owed to them. Yet over the six-year period, **127 public schools lacked a total**

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<sup>22</sup> NYC Charter School Center, "Changes to the State Charter Schools Law: A Guide for NYC Charter Schools," UPDATED September 29, 2010. [https://nyccharterschools.org/wp-content/uploads/2020/10/guide\\_to\\_new\\_charter\\_law\\_updated\\_092910\\_0.pdf](https://nyccharterschools.org/wp-content/uploads/2020/10/guide_to_new_charter_law_updated_092910_0.pdf).

**of \$15.5 million in matching funds and another 118 public schools received \$21.9 million in net excess funds.**

No pattern or logic seemed to guide the DOE's spending or the actual amount the public schools received in any given year. We analyzed the data under different potential scenarios to see if a pattern to explain these disparities in funding could be ascertained. We considered the possibility that the DOE might have provided excess funds in cases where schools had lacked matching funds in previous years or withheld funds if they had earlier received excess amounts, even though the law states that funds must be granted within three months of the charter school's upgrades. However, the data did not show this to be the case. **Not a single public school received the same cumulative amount as its co-located charter school spent from FY 2014 to FY 2019.**

We also looked at the possibility that the matching funds would average out if one assumed the DOE's reasons for excluding certain charter school expenditures were correct. However, even after taking into account these questionable exclusions, only one public school (P.S. 176 in Cambria Heights) received the amount it should have if the funds were totaled over the six-year period, and 80 co-located public schools would still be owed a total of \$4.3 million.

Because of the apparently random nature of these DOE matching funds, we suspect that the new data provided by the DOE may in fact be reporting all the funds spent on renovating these public schools in the ordinary course of events, with no relation to their actual obligations under the law to provide matching funds. Moreover, as this report will explore further below, the reasons stated by the DOE for not having to match spending by charter schools did not, in most instances, appear to comply with State law or the Chancellor's Regulation A-190.

The new spreadsheets also included two new columns, titled "Non-Match Item Adjustment," in which the DOE gave ostensible reasons for excluding matching funds for specific charter school expenditures, as well as a column labeled "Total Non Match Items," which included the dollar amount that the DOE claimed did not have to be matched due to these exclusions. Many of the explanations the DOE offered for not providing matching funds to co-located public schools contradicted the State law and/or the Chancellor's Regulation A-190 (see more in the "Expenditures that the DOE wrongly excluded from requiring matching funds" section below). However, **even if one were to assume the DOE reasons for not providing matching funds are correct, public schools still received the correct amount of matching funds in any one year less than 5 percent of the time.**

### *State law requirements for matching funds to co-located public schools*

The Chancellor's Regulation A-190, § I.H, originally issued on October 7, 2010 to enact State Education Law §2853(3)(d), defines "capital improvements" or "facility upgrades" whose cost require matching funds as follows:

*A "capital improvement or facility upgrade" shall mean an addition or alteration to an existing building, which is permanent and is intended to increase a building's value, beauty, or utility, or to adapt the building for a new purpose. Such addition or alteration becomes part of the existing building, or is intended to be permanently affixed to the existing building so that removal would cause material damage to the building or article itself. In addition to*



*the foregoing, the following is a non-exhaustive list of additions or alterations that shall constitute facility upgrades: painting; the replacement of floor covering(s); the installation of electrical or computer network wiring; and the addition of window unit air conditioners. The Chancellor retains final authority to determine whether a given proposed project qualifies as a facility upgrade.”*<sup>23</sup>

However, as the New York City Charter School Center pointed out in 2010:

*There are clearly some things which everyone agrees are upgrades, such as painting, putting in air conditioning, wiring, etc. And there are clearly things that aren’t—buying new books and instructional materials. There is, however, a gray area around instructional fixtures such as smart boards. The Charter Center will advocate with the NYC Department of Education to have this provision interpreted reasonably.*<sup>24</sup>

In an email to Class Size Matters in February 2019, Kaitlyn O’Hagan, former City Council senior financial analyst, identified certain charter school expenditures that, according to the DOE, did not qualify for matching funds. According to O’Hagan’s email, the list, while not comprehensive, included:

- Projects less than \$5,000
- Equipment purchases, air conditioning units, computers, SMART boards, etc.
- Shared space enhancements
- Re-painting/re-carpeting areas previously upgraded within 5 years<sup>25</sup>

However, aside from the cost of projects totaling less than \$5,000, these exceptions are not mentioned in the State law or the Chancellor’s Regulation. Indeed, some directly contradict the Chancellor’s Regulation, as in the case of air conditioners, re-painting, and floor coverings, all of which are specifically cited as requiring matching funds.<sup>26</sup> The purchase of computers and SMART boards are also not excluded in the law or the Chancellor’s Regulation.

### *Expenditures that the DOE wrongly excluded from requiring matching funds*

Most of the exceptions for charter school expenditures that the DOE excluded from requiring matching funds in the new spreadsheets fell into four categories: 1) air conditioner purchases; 2) re-painting or re-

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<sup>23</sup> An update to these regulations was issued on August 1, 2019; no changes were made to the sections regarding capital improvements and facility upgrades: <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-190>; a previous version of the Chancellor’s Regulation from 2010 can be found at <https://web.archive.org/web/20120123050949/http://docs.nycenet.edu/docushare/dsweb/Get/Document-341/A-190%20%20FINAL.pdf>.

<sup>24</sup> NYC Charter School Center, “Changes to the State Charter Schools Law: A Guide for NYC Charter Schools.”

<sup>25</sup> Email from Kaitlyn O’Hagan to Leonie Haimson, February 21, 2019.

<sup>26</sup> The exclusion of re-painting or re-carpeting costs from matching DOE funds if a charter school has re-painted or re-carpeted within five years is not mentioned in the State law or the Chancellor’s Regulation. It is also not clear from Kaitlyn O’Hagan’s email if the timing of upgrades refers to renovations done to the charter school or the co-located public schools. Both appear to be cited in the spreadsheets, but this remains unclear to us.



flooring projects; 3) “scope of work reduction,” which was undefined; or 4) no explanation given. Below, a summary of these exceptions provides additional details on these DOE cited exclusions.<sup>27</sup>

- **A/C units** – Air conditioners are specifically called out in the Chancellor’s Regulation as a “capital improvement or facility upgrade” that triggers matching funds to co-located public schools.<sup>28</sup> In the new spreadsheets, the DOE excluded 157 instances of charter school purchases of air conditioners. At an average cost of \$1,618 per air conditioning unit (estimated by disaggregated costs provided by the DOE), **the total amount wrongly excluded from DOE matching funds totaled at least \$1.9 million between FY 2014 and 2019.**
- **Re-painting/re-flooring projects** – The DOE cited 108 projects whose cost they did not need to match because they related to the charter school’s spending on re-painting or re-flooring. While the Chancellor’s regulations state that all re-painting and re-flooring projects require matching funds, the DOE informed the City Council that it would only match these expenditures if the charter school had not repainted or refloored the same spaces within the last five years, even though this exception is not mentioned in the State law or the Chancellor’s Regulation. In addition, 60 out of the 108 cited re-painting and re-flooring projects did not include information on when, or if, a previous painting or flooring had been done. **The total amount not matched by the DOE on re-painting or re-flooring projects cost co-located public schools more than \$2 million between FY 2014 and 2019.**
- **Other reasons for non-match of funds** – One hundred and thirty-five projects were excluded from matching funds for a variety of reasons, including:
  - **Reasonable and consistent exclusion based on Chancellor’s Regulation:** 88 projects were excluded for reasons that were reasonable and consistent with either the Chancellor’s regulations, and/or exceptions described by O’Hagan’s email, such as 25 projects that included charter school spending on enhancing shared spaces within the school.
  - **Purchase of equipment (not including air conditioners):** 35 projects were excluded for vague reasons, such as “purchase of equipment.” No equipment is specifically excluded in the State law, and some “equipment,” such as air conditioners, are specifically listed in the Chancellor’s Regulation as requiring matching funds. Depending on the definition of “equipment” and what equipment was specifically purchased by co-located charter schools, the associated co-located public schools may be owed as much as \$303,000.
  - **Vague wording or rationales that appear to contradict the Chancellor’s Regulation:** 47 projects were excluded for reasons that are vague or appear to contradict the

<sup>27</sup> It should be noted that the cost of certain expenditures that were not matched for what we believe to be questionable reasons were not always disaggregated, so we were often only able to calculate the cost of those projects that listed a single reason for exclusion and therefore represent minimum amounts. The actual amounts rejected for these reasons are likely much higher.

<sup>28</sup> Regulation of the Chancellor A -190.

Chancellor's Regulation. The total not matched in this category equals at least \$2 million between FY 2014 and FY 2019. Examples include:

- Eighteen projects, totaling approximately \$850,000, excluded for "scope of work reduction," a term that is neither defined nor explained in the new DOE data.
- Thirteen projects rejected due to the purchase of lockers. However, locker purchases are not mentioned as exceptions in either the law or the Chancellor's Regulation, and unequivocally fall under the State law's definition for "capital improvement or facility upgrade" that enhances a building's utility. Inclusion of these projects would have added at least \$153,000 to the amount owed to co-located public schools.
- Two projects, totaling \$33,400, were rejected for reasons described as "purchase of non-match items," without further explanation.
- At least one project was rejected involving the installation of cabling and wireless access points, even though these expenditures are specifically included in the Chancellor's regulations as requiring matching funds. The cost of this wiring is unknown due to its inclusion among other non-match items without disaggregating the amount.
- Thirteen projects, totaling approximately \$976,000, were rejected without any explanation provided.

For any facility expenditures deemed as unnecessary or excessive by the DOE, such as repeated re-painting of walls and re-carpeting of floors, the Chancellor has the power to withhold approval for these renovations. If the charter school goes ahead with the upgrades anyway, the Chancellor, as outlined in the regulations, has the authority to require the charter school to cover the cost of matching funds to co-located public schools. However, no Chancellor has ever rejected facility expenditure requests from co-located charter schools, as Deputy Chancellor Goldmark confirmed in her letter, resulting in high DOE costs in matching funds to co-located public schools and low fidelity to honoring this commitment to provide the correct amount of matching funds.

### *Other discrepancies in DOE data*

We found other inexplicable differences in comparing the new spreadsheets with the previous ones, including:

- **Charter school facility expenditures reported in the new data but not the previous spreadsheets:** For example, after spot checking the first ten charter schools listed for FY 2019 on the new spreadsheets, we found that four of these charter schools were reported as making

expenditures totaling over \$135,000, yet none of these expenditures were reported on the previous spreadsheet posted on the City Council website.<sup>29</sup>

- **Charter school expenditure amounts that differ between new and old DOE-provided spreadsheets:** In one example, an earlier spreadsheet reported that Harlem Prep Charter spent over \$36,000 in FY 2016 on facility upgrades, all of which the DOE noted at the time they were obligated to match. However, the new spreadsheet reports that no money was spent by the charter school that year or any other year on facility enhancements, and no funds were ever provided to its co-located public school, P.S. 38 Roberto Clemente, a high-needs school with an Economic Need Index<sup>30</sup> of ninety-seven percent and a student population where thirty-eight percent have disabilities.<sup>31</sup>

### *Public schools most deprived of matching funds*

Our 2019 report singled out three public schools with the distinction of receiving the least amount in matching funds owed between FY 2014 and FY 2019: P.S. 368 in Brooklyn, Mosaic Preparatory Academy in East Harlem, and The Mickey Mantle School in Manhattan. All three schools are co-located with Success Academy charter schools, and the analysis in our 2019 report found that the schools lacked \$3.6 million in matching DOE funds.

With the new data provided by the DOE, we reanalyzed and recalculated the matching funds provided to these three schools, identified discrepancies between the two sets of data, and discovered a fourth school, The Urban Assembly School for the Performing Arts, that lacked over three-quarters of a million dollars in matching DOE funds. Below are more details for each of these schools.

#### **P.S. 368 in Brooklyn**

P.S. 368 in Brooklyn is a District 75 school serving K-12<sup>th</sup> graders with autism and emotional disturbances at two locations in Brooklyn in Districts 14 and 15. P.S. 368 serves a much needier population than its co-located charter schools, Success Academy Bed-Stuy 1 and Success Academy Cobble Hill. While P.S. 368 has an Economic Need Index of ninety-four percent and all its students are severely disabled, Success Academy Bed-Stuy 1 has an Economic Need Index of seventy percent and enrolls eighteen percent of

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<sup>29</sup> "FY 2019 Charter Facility Upgrade/Capital Improvement Requests Charter Matching TRACKER." New York City Council. <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/09/Department-of-Education-Charter-Matching-Report-1-of-2.pdf>.

<sup>30</sup> A school's Economic Need Index is the average of its students' Economic Need Values. A student's Economic Need Value is estimated from the percentage of families in the student's census tract whose income is below the poverty level, combined with data showing whether the family is eligible for public assistance; lived in temporary housing over the past four years; and/or, if the student is in high school, has a home language other than English and entered the NYC school system for the first time within the last four years. <https://data.cccnewyork.org/data/bar/1371/student-economic-need-index#1371/a/1/1622/99>.

<sup>31</sup> Information on P.S. 38 Roberto Clemente retrieved from [https://tools.nycenet.edu/dashboard/#dbn=04M038&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=04M038&report_type=EMS&view=City); Information on Harlem Prep Charter School retrieved from [https://tools.nycenet.edu/dashboard/#dbn=84M708&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=84M708&report_type=EMS&view=City).

students with disabilities. Success Academy Cobble Hill has an Economic Need Index of fifty-two percent and enrolls only fourteen percent of students with disabilities.<sup>32</sup>

In our earlier report, we found that P.S. 368 was missing \$1.2 million in matching funds between FY 2014 to FY 2019. After recalculating using the new data, we found that the school was missing a net total of over \$984,000 in matching funds, the most of any of the 245 co-located public schools in the new spreadsheets.

The branch of P.S. 368 co-located with Success Academy Bed-Stuy 1 was missing approximately \$398,000 and the branch co-located with Success Academy Cobble Hill was missing approximately \$586,000.

**However, the DOE rationalized the exemption of over \$1.07 million in the co-located charter school facility expenses from requiring matching funds.** These exemptions included the charter schools' acquisition of 49 air conditioning units, purchased and installed at an estimated cost of approximately \$61,000, as well as an additional unspecified number of air conditioning units purchased in FY 2017. In addition, the DOE exempted more than \$50,000 in expenditures for repainting and reflooring, and more than \$608,000 with no explanations given.

The matching fund exemptions for P.S. 368 are detailed below.

Expenditure Year	Exempted Expenditures	Total Amount Spent by Charter School and Not Matched by DOE
FY 2019	<ul style="list-style-type: none"> <li>Cost of repainting second, third, and fourth floor assigned space previously fully renovated in FY17.</li> <li>Cost of electrical upgrade in the cafeteria.</li> </ul>	\$29,920.00
FY 2019	<ul style="list-style-type: none"> <li>Cost of repainting one classroom and all door trims and retiling in three classrooms.</li> </ul>	\$37,901.64
FY 2018	<ul style="list-style-type: none"> <li>No explanation given.</li> </ul>	\$608,182.27
FY 2018	<ul style="list-style-type: none"> <li>Scope of work reduction.</li> <li>Cost of repainting of existing space.</li> </ul>	\$89,996.60
FY 2017	<ul style="list-style-type: none"> <li>Cost of repainting rooms and outside door trims.</li> <li>Purchase of A/C units.</li> </ul>	\$144,950.00
FY 2017	<ul style="list-style-type: none"> <li>Cost of repainting room colors and outside door trims of existing space, and retiling.</li> </ul>	\$59,047.85

<sup>32</sup> Information on P.S. 368 retrieved from

[https://tools.nycenet.edu/dashboard/#dbn=75K368&report\\_type=D75&view=City](https://tools.nycenet.edu/dashboard/#dbn=75K368&report_type=D75&view=City); information on Success Academy Bed-Stuy 1 retrieved from

[https://tools.nycenet.edu/dashboard/#dbn=84K367&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=84K367&report_type=EMS&view=City); information on Success Academy Cobble Hill retrieved from

[https://tools.nycenet.edu/dashboard/#dbn=84K129&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=84K129&report_type=EMS&view=City).

Expenditure Year	Exempted Expenditures	Total Amount Spent by Charter School and Not Matched by DOE
	<ul style="list-style-type: none"> <li>Purchase of ten A/C units.</li> </ul>	
FY 2016	<ul style="list-style-type: none"> <li>Purchase of twenty-one A/C units.</li> </ul>	\$15,500.00
FY 2016	<ul style="list-style-type: none"> <li>Purchase of six A/C units.</li> <li>Cost of outlet installation in the cafeteria.</li> </ul>	\$15,300.00
FY 2015	<ul style="list-style-type: none"> <li>Purchase of equipment.</li> </ul>	\$2,522.00
FY 2015	<ul style="list-style-type: none"> <li>Purchase of five A/C units.</li> <li>Cost of shared space upgrade and staff bathrooms.</li> </ul>	\$59,750.00
FY 2014	<ul style="list-style-type: none"> <li>Purchase of seven A/C units,</li> </ul>	\$11,760.00
	<b>TOTAL</b>	<b>\$1,074,830.36</b>

The only specific expenditures that seem reasonable to exempt under the State law and Chancellor's Regulation are the cost of the electrical upgrades in the cafeteria – that is, if the cafeteria is shared between all the co-located schools. The expense of “shared space upgrade and staff bathrooms” may also be proper to exempt, although in general, Success Academy charter schools are known for refusing to share their bathrooms with co-located public schools.

From the priority list for renovations collected from principals and sent to the School Construction Authority by the D75 Citywide Council, it was noted that the branch of P.S. 368 located in District 14 needs central air-conditioning in the cafeteria, gym, and auditorium; an upgraded computer lab and security system; plumbing and a sink in the nurse's office; and better Wi-Fi.<sup>33</sup> In addition, the DOE ventilation report indicates that there are no ventilators in any of the classrooms.<sup>34</sup> The other branch of P.S. 368 in District 15 also lacks ventilators in several classrooms and has broken seats in the auditorium, among other issues, according to the Building Condition Assessment Survey.<sup>35</sup>

### Mosaic Preparatory Academy in East Harlem

Mosaic Preparatory Academy in East Harlem is a zoned K – 5 elementary school serving students who live in a neighborhood that includes three large public housing complexes. Located in District 4, Mosaic Preparatory Academy has an Economic Need Index of ninety-five percent and serves thirty-nine percent of students with disabilities. Its co-located charter, Success Academy Harlem 3 (now called Success

<sup>33</sup> Community Education Council request form, 2020-2021, sent by Amy Ming Tsai, D75 Council to Leonie Haimson, March 12, 2021.

<sup>34</sup> Ventilation report at <https://survey.nycsca.org/PASS/Pages/PassPostingReport.aspx?bldg=K033>.

<sup>35</sup> See the Building Condition Assessment Survey at [https://survey.nycsca.org/bcas/enc\\_rpts/K293\\_A.pdf](https://survey.nycsca.org/bcas/enc_rpts/K293_A.pdf) and the Ventilation report at <https://survey.nycsca.org/PASS/Pages/PassPostingReport.aspx?bldg=K293>.

Academy Harlem East), has an Economic Need Index of seventy-nine percent and serves twenty-two percent of students with disabilities.<sup>36</sup>

In our original report, we estimated \$913,000 in missing matching funds for Mosaic Preparatory. After reviewing the new data, we found that the school was still lacking over \$929,000 in matching funds between FY 2014 to FY 2019, the second highest amount in missing funds of any of the 245 co-located public schools. Even if one were to accept the DOE's explanations on why certain expenditures were exempted according to the new spreadsheets, Mosaic Preparatory would still be missing over \$16,000 in matching funds. Yet, like P.S. 368, many of the reasons cited by the DOE are questionable.<sup>37</sup>

Details of the excluded expenditures by Success Academy Harlem 3 are listed below, including hundreds of thousands of dollars spent on repainting, re-carpeting, and buying and installing air conditioners, along with "scope of work reduction," a phrase not defined anywhere in the DOE spreadsheet.

Expenditure Year	Exempted Expenditures	Total Amount Spent by Charter School and Not Matched by DOE
FY 2019	<ul style="list-style-type: none"> <li>Cost of repainting third and fifth floor previously assigned space.</li> <li>Purchase of five A/C units.</li> <li>Cost of retiling/re-carpeting existing space previously fully renovated in FY14.</li> </ul>	\$662,315.17
FY 2018	<ul style="list-style-type: none"> <li>Cost of repainting and re-carpeting.</li> <li>Purchase of three 220v/20amp in the kitchen in shared space.</li> <li>Scope of work reduction.</li> </ul>	\$116,218.04
FY 2017	<ul style="list-style-type: none"> <li>Cost of repainting outside door trims.</li> <li>Purchase of ten A/C units.</li> <li>Cost of retiling in rooms 303 &amp; 304 and re-carpeting in rooms 501 - 504.</li> </ul>	\$89,495.82
FY 2016	<ul style="list-style-type: none"> <li>Purchase of ten A/C units and outlet installation in the cafeteria.</li> </ul>	\$25,400.00
FY 2015	<ul style="list-style-type: none"> <li>Purchase of eight A/C units.</li> </ul>	\$15,600.00
FY 2014	<ul style="list-style-type: none"> <li>Purchase of four A/C units.</li> </ul>	\$4,200.00

<sup>36</sup> Information on Mosaic Preparatory Academy retrieved from [https://tools.nycenet.edu/dashboard/#dbn=04M375&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=04M375&report_type=EMS&view=City); information on SA Harlem 3 retrieved from [https://tools.nycenet.edu/dashboard/#dbn=84M385&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=84M385&report_type=EMS&view=City).

<sup>37</sup> "Separate and unequal: The charter school pedestal the public can't reach," MSNBC, updated April 25, 2014. <https://www.msnbc.com/msnbc/charter-school-debate-new-york-msna307996>.

Expenditure Year	Exempted Expenditures	Total Amount Spent by Charter School and Not Matched by DOE
	<b>TOTAL</b>	<b>\$913,229.03</b>

A parent and PTA officer at Mosaic Preparatory Academy, Shaheem Lewis, reports that for years, the school has asked the School Construction Authority to fix the seats in the auditorium that are falling apart and to repair the floors of the stage and the gym which are dangerously worn. In addition, he reports that most of the classrooms lack air-conditioning.<sup>38</sup>

### The Urban Assembly School for the Performing Arts in Manhattan

The school with the third largest discrepancy in matching funds is The Urban Assembly School for the Performing Arts, a high school in District 5 in Harlem. Sharing a building with Success Academy Harlem 2 (now called Success Academy Northwest), this public high school serves students with an Economic Need Index of eighty-seven percent, while twenty-four percent of students have disabilities, and seven percent of students are English Language Learners.<sup>39</sup> In contrast, Success Academy Harlem 2 enrolls students with an Economic Need Index of seventy-eight percent, eighteen percent with disabilities, and three percent who are English Language Learners.<sup>40</sup>

From FY 2014 to FY 2019, the DOE failed to provide over \$755,000 in matching funds to The Urban Assembly School for the Performing Arts. Even if the exemptions cited by the DOE were correct, the school would still be missing approximately \$304,000. Below are the reasons for the exemptions cited by the DOE. Again, repainting, reflooring, and the purchase of air conditioners are all excluded, as well as the unexplained “scope of work reduction.” None of these reasons appear to align with the State law or Chancellor’s Regulation.

Expenditure Year	Exempted Expenditure Description	Total Amount Spent by Charter School and Not Matched by DOE
FY 2019	<ul style="list-style-type: none"> <li>Cost of retiling and repainting classrooms, door trims, and hallways previously fully renovated in FY15.</li> <li>Purchase of five A/C units.</li> </ul>	\$52,750.94
FY 2018	<ul style="list-style-type: none"> <li>Scope of work reduction.</li> </ul>	\$335,514.20
FY 2017	<ul style="list-style-type: none"> <li>Purchase of five A/C units.</li> </ul>	\$45,810.00

<sup>38</sup> Shaheem Lewis conversation with Leonie Haimson, March 11, 2021.

<sup>39</sup> Information on Urban Assembly School for the Performing Arts retrieved from [https://tools.nycenet.edu/dashboard/#dbn=05M369&report\\_type=HS&view=City](https://tools.nycenet.edu/dashboard/#dbn=05M369&report_type=HS&view=City).

<sup>40</sup> Information on Success Academy Harlem 2 retrieved from [https://tools.nycenet.edu/dashboard/#dbn=84M384&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=84M384&report_type=EMS&view=City).



Expenditure Year	Exempted Expenditure Description	Total Amount Spent by Charter School and Not Matched by DOE
	<ul style="list-style-type: none"> <li>Cost of repainting existing space, outside door trims, third floor hallways, and classrooms.</li> </ul>	
FY 2016	<ul style="list-style-type: none"> <li>Purchase of eight A/C units.</li> </ul>	\$17,000.00
	<b>TOTAL</b>	<b>\$451,075.14</b>

The DOE Building Condition Assessment Survey notes that while inspectors were unable to access much of the school's interior, the principal's questionnaire specified that the "Auditorium stage and sound system are old and deteriorated and needs [sic] to be upgraded,"<sup>41</sup> which are especially important for a performing arts school.

A well-placed source at the school also reported that while they requested that their matching funds for FY 2020 be spent on purchasing Chromebooks for students, these devices have not yet been provided. According to the DOE, the Office of Management Budget still has not released the charter matching funds from last year. Meanwhile, the students at the school continue to make do with old laptops and DOE-borrowed iPads.

### The Mickey Mantle School in Manhattan

The Mickey Mantle School is a District 75 school serving students with significant disabilities, including autism, emotional/behavioral difficulties, and significant language and communication disorders, and is housed in two locations in Districts 4 and 5 in Manhattan. One branch is co-located with Success Academy Harlem 1, and the other with Mosaic Preparatory Academy and Success Academy Harlem 3 (now called Success Academy Harlem East). Both branches of the school serve an extremely high-needs population – 100 percent of its students have disabilities and the school's Economic Need Index is ninety-four percent. In comparison, Success Academy Harlem 1 has an Economic Need Index of seventy-eight percent and fourteen percent of its students have disabilities, and Success Academy Harlem 3 has an Economic Need Index of seventy-nine percent and twenty-two percent of its students have disabilities.<sup>42</sup>

According to our original analysis, The Mickey Mantle School was missing \$1.5 million in matched funds between FY 2014 and 2019, triggered by extensive and repeated facility upgrades undertaken by the two co-located Success Academy charter schools over that period. There appeared to be little to no

<sup>41</sup> Building Condition Assessment Survey 2019-2020 for I.S. 172, which includes The Urban Assembly School for The Performing Arts, Success Academy Charter School Harlem 2, and I.S. 286.  
[https://survey.nycsca.org/bcas/enc\\_rpts/M043\\_A.pdf](https://survey.nycsca.org/bcas/enc_rpts/M043_A.pdf).

<sup>42</sup> Information on The Mickey Mantle School retrieved from [https://tools.nycenet.edu/dashboard/#dbn=75M811&report\\_type=D75&view=City](https://tools.nycenet.edu/dashboard/#dbn=75M811&report_type=D75&view=City); information on SA Harlem 1 retrieved from [https://tools.nycenet.edu/dashboard/#dbn=84M351&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=84M351&report_type=EMS&view=City); information on SA Harlem 3 retrieved from [https://tools.nycenet.edu/dashboard/#dbn=84M385&report\\_type=EMS&view=City](https://tools.nycenet.edu/dashboard/#dbn=84M385&report_type=EMS&view=City).

relationship between the DOE match obligation amount cited in the earlier DOE spreadsheets and the amount the DOE actually provided to The Mickey Mantle School in any given year.

The new DOE spreadsheets also show little relationship between the amount spent by the DOE on renovations at The Mickey Mantle School and the amount spent by the two co-located Success Academy charter schools. The branch of the school co-located with Success Academy Harlem 1 actually had a surplus of funds expended by the DOE on facility upgrades over this six-year period, compared with the amount spent by the charter school, whereas the branch co-located with Success Academy Harlem 3 lacked over \$1.5 million over the same time frame.

If the DOE exclusions to matching funds are assumed correct, both public schools received surplus funds on renovation. As demonstrated below, though, many of the exemptions cited by the DOE do not align with the law or the Chancellor's regulations. Of the \$1.5 million in charter school expenditures listed below that were not matched by the DOE at the two locations, the only exemption that appears to align with the law or the regulations was an unspecified amount spent on the purchase of three 220v/20amp for a kitchen at Success Academy Harlem 3 in FY 2018, assuming that the kitchen is shared with The Mickey Mantle School. All other expenditures made by these charter schools in excess of \$5,000 would seem to require matching funds.

Expenditure Year	Exempted Expenditure Description	Total Amount Spent by Charter School and Not Matched by DOE
FY 2019	<ul style="list-style-type: none"> <li>Cost of repainting third and fifth floor previously assigned space.</li> <li>Purchase of five A/C units.</li> <li>Cost of retiling/re-carpeting existing space previously fully renovated in FY14.</li> </ul>	\$622,315.17
FY 2019	<ul style="list-style-type: none"> <li>Purchase of four A/C units.</li> </ul>	\$12,000.00
FY 2018	<ul style="list-style-type: none"> <li>Cost of repainting and re-carpeting.</li> <li>Purchase of three 220v/20amp in the kitchen in shared space.</li> <li>Scope of work reduction.</li> </ul>	\$116,218.04
FY 2018	<ul style="list-style-type: none"> <li>Scope of work reduction.</li> </ul>	\$13,355.00
FY 2017	<ul style="list-style-type: none"> <li>Cost of repainting outside door trims.</li> <li>Purchase of ten A/C units.</li> <li>Cost of retiling in rooms 303 &amp; 304 and re-carpeting in rooms 501 - 504.</li> </ul>	\$89,495.82
FY 2017	<ul style="list-style-type: none"> <li>Scope of work reduction.</li> <li>Purchase of thirty-six A/C units.</li> <li>Cost of repainting existing space, outside door trims, and hallways, and retiling.</li> </ul>	\$577,466.92

Expenditure Year	Exempted Expenditure Description	Total Amount Spent by Charter School and Not Matched by DOE
FY 2016	<ul style="list-style-type: none"> <li>Purchase of ten A/C units and outlet installation in the cafeteria.</li> </ul>	\$25,400.00
FY 2016	<ul style="list-style-type: none"> <li>Purchase of ten A/C units.</li> </ul>	\$25,000.00
FY 2015	<ul style="list-style-type: none"> <li>Purchase of eight A/C units.</li> </ul>	\$15,600.00
FY 2014	<ul style="list-style-type: none"> <li>Purchase of four A/C units.</li> </ul>	\$4,200.00
	<b>TOTAL</b>	<b>\$1,501,050.95</b>

There were several repairs needed to the branch of The Mickey Mantle School located in District 4 that lacked over \$576,000 in matching funds. According to the school's Building Condition Assessment Survey, these repairs included windows without gates, emergency exit doors without an alarm, and a non-operational emergency lighting and sound system as of last summer.<sup>43</sup>

Allister Johnson, a teacher and the UFT chapter leader, reports that the air conditioners break down continually:

"We cannot use the classrooms for summer school. We have fragile kids with breathing problems. It would be dangerous for them to be in classrooms where all the air conditioners are not working properly."

He added that the staff bathroom has had a serious leak for at least six years that floods the floors of the stalls and the children's bathroom lacks hot water on a regular basis.<sup>44</sup>

Air conditioning is especially important in D75 schools, as their schools are open all summer and many of their students have complex health issues that are exacerbated by the heat.

### *Other ambiguities in the DOE matching fund data*

In addition to the apparently random nature of DOE facility expenditures and exclusions, we found other ambiguities in the data that warrant further explanation. For example, Success Academy Harlem 2 is co-located with two public schools, P.S. 30 and P.S. 138 in District 5. In FY 2018, Success Academy Harlem 2 spent more than \$28,000 on repainting. However, instead of receiving matching funds, the spreadsheet, as seen below, appears to indicate that the DOE subtracted over \$75,000 from P.S. 30 and approximately \$114,000 from P.S. 138, for a total of \$188,000 *taken away* from these two public schools.

<sup>43</sup> Building Condition Assessment Survey 2019-2020 for P.S. 101, which includes P.S./I.S. 375, The Mickey Mantle School, and Success Academic Charter School Harlem 3. [https://survey.nycsca.org/bcas/enc\\_rpts/M101\\_A.pdf](https://survey.nycsca.org/bcas/enc_rpts/M101_A.pdf).

<sup>44</sup> As reported in an email from Alison Gendar of the UFT to Leonie Haimson, March 18, 2021. In addition, the ventilation report notes that none of the classrooms had unit ventilators and many even lacked exhaust fans.

No explanation is provided on what triggered funds to be taken away from these schools, and the amount does not appear to correlate with DOE spending on these two public schools in previous years, in which there was net excess spending of approximately \$71,000 between FY 2014 and FY 2017. Further explanation from the DOE should be required to clear this up.

Fiscal Year	Bldg. Count	Building Code	Charter School	Charter Project actual expenditure	DOE location code	DOE organization name	Non Match item adjustment	Total non-match items	Total Spent DOE matching
FY2018	1	M030	M030/M 384 – Success Academy Harlem 2	\$28,302.00			Cost of repainting five classrooms, administrative spaces, and outside door trims because these rooms were originally painted.	\$28,302.00	-\$188,730.60
FY2018		M030	M030/M 384 – SA Harlem 2		M030	P.S. 030 Hernandez/Hughes			-\$74,731.80
FY2018		M030	M030/M 384 – SA Harlem 2		M138	P.S. 138			-\$113,998.80

## DOE Spending on Charter School Leases and Rent Subsidies

### *Millions lost in state-reimbursement for DOE-held leases for charter schools*

According to a 2014 amendment to State Education Law §2853(3)(e), the DOE is required to provide all new and grade level expanding charter schools with space in a public school building or private building. If the DOE fails to do so or the space offered is not to the charter school's liking, the charter school must go through an appeal process with the State Education Department. If they win that appeal, they then receive lease assistance from the DOE in the form of a per student subsidy or the base rent, whichever is less, and the DOE can receive a reimbursement from the State of up to sixty percent of the cost of the lease subsidy. In our updated analysis, we showed that charter schools nearly always won these appeals, and as a result, in FY 2020, the DOE paid about \$108 million for these subsidies with the state reimbursing about \$65 million, an amount that is likely to increase rapidly each year, as enrollment and rents increase. The city's Office of Management and Budget estimates that the reimbursement alone would increase to an estimated \$100 million in FY 2022 and even more thereafter, if the Governor is not successful in eliminating this aid.<sup>45</sup>

<sup>45</sup>According to the Independent Budget Office, the city's Office of Management and Budget estimates that if the state eliminates charter lease aid, it would cost the city an additional \$85 million for FY21, as the state reimburses the city the following year, and at least \$100 million in lease aid for costs incurred in FY22. Email from Sarita Subramanian of the IBO to Leonie Haimson, Feb. 13, 2021. See Gov. Andrew Cuomo, FY 2022 Executive Budget Briefing Book, January 2021, p. 61, for information about the proposed reimbursement elimination: <https://www.budget.ny.gov/pubs/archive/fy22/ex/book/briefingbook.pdf>.

In our previous report, we found that in FY 2019, the DOE held leases for eight private buildings in which nine charter schools were the sole occupants, at a cost of \$13.2 million. However, if the DOE had demanded that these charter schools lease their own buildings and then go through the appeal process, the DOE would have spent an estimated \$3.7 million in lease assistance after receiving State reimbursement. Using new data from Checkbook NYC and the DOE Lease Report FY 2020, we found that the amount the DOE spent on lease assistance for these eight buildings had increased to \$13.4 million, and according to our calculations, the city lost out on nearly \$9.6 million in State reimbursements by holding the leases directly.

Included in these lost savings is \$3.6 million for a lease held by the DOE on behalf of Renaissance Charter School since 2000. Since the school was neither new nor expanding grade levels in 2014, when the charter law was amended to require the DOE to spend funds on facilities for new and expanding charters, the DOE has no obligation to spend any of that amount.<sup>46</sup>

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<sup>46</sup> There are four other charter schools that share space with public schools in buildings directly leased by the DOE. We have not estimated the cost of that space in our calculations above.

**Figure 1: FY 2020 DOE-HELD CHARTER SCHOOL-ONLY BUILDING LEASES**

Source: Calculations based from enrollment portal. Base rent costs are from Checkbook NYC and DOE Lease Report FY 2020.

School	Enrollment Eligible for Per Pupil Assistance*	Base Rent Paid by DOE in FY 2020	DOE Lease Payments If Charter School Appealed (\$4,845.00 Per Eligible Student)	DOE Cost After State Reimbursement	Estimated DOE Overpayment
Success Academy - Bushwick	318	\$1,079,260	\$1,540,710	\$616,284	\$462,976
Success Academy - Flatbush	311	\$1,050,000	\$1,506,795	\$602,718	\$447,282
Success Academy Washington Heights	325	\$3,362,001	\$1,574,625	\$629,850	\$2,732,151
Success Academy Harlem 6	163	\$1,341,028	\$789,735	\$315,894	\$1,025,134
Success Academy Rosedale	378	\$1,182,230	\$1,831,410	\$732,564	\$449,666
Success Academy South Jamaica	215	\$735,833	\$1,041,675	\$416,670	\$319,163
KIPP Freedom Charter School	246	\$1,010,803	\$1,191,870	\$476,748	\$534,055
Renaissance Charter School**	0	\$3,628,788	\$0	\$0	\$3,628,788
	<b>TOTAL</b>	<b>\$13,389,943</b>	<b>\$9,476,820</b>	<b>\$3,790,728</b>	<b>\$9,599,215</b>

\* New York Education Law § 2853 (3)(e)(5) states that charter schools that prevail on appeal and receive a per pupil subsidy, the amount given will be the product of 30 percent charter school's basic tuition and the "positive difference of the charter school's enrollment in the current school year minus the charter school's enrollment in the school year prior to the first year of the expansion."

\*\*SA - Rosedale, SA - Washington Heights, SA – Harlem 4 received their building in 2014 from the DOE according to New York Daily News: <https://www.nydailynews.com/new-york/education/city-pay-11q-student-charter-schools-booted-public-space-article-1.1810843>. SA – South Jamaica, SA – Bushwick, SA – Flatbush, SA – Bushwick, KIPP Freedom charter school opened in the building the DOE is leasing directly according to annual reports. All of those reports can be found here: <http://www.newyorkcharters.org/suny-authorized-schools/new-york-city/>. Renaissance Charter School has been in 35-59 81st Street since 2000 (Source: <https://eportfolios.macaulay.cuny.edu/siegel2014/2014/03/13/jackson-heights/>)

In First Deputy Comptroller Gilligo's letter, she asked the DOE for its rationale for directly leasing space to the nine charter schools instead of asking the schools to rent the space themselves and file an appeal for lease assistance. In response, Deputy Chancellor Goldmark failed to explain their rationale and instead replied that *"The law provides that the DOE can offer a charter school space in a privately-owned facility at the DOE's expense and at no expense to the school."*

New York City is the only district in the State and the country required to provide space for charter schools or cover the cost of private facilities for them. This obligation places an undue burden on the DOE, the city, and its taxpayers. In addition, in Governor Andrew Cuomo's FY 2022 Executive Budget, the Governor proposed to eliminate all State reimbursement to New York City for the cost of charter school rental assistance in order to save State funds if the State does not receive at least \$15 billion from Congress in COVID-19 relief funds. According to the city's Office of Management and Budget, the elimination of this state reimbursement would cost New York City more than \$100 million annually going forward.<sup>47</sup>

The elimination of State reimbursement for lease subsidies to the DOE is also designed to persuade the city to provide more space for charters within public school buildings – even though doing so would further increase overcrowding and deny the opportunity for public schools to offer smaller classes either for social distancing or enhanced academic support. Currently, more than half a million New York City public school students are enrolled in overcrowded buildings and the city has some of the highest school construction and rental costs in the nation. In addition, Success Academy, the fastest growing charter school network in the city, is now recruiting and accepting students from outside the city to attend its charter schools.<sup>48</sup> This means that the city would be obligated to fully pay for the space to house students within the city, either in our overcrowded public schools or through subsidies for Success Academy's rent.

### ***Lease subsidies paid by DOE in excess of charter schools' actual rent***

According to a 2016 amendment to the charter school law, State Education Law §2853(3)(e)(5), the amount of DOE lease assistance should never exceed the base rent paid by the charter school. In our earlier report, we found that according to the spreadsheets supplied by the DOE and posted on the City Council website, 39 charter schools at 42 sites appeared to have received **possible overpayments of approximately \$21 million in excess of their actual rent in FY 2019.**<sup>49</sup>

In FY 2019, projected DOE annual total payments exceeded base rents by over \$1 million each at six sites alone. At Harlem Hebrew Language Academy, the base rent was approximately \$148,000, but the city

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<sup>47</sup> See footnote 45.

<sup>48</sup> See "You must be a resident of New York state to apply to any Success Academy school." <https://www.successacademies.org/apply>. This line was not included on the application page until recently; for example, in November 2020, there was no mention of the possibility for non-NYC residents to apply to Success Academy.

<sup>49</sup> The list of 39 schools is based on the spreadsheet posted on the City Council website at <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/02/Department-of-Education-Charter-School-Lease-Report.xlsx>. Our calculation of DOE overpayments can be found in Appendix A.



paid \$1.73 million, an excess of over \$1.5 million. At Boys Preparatory Charter School of New York, the amount that the DOE appeared to have paid was \$2 million above the base rent, and more than \$1.1 million over the base rent was paid to South Bronx Early College Academy Charter School.

First Deputy Comptroller Gilligo's letter inquired about the purported FY 2019 overpayments to these 39 charter schools, asking the DOE to provide the following information for each of the schools:

*"a. Actual rental cost of the alternative privately owned site selected by the charter school in FY 2019. If the "actual rental cost" is different than the reported "site base rent," please explain why.*

*b. Enrollment used to calculate lease subsidy, either total enrollment for a new school or the increase in enrollment for a school undergoing grade expansion*

*c. Actual lease subsidy payment in FY 2019"*

Rather than provide any additional information in response to these inquiries, Deputy Chancellor Goldmark instead replied:

*"Please identify the 39 charter schools referenced above and clarify whether this request is seeking information for all lease assistance payments in FY 2019, or only those payments made to the 39 schools."*

A table of these 39 schools, their base rents, and projected DOE annual total payments is included in Appendix A. It appears to show that in FY 2019, the DOE provided close to \$21 million in total payments above the base rents of these charter schools.

It is possible that the original DOE spreadsheet included erroneous amounts or we misinterpreted the column headings, but if so, the DOE should explain how errors and misinterpretations were made and provide a corrected or clarified report. If the data does not show errors in DOE overpayments, the DOE should require refunds from these schools or subtract the overpaid amounts from rental subsidies to these schools in future years.

### ***Base rents and DOE payments sharply increase to many charters in FY 2020***

In Fall 2020, a new DOE report with FY 2020 charter school lease costs and DOE lease subsidies was provided to the City Council. Using this data, we compared each charter schools' FY 2020 base rent against their FY 2019 rent and found that base rents and DOE payments increased substantially at a number of schools. A list of all these schools is included in Appendix B.

For example, at Brownsville Ascend Charter School in Brooklyn, the rent tripled, from approximately \$557,000 to \$1.7 million. At the East Harlem Scholars charter school, the rent increased by over 250 percent, from \$402,000 in FY 2019 to \$1.4 million in FY 2020. Both schools remained at their same respective sites.

Similarly, the base rent increased significantly at all three of Hebrew Language Academy Charter School's sites in the city: the rent at the building at 147 Saint Nicholas Avenue in Manhattan increased from approximately \$148,000 to \$2.9 million; the site at 2186 Mill Avenue in Brooklyn more than

doubled from approximately \$931,000 to \$2.5 million; and the site at 1870 Stillwell Avenue in Brooklyn increased from just over \$80,000 to \$1.06 million, an increase of over thirteen times the base rent.

At the Neighborhood Charter School of Harlem, the base rent nearly doubled, from approximately \$940,000 to \$1.7 million, which caused the city's projected payments to more than triple, from \$540,000 to \$1.7 million.

Because the base rent increased substantially at many charter school sites, the DOE's rental subsidy payments to these schools also escalated by 41 percent in FY 2020.

There were also instances where DOE payments to charter schools increased from FY 2019 to FY 2020 even though the charter schools' base rent decreased. For example, the city's payments to VOICE Charter School of New York in Queens increased from approximately \$564,000 in 2019 to close to \$680,000, despite the fact that the school's base rent was reported to sharply decrease from \$1.18 million in 2019 to approximately \$680,000 in 2020.

**Although the amount charter schools are supposed to receive in DOE rental subsidies are directly derived from either the base rent or per student payment, whichever is lower, some of the annual DOE payment increases and discrepancies are so large as to require further investigation.** Interestingly enough, while the total amount paid by the DOE in charter school rental subsidies increased sharply from FY 2019 to FY 2020, an examination of the new spreadsheet showed that no charter school received FY 2020 projected payments in excess of their base rent.

### ***Over \$11.6 million in FY 2020 rent subsidies paid to charter school CMOs or related organizations that owned their charter school space***

In our previous report, we discovered that eight charter schools had received a total of \$14.8 million between FY 2015 and FY 2019 in lease subsidies from the DOE, **even though their charter management organization (CMO) or an affiliated LLC or foundation owned their building.** Perhaps the most egregious example was the two Success Academy charter schools located in the Hudson Yards complex, which received \$2.2 million a year in lease subsidies from the DOE in FY 2019, even though the Success Academy CMO had bought the space in 2016.

Our 2019 report questioned whether the State Legislature had meant to require the DOE to incur such expenditures if the charter school management or related organization owned the space. We also demanded that there be an investigation to see if there was evidence of possible inflated rental costs or double dealing by the charter schools given that the costs were being passed onto the DOE.

The letter from the Comptroller's Office to the DOE asked similar questions, including:

*"Please clarify if the DOE believes that such arrangements are permissible under state law. Additionally, please provide any definitions or rules that the DOE uses in determining applicable rental costs, including but not limited to, the DOE's treatment of maintenance, costs of capital improvements, costs of occupancy, security, insurance and real property taxes."*

In response, Deputy Chancellor Goldmark evaded answering any of these questions. Instead, she responded that *“In accordance with the Commissioner’s decisions, where a charter school provides a lease that shows the amount of the actual rental cost of an alternative privately-owned site, the DOE uses that information to determine the amount of rental assistance that the charter school is entitled to.”*

The DOE’s 2020 report to the City Council included updated data on the base rent for these eight charter schools and the amount the DOE paid in rent subsidies for each of these schools. Our analysis showed that base rents increased at six of the charter schools, **with increases as high as 681 percent over the course of a year**. In addition, while the DOE paid \$8.8 million in FY 2019 in rental subsidies for the eight charter schools, **in FY 2020 that amount increased to more than \$11.6 million. See Figure 2 below.**

The base rent for the two Success Academy charter schools housed at Hudson Yards increased from approximately \$793,000 to over \$3.4 million – more than quadrupling in rent – despite the fact that the space is owned by the Success Academy Charter Management Organization. This increase in rent allowed Success Academy to charge the DOE \$3.02 million in rental subsidies in FY 2020, an increase of 38 percent from the previous year, since legally the subsidies are not supposed to exceed the base rent. These subsidies were received by Success Academy, despite the fact that the Success Academy charter schools themselves have net assets of more than \$21 million according to their latest IRS 990s and their Charter Management Organization had assets of more than \$55 million.<sup>50</sup>

East Harlem Scholars charter school, located at 2050 Second Avenue in a building owned by the East Harlem Center, LLC, is a “wholly owned subsidiary” of the East Harlem Tutorial Program, the charter school’s management organization.<sup>51</sup> However, East Harlem Center, LLC increased the base rent for their charter school by over 250 percent in one year, increasing from just over \$401,000 to \$1.4 million in FY 2020, allowing them to charge DOE that exact amount for rent subsidies.

The rent for the Beginning with Children Charter School, housed in a building on 11 Bartlett Street in Brooklyn that the Beginning with Children Foundation had purchased for ten dollars in 2017, nearly doubled. The rent charged by their foundation increased from \$525,000 in FY 2019 to \$1.01 million in FY 2020, which then allowed them to charge the DOE over \$672,000 in rental subsidies.<sup>52</sup>

<sup>50</sup> See Success Academy CMO 990 FY 2018 at <https://pdf.guidestar.org/PDF/Images/2017/205/298/2017-205298861-0f30b2c1-9.pdf>.

<sup>51</sup> East Harlem Scholars Academy Charter School Financial Statements Together With Independent Auditors’ Reports, June 30, 2018, <http://www.p12.nysed.gov/psc/csdirectory/EastHarlemScholarsAcademyCharterSchool/EHSAFS1718.pdf>, page 12. Financial records show that the LLC paid for utility costs on behalf of the school, with a balance due for FY 2017 and FY 2018 totaling \$239,739 and \$133,917.

<sup>52</sup> The Beginning with Children Foundation had more than \$15 million in net assets according to the most recent 990, <https://pdf.guidestar.org/PDF/Images/2018/133/593/2018-133593810-10d9d177-9.pdf>.

**Figure 2: BASE RENTS OF CHARTER SCHOOLS WHOSE CMO OR RELATED ORGANIZATION OWNS THE SPACE, PROJECTED DOE PAYMENTS, AND CHANGES FROM FY 2019 TO FY 2020**

Source: Data from the 2019 DOE report to the New York City Council, <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/02/Department-of-Education-Charter-School-Lease-Report.xlsx> and 2020 DOE report to the New York City Council, <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2020/02/Department-of-Education-Charter-School-Lease-Report.xlsx>.

School	Building Owner	Site Address	Site Base Rent for FY19	Projected 2019 DOE Total Payments	Site Base Rent for FY20	Projected 2020 DOE Total Payments	Change in Base Rent from 2019 to 2020 (%)	Change in DOE Rent Payments from 2019 to 2020 (%)
Success Academy Charter School - Hudson Yards	Success Academy Charter Schools, Inc.	551 10th Avenue, New York, NY	\$223,078.38	\$1,016,690.94	\$1,742,633.54	\$1,464,401.25	\$1,519,555.16 (681.18%)	\$447,710.31 (44.04%)
Success Academy Union Square (Manhattan 1)	Success Academy Charter Schools, Inc.	551 10th Avenue, New York, NY	\$569,894.00	\$1,173,625.96	\$1,742,633.54	\$1,558,757.63	\$1,172,739.54 (205.78%)	\$385,131.67 (32.82%)
Harlem Village Academy Charter School	HVA 124, LLC	74 West 124 <sup>th</sup> Street New York, NY	\$1,475,912.00	\$912,000.00	\$488,376.00	\$488,376.00	-\$987,536.00 (-66.91%)	-\$412,396.56 (-45.78%)
Harlem Children's Zone Promise Academy II Charter School	Rheedlen 125th Street, LLC (Former name of HCZ)	35 East 125th Street, New York, NY	\$1,226,931.09	\$823,634.46	\$1,985,242.87	\$738,300.48	\$758,311.78 (61.81%)	-\$85,333.98 (-10.36%)
Beginning with Children Charter School – Community Partnership Charter School Education Corporation	Beginning with Children Foundation, Inc.	11 Bartlett Street, Brooklyn, NY	\$525,000.00	\$461,965.26	\$1,014,000.00	\$671,880.38	\$489,000.00 (93.14%)	\$209,915.12 (45.44%)
Family Life Academy Charter School II	CG Educational Holdings, Inc.	316 East 165th Street, Bronx, NY	N/A	N/A	\$2,743,885.07	\$2,699,634.00*	N/A	\$2,071,199.85* (121.80%)

School	Building Owner	Site Address	Site Base Rent for FY19	Projected 2019 DOE Total Payments	Site Base Rent for FY20	Projected 2020 DOE Total Payments	Change in Base Rent from 2019 to 2020 (%)	Change in DOE Rent Payments from 2019 to 2020 (%)
	(owned by LPAC – acquired in 2020)							
	RM FLACS III NY LLC	370 Gerard Avenue, Bronx, NY	\$2,200,200.00	1,700,508.46*	\$1,072,074.31	\$1,072,074.31*	- \$1,128,125.69 (-51.27%)	
	Latino Pastoral Action Center (LPAC – Led by co-founder and board member of FLACS, Rev. Dr. Raymond Rivera)	14 West 170st Street, Bronx, NY	\$1,256,706.89		N/A	N/A	N/A	N/A
East Harlem Scholars	East Harlem Tutorial Program (East Harlem Center, LLC)	2050 Second Avenue, New York, NY	\$401,633.04	\$1,416,600.00	\$1,416,600.00	\$1,416,600.00	\$1,014,966.96 (252.71%)	\$0.00 (0.00%)
Metropolitan Lighthouse Charter School	180 W. 165th Street LLC (Metropolitan Support Corporation is sole owner)	180 W. 165th Street, Bronx, NY	\$1,011,249.97	\$1,256,628.17	\$1,666,687.50	\$1,526,165.31	\$655,437.53	\$269,537.14 (21.45%)
			<b>\$8,890,605.37</b>	<b>\$8,761,653.25</b>	<b>\$13,872,132.83</b>	<b>\$11,636,189.36</b>	<b>\$3,494,349.28</b>	<b>\$2,885,763.55</b>

\*The DOE's \$1,700,508.46 in payments for the site at 370 Gerard Ave. in 2019, and \$2,699,634.00 for the site at 316 East 165th St. in 2020 also include payments for the site at 296 East 140th Street. The change in DOE payments was also calculated using payments for all FLACS sites in both years. However, as it is unclear if FLACS owns the site at 140th St., we have removed it here.

### *Governor Cuomo proposes to eliminate all state reimbursement for New York City charter school rental costs*

As previously mentioned in this report, Governor Cuomo has threatened to eliminate all State reimbursement for city charter school subsidies if the State does not receive at least \$15 billion from Congress in COVID-19 relief funds. Estimates from the city's Office of Management Budget show that the elimination of State subsidies would cost New York City an additional \$100 million or more annually going forward.<sup>53</sup>

If the State Legislature follows his lead and eliminates this funding, it would only exacerbate the extreme inequity of requiring New York City to help pay for the cost of charter school facilities in private spaces, especially as the city is the only district in the State and indeed the country with this burdensome obligation.

## Conclusion and Policy Recommendations

Using the information provided by the DOE's response to First Deputy Comptroller Gilligo's letter and the new spreadsheets provided by the DOE, we confirmed our original findings that the DOE underspent on matching funds to public schools for their co-located charter schools' facility upgrades and overspent on private space for charter school facilities.

Clearly, more oversight and accountability need to be exercised to ensure these failures on the part of the DOE to comply with their legal obligations are addressed and do not continue into the future.

We believe that the findings from this report require further investigation by the Comptroller's Office as well as the State Education Department. Our analysis has shown that between FY 2014 and FY 2019:

- Public schools received matching funds equal to the funds spent by co-located charter schools for facility enhancements in the same year less than one percent of the time.
- Over the entire period, 127 public schools appeared to be owed a cumulative amount of \$15.5 million for facility upgrades, discounting the exemptions claimed by the DOE that do not align with the regulations or the law.
- The DOE overspent on charter school leases by holding leases directly, making the city ineligible to receive \$9.5 million in partial reimbursement from the State in FY 2019 and \$8 million in FY 2020.
- In FY 2019, the DOE appeared to make charter school lease subsidy payments that were more than the base rents of 39 charter schools, with excess payments totaling \$21 million.
- The DOE paid \$8.8 million in FY 2019 in rental subsidies for eight charter schools whose CMO or affiliated organization owned the space; in FY 2020 that spending increased to more than \$11.6 million.
  - In many cases, the base rents of these charter schools and DOE rental subsidies increased sharply from FY 2019 to FY 2020, raising questions about whether

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<sup>53</sup> See footnote 45 above.

the rents were fairly assessed and whether there may be evidence of self-dealing by the charter schools.

To address these issues, we recommend the following legislative and policy proposals:

1. The DOE should agree to provide the amount owed to public schools from FY 2014 to FY 2019, including expenditures made by charter schools on air conditioners and on repainting and reflooring. If the DOE does not agree to do so, the State or City Comptroller should audit these expenditures.
2. A list of all the amounts approved by the DOE and spent by charter schools on facility upgrades should be posted online and provided to principals and School Leadership Teams at the co-located public schools within three months of these expenditures, including any matching funds provided. If any of the charter school facility expenses over \$5,000 is excluded from DOE matching funds, the reasons should be clearly described, along with the citation in the law or regulations that allows for this exemption. According to one public school principal, school administrators currently receive **no written record** of charter school facility expenditures or the funds their school is due.
3. From this point forward, the Chancellor should use her legal authority to reject any excessive spending proposed by charter schools on facility upgrades that the DOE is not willing to match, including repeated re-painting and re-flooring projects. If a charter school goes ahead with these projects anyway, the school itself and/or its management organization should be obligated to provide full matching funds to the public school whose building it shares, as the regulations require.
4. The Chancellor should also require that charter schools rent their own buildings rather than have the DOE lease space for them, which under the current law, triggers State reimbursement of 60 percent to the DOE for those schools that win their appeals. In FY 2020, this would have yielded an estimated savings of \$9.6 million.
5. The Chancellor should ensure that the DOE never pay charter schools more in lease subsidies than their base rent, which appeared to have occurred at a loss of \$21 million in FY 2019. If this did indeed happen, the DOE should demand the charter schools reimburse those funds in future years or subtract the amounts from future payments. If DOE does not agree to do so, the City Comptroller should audit these payments.
6. The City Comptroller should analyze closely whether the rents charged to charter schools by their CMOs or allied organizations are fairly assessed on an annual basis so that the city is not forced to expend excessive amounts on rent subsidies.
7. The New York State Legislature should eliminate the DOE's obligation to cover any facilities cost where CMOs or related organizations own their charter school spaces.
8. The New York State Legislature should reject the Governor's proposal to eliminate state reimbursement for the DOE's lease subsidies to charter schools, and instead amend the law to



remove any obligation on the part of the city to cover the cost of private facilities for charter schools going forward.

New York City is the only district in the State and the country with this financial obligation, and it is especially onerous to require this at a time of economic crisis and potential budget cuts to schools. In FY 2020, this legal mandate cost city and state taxpayers nearly \$108 million, an amount that is projected to increase to \$160 million by FY 2022 as charter schools continue to expand in enrollment and the per-student subsidy for rent rises over time.

## Appendices

## Appendix A: 39 Charter Schools Where DOE Lease Payments Exceeded Their Total Base Rent by \$20.9 Million in FY 2019

Source: 2019 DOE report to the New York City Council. <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/02/Department-of-Education-Charter-School-Lease-Report.xlsx>.

School	Site Address	Site Base Rent for FY19	Projected DOE Annual Total Payments	Excess DOE payments
Ember Charter School for Mindful Education, Innovation & Transformation	833 Marcy Avenue, Brooklyn, NY	\$50,000.00	\$100,000.00	\$50,000.00
Urban Dove Team Charter School	598-608 Lafayette Avenue, Brooklyn, NY	\$332,905.47	\$413,289.00	\$80,383.53
Brooklyn Ascend Charter School	123 E 98th St Brooklyn, NY	\$425,000.00	\$2,116,480.52	\$774,511.54
Brooklyn Ascend Charter School	1501 Pitkin Avenue, Brooklyn, NY	\$916,968.98		
Brooklyn Prospect Charter School - CSD 15	3002 Fort Hamilton Parkway, Brooklyn, NY	\$665,810.93	\$925,193.35	\$259,382.42
Brownsville Ascend Charter School	1501 Pitkin Avenue, Brooklyn, NY	\$557,664.84	\$1,637,515.31	\$1,079,850.47
Hebrew Language Academy Charter School	2186 Mill Avenue, Brooklyn, NY	\$931,224.00	\$943,906.16	\$12,682.16
Brooklyn Urban Garden Charter School	500 19th Street, Brooklyn, NY	\$346,800.00	\$719,455.00	\$372,655.00
Canarsie Ascend Charter School	9719 Flatlands Avenue, Brooklyn, NY	\$1,425,025.02	\$2,131,544.00	\$126,518.98
Canarsie Ascend Charter School	751 East 86th Street, Brooklyn, NY	\$580,000.00		

School	Site Address	Site Base Rent for FY19	Projected DOE Annual Total Payments	Excess DOE payments
Bedford Stuyvesant New Beginnings Charter School	82 Lewis Avenue, Brooklyn, NY	\$640,000.00	\$731,636.33	\$91,636.33
Bushwick Ascend Charter School	751 Knickerbocker Avenue, Brooklyn, NY, 2 Aberdeen Street, Brooklyn, NY	\$444,166.66	\$1,210,463.00	\$766,296.34
Hebrew Language Academy Charter School 2	1870 Stillwell Avenue Brooklyn NY 11223	\$80,246.81	\$1,053,083.33	\$972,836.52
Cypress Hills Ascend Charter School	396 Grant Avenue, Brooklyn, NY	\$399,483.26	\$578,466.84	\$178,983.58
Democracy Prep Endurance Charter School	240 East 123rd Street, New York NY 10035	\$30,499.98	\$784,513.33	\$754,013.35
Success Academy Union Square (Manhattan 1)	551 10th Avenue, New York, NY	\$569,894.00	\$1,173,625.96	\$603,731.96
Harlem Hebrew Language Academy Charter School	147 St. Nicholas Avenue New York, NY	\$148,303.46	\$1,725,940.79	\$1,577,637.33
Capital Preparatory (CP) Harlem Charter School	1 East 104th Street, New York, New York	\$1,344,156.00	\$1,356,552.26	\$12,396.26
New York City Charter School of the Arts	26 Broadway New York, NY	\$613,750.00	\$1,065,946.57	\$452,196.57
School in the Square Public Charter School	120 Wadsworth Avenue, New York, NY	\$143,407.53	\$990,000.00	\$846,592.47
Success Academy Charter School - Hudson Yards	551 10th Avenue, New York, NY	\$223,078.38	\$1,016,690.94	\$793,612.56
Zeta Charter Schools – New York City 1	652 West 187th Street, New York, NY	\$618,114.00	\$727,962.65	\$109,848.65

School	Site Address	Site Base Rent for FY19	Projected DOE Annual Total Payments	Excess DOE payments
Dream Charter School	439 East 115th Street, New York, NY	\$420,000.00	\$900,772.56	\$480,772.56
East Harlem Scholars	2050 Second Avenue, New York, NY	\$401,633.04	\$1,416,600.00	\$1,014,966.96
Broome Street Academy Charter High School	121 Avenue of the Americas, New York, NY	\$20,250.00	\$237,641.18	\$217,391.18
Harlem Prep Charter School	230 East 123rd Street, New York, NY	\$647,185.00	\$1,183,380.00	\$536,195.00
Middle Village Preparatory Charter School	68-02 Metropolitan Avenue, Middle Village, NY	\$912,000.00	\$1,163,064.13	\$251,064.13
Challenge Preparatory Charter School	1526 Central Avenue, Queens, NY	\$512,139.00	\$545,976.62	\$33,837.62
Academy of the City Charter School	31-29 60th Street, Queens, NY	\$626,130.00	\$864,214.85	\$238,084.85
Forte Preparatory Academy Charter School	32-20 108th Street, Queens, NY	\$120,000.00	\$769,500.00	\$649,500.00
Heketi Community Charter School	403 Concord Avenue, Bronx, NY	\$540,244.23	\$584,960.07	\$44,715.84
Brilla College Preparatory Charter School	500 Courtland Avenue, Bronx, NY	\$784,513.33	\$1,865,701.35	\$681,188.02
	413 E 144th Street, Bronx, NY	\$400,000.00		
Mott Haven	170 Brown Place, Bronx, NY	\$34,210.53	\$399,483.26	\$365,272.73
Charter High School for Law and Social Justice	1940 University Avenue, Bronx, NY	\$840,000.00	\$1,346,000.00	\$506,000.00

School	Site Address	Site Base Rent for FY19	Projected DOE Annual Total Payments	Excess DOE payments
Atmosphere Academy Public Charter School	5959 Broadway, Bronx, NY	\$238,895.54	\$1,862,151.66	\$1,623,256.12
Metropolitan Lighthouse Charter School	180 W. 165th Street, Bronx, NY	\$1,011,249.97	\$1,256,628.17	\$245,378.20
Boys Preparatory Charter School of New York	441 East 148th Street, Bronx, NY	\$290,789.47	\$2,346,094.71	\$2,055,305.24
Rosalyn Yalow Charter School	116 E. 169th St., Bronx, NY; 3090 Third Avenue, Bronx, NY	\$1,263,958.00	\$1,941,999.96	\$678,041.96
South Bronx Early College Academy Charter School	766 Westchester Avenue/801 East 156th Street, Bronx, NY	\$302,940.00	\$1,433,333.33	\$1,130,393.33
Legacy College Preparatory Charter School	416 Willis Avenue, Bronx, NY	\$719,455.00	\$931,224.00	\$211,769.00
Bronx Charter School for Excellence 3	3956 Carpenter Avenue, Bronx, NY	\$616,057.00	\$665,810.93	\$49,753.93
		<b>\$22,188,149.43</b>	<b>\$43,116,802.12</b>	<b>\$20,928,652.69</b>

## Appendix B: Charter School Base Rent Differences and Change in DOE Rent Payments Between FY 2019 and FY 2020

Source: Data from the 2019 DOE report to the New York City Council, <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/02/Department-of-Education-Charter-School-Lease-Report.xlsx> and 2020 DOE report to the New York City Council, <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2020/02/Department-of-Education-Charter-School-Lease-Report.xlsx>.

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Beginning with Children Charter School	11 Bartlett Street, Brooklyn, NY	\$525,000.00	\$1,014,000.00	\$461,965.26	\$671,880.38	\$489,000.00 (93.14%)	\$209,915.12 (45.44%)
Urban Dove Team Charter School	598-608 Lafayette Avenue, Brooklyn, NY	\$332,905.47	\$730,000.00	\$413,289.00	\$436,050.00	\$397,094.53 (119.28%)	\$22,761.00 (5.51%)
Brooklyn Ascend Charter School	123 East 98th Street, Brooklyn, NY	\$425,000.00	\$1,217,555.00	\$2,116,480.52	\$2,445,019.56	\$792,555.00 (186.48%)	\$328,539.04 (15.52%)
Brooklyn Ascend Charter School	1501 Pitkin Avenue, Brooklyn, NY	\$916,968.98	\$1,504,816.00			\$587,847.02 (64.11%)	
Brooklyn Prospect Charter School - CSD 15	3002 Fort Hamilton Parkway, Brooklyn, NY	\$665,810.93	\$1,256,220.00	\$925,193.35	\$950,119.04	\$590,409.07 (88.68%)	\$24,925.69 (2.69%)
Brownsville Ascend Charter School	1501 Pitkin Avenue, Brooklyn, NY	\$557,664.84	\$1,727,847.00	\$1,637,515.31	\$1,678,332.23	\$1,170,182.16 (209.84%)	\$40,816.92 (2.49%)



Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Coney Island Preparatory Public Charter School	294 Avenue T, Brooklyn, NY	\$646,000.00	\$634,550.08	\$616,057.00	\$634,550.08	-\$11,449.92 (-1.77%)	\$18,493.08 (3.00%)
Hebrew Language Academy Charter School	2186 Mill Avenue Brooklyn, NY	\$931,224.00	\$2,556,600.00	\$943,906.16	\$970,734.51	\$1,625,376 (174.54%)	\$26,828.35 (2.84%)
Unity Preparatory Charter School of Brooklyn	584 Driggs Avenue Brooklyn, NY	\$943,613.33	\$1,322,714.95	\$943,613.33	\$1,322,714.95	\$379,101.62 (40.18%)	\$379,101.62 (40.18%)
Brooklyn Urban Garden Charter School	500 19th Street, Brooklyn, NY	\$346,800.00	\$908,455.00	\$719,455.00	\$900,578.91	\$561,655.00 (161.95%)	\$181,123.91 (25.18%)
Canarsie Ascend Charter School	9719 Flatlands Avenue, Brooklyn, NY	\$1,425,025.02	\$975,000.00	\$1,314,128.07	\$2,655,837.00	-\$450,025.02 (-31.58%)	\$1,341,708.93 (102.10%)
Canarsie Ascend Charter School	744 E 87th Street, Brooklyn, NY	\$580,000.00	\$1,680,837.00			\$1,100,837.00 (189.80%)	
International Charter School of New York	55 Willoughby Street, Brooklyn NY	\$1,433,333.33	\$1,041,516.67	\$1,033,542.09	\$2,059,125.00	-\$391,816.66 (-27.34%)	\$1,025,582.91 (99.23%)
International Charter School of New York	9 Hanover Street, Brooklyn, NY	\$991,404.16	\$1,437,161.58			\$445,757.42 (44.96%)	
Hyde Leadership Charter School - Brooklyn	720 Livonia Avenue, Brooklyn, NY	\$302,940.00	\$654,500.00	\$0.00	\$513,066.12	\$351,560.00 (116.05%)	\$513,066.12 (N/A)

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Bedford Stuyvesant New Beginnings Charter School	82 Lewis Avenue, Brooklyn, NY	\$640,000.00	\$1,133,640.00	\$482,667.98	\$750,509.88	\$493,640.00 (77.13%)	\$267,841.90 (55.49%)
Imagine Me Leadership Charter School	818 Schenck Avenue, Brooklyn, NY - Trailers	N/A	\$282,411.00	N/A	\$296,140.94	N/A	N/A
Imagine Me Leadership Charter School	818 Schenck Avenue, Brooklyn, NY - Bathrooms		\$102,100.00			\$102,100.00 (N/A)	
Imagine Me Leadership Charter School	818 Schenck Avenue, Brooklyn, NY - Trailers Ramp		\$123,080.00			\$123,080.00 (N/A)	
Central Brooklyn Ascend Charter School	465 E 29 Street, Brooklyn, NY	\$1,941,999.96	\$1,274,754.00	\$1,250,455.33	\$2,347,444.00	-\$667,245.96 (-34.36%)	\$1,096,988.67 (87.73%)
Central Brooklyn Ascend Charter School	1886 Nostrand Avenue, Brooklyn, NY	\$862,229.42	\$1,072,690.00			210460.58 (24.41%)	
Bushwick Ascend Charter School	2 Aberdeen Street, Brooklyn, NY	\$444,166.66	\$1,220,295.00	\$1,210,463.00	\$1,220,295.00	776128.34 (174.74%)	\$9,832 (0.81%)
Brooklyn Laboratory Charter School	240 Jay Street, Brooklyn, NY	\$1,341,687.48	\$274,218.75	\$3,054,077.13	\$2,692,298.67	-\$1,067,468.73 (-79.56%)	-\$361,778.46 (-11.85%)

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Brooklyn Laboratory Charter School	77 Sands Street, Brooklyn, NY	\$574,333.63	\$3,254,673.80			\$2,680,340.17 (466.69%)	
Brooklyn Laboratory Charter School	25 Chapel Street	\$2,527,093.69	N/A		N/A	N/A	N/A
Collegiate Academy for Mathematics and Personal Awareness Charter School (CAMPA)	1962-84 Linden Boulevard, Brooklyn NY	\$604,330.81	\$180,000.00	\$180,000.00	\$180,000.00	-\$424,330.81 (-70.21%)	\$0.00 (0.00%)
Brooklyn Prospect Charter School Downtown - CSD 13	80 Willoughby Street, Brooklyn, NY	\$690,000.00	\$1,218,252.00	\$2,052,423.54	\$2,838,317.50	\$528,252.00 (76.56%)	\$785,893.96 (38.29%)
Brooklyn Prospect Charter School Downtown - CSD 13	365 Bridge Street, Brooklyn, NY	\$1,346,000.00	\$123,890.50			-\$1,222,109.50 (-90.80%)	
Brooklyn Prospect Charter School Downtown - CSD 13	1100 Fulton Street, Brooklyn, NY	\$852,562.45	\$1,496,175.00			\$643,612.55 (75.49%)	
Hebrew Language Academy Charter School 2	1870 Stillwell Avenue Brooklyn, NY	\$80,246.81	\$1,062,240.00	\$1,053,083.33	\$1,062,240.00	\$981,993.19 (1223.72%)	\$9,156.67 (0.87%)
Cypress Hills Ascend Charter School	396 Grant Avenue, Brooklyn, NY	\$399,483.26	\$1,042,610.00	\$578,466.84	\$1,042,610.00	643126.74 (160.99%)	\$464,143.16 (80.24%)
Edmund W. Gordon Brooklyn	77 Sands Street, Brooklyn, NY	N/A	\$321,890.82	N/A	\$1,114,219.19	N/A	\$1,080,008.66 (3156.95%)

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019–2020 DOE Rent Payments Change (%)
Laboratory Charter School							
Edmund W. Gordon Brooklyn Laboratory Charter School	25 Chapel Street, Brooklyn, NY	N/A	\$1,335,467.00	N/A		N/A	
Edmund W. Gordon Brooklyn Laboratory Charter School	240 Jay Street, Brooklyn, NY	\$591,000.00	\$91,406.25	\$34,210.53		–\$499,593.75 (-84.53%)	
Key Collegiate Charter School	257 Chester Street, Brooklyn	\$1,494,200.00	\$525,000.00	\$400,000.00	\$525,000.00	–\$969,200.00 (-64.86%)	\$125,000.00 (31.25%)
Ivy Hill Preparatory Charter School	475 East 57th St Brooklyn, NY	N/A	\$526,194.00	N/A	\$526,194.00	N/A	N/A
Brooklyn Prospect Charter School 15.2	3002 Fort Hamilton Parkway, Brooklyn, NY	N/A	\$837,480.00	N/A	\$542,509.19	N/A	N/A
East Brooklyn Ascend Charter School (EBACS)	396 Grant Avenue, Brooklyn, NY	N/A	\$183,990.00	N/A	\$122,786.84	N/A	N/A
LEEP Dual Language Academy	5323 5th Avenue, Brooklyn, NY	N/A	\$540,000.00	N/A	\$540,000.00	N/A	N/A
Lefferts Gardens Ascend Charter School (LGACS)	870 Albany Avenue, Brooklyn, NY	N/A	\$692,464	N/A	\$235,733.48	N/A	N/A

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
East Flatbush Ascend Charter School (EFACS)	870 Albany Avenue, Brooklyn, NY	N/A	\$601,391.00	N/A	\$365,918.63	N/A	N/A
Brooklyn RISE Charter School	5224 5th Avenue, Brooklyn, NY	N/A	\$375,833.33	N/A	\$375,833.33	N/A	N/A
Democracy Prep Endurance Charter School	240 East 123rd Street, New York, NY	\$30,499.98	\$822,600.00	\$784,513.33	\$822,600.00	\$792,100.02 (2597.05%)	\$38,086.67 (4.85%)
Global Community Charter School	2350 5th Avenue, New York, NY	\$1,080,000.00	\$1,080,000.00	\$805,454.34	\$868,224.00	\$0.00 (0.00%)	\$62,769.66 (7.79%)
Neighborhood Charter School of Harlem (The)	691 Saint Nicholas Avenue, New York, NY	\$940,177.24	\$1,739,822.77	\$540,244.23	\$1,739,822.77	\$799,645.53 (85.05%)	\$1,199,578.54 (222.04%)
Success Academy Charter School - Union Square	551 10th Avenue, New York, NY	\$569,894.00	\$1,742,633.54	\$1,173,625.96	\$1,558,757.63	\$1,172,739.54 (205.78%)	\$385,131.67 (32.82%)
Harlem Hebrew Language Academy Charter School	147 Saint Nicholas Avenue, New York, NY	\$148,303.46	\$2,900,400.00	\$1,725,940.79	\$1,836,017.60	\$2,752,096.54 (1855.72%)	\$110,076.81 (6.38%)
Great Oaks Charter School	38 Delancey Street, New York, NY	\$982,311.00	\$1,144,958.22	\$774,756.15	\$979,058.22	\$162,647.22 (16.56%)	\$204,302.07 (26.37%)
Capital Preparatory (CP) Harlem Charter School	1 East 104th Street, New York, NY	\$1,344,156.00	\$1,489,123.50	\$1,356,552.26	\$1,489,123.50	\$144,967.50 (10.79%)	\$132,571.24 (9.77%)

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
New York City Charter School of the Arts	26 Broadway New York, NY	\$613,750.00	\$1,097,924.97	\$1,065,946.57	\$1,137,924.97	\$484,174.97 (78.89%)	\$71,978.40 (6.75%)
New York City Charter School of the Arts	26 Broadway New York, NY (Dance Space)	N/A	\$40,000.00	N/A		N/A	
School in the Square Public Charter School	120 Wadsworth Ave, New York, NY	\$143,407.53	\$1,274,125.00	\$990,000.00	\$1,274,125.00	\$1,130,717.47 (788.46%)	\$284,125.00 (28.70%)
Harlem Children's Zone Promise Academy II Charter School	35 East 125th Street, New York, NY	\$1,226,931.09	\$1,985,242.87	\$823,634.46	\$738,300.48	\$758,311.78 (61.81%)	-\$85,333.98 (-10.36%)
Success Academy Charter School - Hudson Yards	551 10th Avenue, New York, NY	\$223,078.38	\$1,742,633.54	\$1,016,690.94	\$1,464,401.25	\$1,519,555.16 (681.18%)	\$447,710.31 (44.04%)
Zeta Charter Schools – New York City 1	652 West 187th Street, New York, NY	\$618,114.00	\$1,176,803.00	\$727,962.65	\$1,159,970.52	\$558,689.00 (90.39%)	\$432,007.87 (59.34%)
Harlem Village Academy West 2 Charter School	74 West 124th Street New York, NY	\$420,000.00	\$488,376.00	\$900,772.56	\$488,376.00	\$68,376.00 (16.28%)	-\$412,396.56 (-45.78%)
DREAM Charter School	439 East 115th Street, New York, NY	N/A	\$1,379,166.67	N/A	\$1,379,166.67	N/A	N/A
Storefront Academy Harlem Charter School	70 East 129th Street, New York, NY	N/A	\$413,289.00	N/A	\$197,554.88	N/A	N/A

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
The Equity Project Charter School	4280 Broadway, 2nd Floor, New York, NY	\$769,500.00	\$821,594.14	\$917,664.19	\$831,144.14	\$52,094.14 (6.77%)	-\$86,520.05 (-9.43%)
The Equity Project Charter School	729 W 181st Street, New York, NY	\$720,000.00	\$9,550.00			-\$710,450.00 (-98.67%)	
Inwood Academy for Leadership Charter School	3896 10th Avenue, New York, NY	N/A	\$2,179,050.00	N/A	\$2,179,050.00	N/A	N/A
New York French American Charter School	311 West 120th Street, New York, NY	\$545,976.62	\$66,000.00	\$74,414.98	\$66,000.00	-\$479,976.62 (-87.91%)	-\$8,414.98 (-11.31%)
East Harlem Scholars	2050 Second Avenue, New York, NY	\$401,633.04	\$1,416,600.00	\$1,416,600.00	\$1,416,600.00	\$1,014,966.96 (252.71%)	\$0.00 (0.00%)
Broome Street Academy Charter High School	121 Avenue of the Americas, New York, NY	\$20,250.00	\$520,512.00	\$237,641.18	\$217,278.87	\$500,262.00 (2470.43%)	-\$20,362.31 (-8.57%)
Harlem Prep Charter School	230 East 123rd Street, New York, NY	\$647,185.00	\$818,160.00	\$1,183,380.00	\$818,160.00	\$170,975.00 (26.42%)	-\$365,220.00 (-30.86%)
Harlem Village Academy Charter School	132 West 124th Street, New York, NY	N/A	\$675,000.00	N/A	\$1,144,224.00	N/A	\$232,224.00 (25.46%)
Harlem Village Academy Charter School	74 West 124th Street New York, NY	\$1,475,912.00	\$469,224.00	\$912,000.00		-\$1,006,688.00 (-68.21%)	



Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Central Queens Academy Charter School	88-24 Myrtle Avenue, Queens, NY	\$570,000.00	\$661,041.67	\$570,000.00	\$661,041.67	\$91,041.67 (15.97%)	\$91,041.67 (15.97%)
Middle Village Preparatory Charter School	68-02 Metropolitan Avenue, Queens, NY	\$912,000.00	\$1,495,640.00	\$1,163,064.13	\$1,198,488.27	\$583,640.00 (64.00%)	\$35,424.14 (3.05%)
VOICE Charter School of New York	36-24 12th St, Queens, NY,	\$1,183,380.00	\$679,948.74	\$564,718.09	\$679,948.74	-\$503,431.26 (-42.54%)	\$115,230.65 (20.40%)
Growing Up Green Charter School	36-49 11th Street, Queens, NY	\$495,726.00	\$415,690.21	\$421,883.04	\$443,365.21	-\$80,035.79 (-16.15%)	\$21,482.17 (5.09%)
Growing Up Green Charter School	10-25 41st Avenue, Queens, NY	\$1,416,600.00	\$27,675.00			-\$1,388,925.00 (-98.05%)	
Challenge Preparatory Charter School	1526 Central Avenue, Queens, NY	\$512,139.00	\$560,953.56	\$545,976.62	\$1,033,084.56	\$48,814.56 (9.53%)	\$314,559.78 (43.78%)
Challenge Preparatory Charter School	1279 Redfern Avenue, Queens, NY	\$400,000.00	\$472,131.00	\$172,548.16		\$72,131.00 (18.03%)	
Rochdale Early Advantage Charter School	122-05 Smith Street, Queens, NY	\$626,130.00	\$348,000.00	\$864,214.85	\$348,000.00	-\$278,130.00 (-44.42%)	-\$516,214.85 (-59.73%)
Academy of the City Charter School	31-29 60th Street Queens, NY	N/A	\$814,985.60	N/A	\$1,191,409.73	N/A	N/A

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Academy of the City Charter School	31-29 60th Street Queens, NY - Lot	N/A	\$157,188.62	N/A		N/A	N/A
Academy of the City Charter School	31-29 60th Street Queens, NY - Trailers	N/A	\$421,774.70	N/A		N/A	N/A
Growing Up Green Charter School II	84-35 152nd Street Queens, NY	\$797,664.19	\$900,000.00	\$720,000.00	\$900,000.00	\$102,335.81 (12.83%)	\$180,000.00 (25.00%)
Forte Preparatory Academy Charter School	32-20 108th Street, Queens, NY	\$120,000.00	\$1,154,250.00	\$769,500.00	\$1,154,250.00	\$1,034,250.00 (861.88%)	\$384,750.00 (50.00%)
Elm Community Charter School	149-34 35th Avenue, Queens, NY	\$1,150,000.00	\$700,000.00	\$420,000.00	\$700,000.00	-\$450,000.00 (-39.13%)	\$280,000.00 (66.67%)
Our World Neighborhood 2	135-25 79th Street, Queens, NY 11414	\$881,741.00	\$1,013,499.83	\$377,360.41	\$893,461.61	\$131,758.83 (14.94%)	\$516,101.2 (136.77%)
Valence College Preparatory Charter School	75-01 31st Avenue, Queens, NY	\$1,256,706.89	\$539,000.00	\$223,078.38	\$539,000.00	-\$717,706.89 (-57.11%)	\$315,921.62 (141.62%)
New Dawn Charter High School II	89-17 161st Street, Queens, NY	N/A	\$726,750.00	N/A	\$532,223.25	N/A	N/A
New Ventures Charter School	1 Teleport Drive, Staten Island, NY - Additional Corporate Commons Space	N/A	\$26,674.20	N/A	\$334,617.57	N/A	N/A

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
New Ventures Charter School	1 Teleport Drive, Staten Island, NY - Corporate Commons Space	N/A	\$307,943.37	N/A		N/A	N/A
John W. Lavelle Preparatory Charter School	1 Teleport Drive, Staten Island, NY - Additional Corporate Commons Space	N/A	\$100,345.80	N/A		N/A	
John W. Lavelle Preparatory Charter School	1 Teleport Drive, Staten Island, NY - Trailers and Lot Rental	N/A	\$639,151.20	N/A	\$1,575,128.88	N/A	\$348,197.79 (28.38%)
John W. Lavelle Preparatory Charter School	1 Teleport Drive, Staten Island, NY	\$1,880,776.99	\$1,158,453.63	\$1,226,931.09		-\$722,323.36 (-38.41%)	
Lois and Richard Nicotra Early College Charter School	300 Genesee Avenue (2019 – 1 Teleport Drive, 3rd Floor, Staten Island, NY)	\$990,000.00	\$506,577.50	\$143,407.53	\$506,577.50	-\$483,422.50 (-48.83%)	\$363,169.97 (253.24%)
New World Preparatory Charter School	100 Merrill Ave, Staten Island NY	N/A	\$295,000.00	N/A	\$295,000.00	N/A	N/A
Hellenic Classical Charter School - Staten Island	1641 Richmond Avenue, Staten Island, NY	N/A	\$183,601.00	N/A	\$183,601.00	N/A	N/A
Icahn Charter School 6	1776 Mansion Street, Bronx, NY	\$1,065,946.57	\$629,091.00	\$613,750.00	\$629,091.00	-\$436,855.57 (-40.98%)	\$15,341.00 (2.50%)

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Grand Concourse Academy Charter School	625 Bolton Avenue, Bronx, NY	\$1,422,551.04	\$2,656,783.00	\$744,158.99	\$683,513.22	\$1,234,231.96 (86.76%)	-\$60,645.77 (-8.15%)
Family Life Academy Charter School II	316 East 165th Street, Bronx, NY	N/A	\$2,743,885.07	N/A	\$2,699,634.00	N/A	\$999,125.54 (58.75%)
Family Life Academy Charter School II	296 East 140th Street, Bronx, NY	\$1,127,701.20	\$592,690.00	\$1,700,508.46		-\$535,011.20 (-47.44%)	
Heketi Community Charter School	403 Concord Avenue, Bronx NY	\$540,244.23	\$983,027.00	\$584,960.07	\$641,143.70	\$442,782.77 (81.96%)	\$56,183.63 (9.60%)
South Bronx Charter School for International Cultures and the Arts	164 Bruckner Boulevard, Bronx, NY	N/A	\$2,358,566.00	N/A	\$566,677.75	N/A	N/A
South Bronx Classical Charter School II	192 East 151st Street, Bronx, NY	\$1,080,000.00	\$325,000.00	\$30,499.98	\$172,215.53	-\$755,000.00 (-69.91%)	\$141,715.55 (464.64%)
Brilla College Preparatory Charter School	500 Courtland Avenue, Bronx, NY	\$784,513.33	\$1,147,000.00	\$1,865,701.35	\$2,429,525.25	\$362,486.67 (46.21%)	\$563,823.9 (30.22%)
Brilla College Preparatory Charter School	413 E 144th Street, Bronx, NY	\$400,000.00	\$1,531,555.00			\$1,131,555.00 (282.89%)	
Mott Haven Academy Charter School	170 Brown Place, Bronx, NY	\$34,210.53	\$617,383.22	\$399,483.26	\$617,383.22	\$583,172.69 (1704.66%)	\$217,899.96 (54.55%)

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Bronx Community Charter School	3170 Webster Avenue Bronx, NY 3rd & 4th Floors	\$974,500.00	\$852,562.45	\$685,044.89	\$872,230.82	-\$121,937.55 (-12.51%)	\$187,185.93 (27.32%)
Bronx Community Charter School	3170 Webster Avenue Bronx, NY First Floor	\$1,062,240.00	\$82,052.37			-\$980,187.63 (-92.28%)	
Charter High School for Law and Social Justice	1940 University Avenue, Bronx, NY	\$840,000.00	\$1,346,000.00	\$1,346,000.00	\$1,346,000.00	\$506,000.00 (60.24%)	\$0.00 (0.00%)
Atmosphere Academy Public Charter School	5959 Broadway, Bronx, NY	\$238,895.54	\$487,676.29	\$1,862,151.66	\$1,860,095.69	\$248,780.75 (104.14%)	-\$2,055.97 (-0.11%)
Atmosphere Academy Public Charter School	3700 Independence Avenue, Bronx, NY	\$973,528.00	\$612,419.40			-\$361,108.60 (-37.09%)	
Atmosphere Academy Public Charter School	22 Marble Hill Avenue, Bronx, NY	\$180,000.00	\$760,000.00			\$580,000.00 (322.22%)	
Metropolitan Lighthouse Charter School	180 W. 165th Street, Bronx, NY	\$1,011,249.97	\$1,666,687.50	\$1,256,628.17	\$1,526,165.31	\$655,437.53 (64.81%)	\$269,537.14 (21.45%)
Boys Preparatory Charter School of New York	192 East 151st Street, Bronx, NY	\$290,789.47	\$4,340,284.42	\$2,346,094.71	\$3,009,956.25	\$4,049,494.95 (1392.59%)	\$663,861.54 (28.30%)
American Dream Charter School	423 East 138th Street, Bronx, NY	\$3,000,000.00	\$18,750.00	\$444,166.66	\$1,091,707.74	-\$1,908,292.26 (-99.38%)	\$647,541.08 (145.79%)

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
American Dream Charter School	411 Wales Avenue, Bronx, NY	N/A	\$1,072,957.74	N/A			
Family Life Academy Charter School III	370 Gerard Avenue, Bronx, NY	\$1,210,463.00	\$1,072,074.31	\$862,229.42	\$1,072,074.31	-\$138,388.69 (-11.43%)	\$209,844.89 (24.34%)
Rosalyn Yalow Charter School	116 E. 169th Street, Bronx, NY	\$1,263,958.00	\$1,260,000.00	\$1,941,999.96	\$1,962,459.96	-\$3,958.00 (-0.31%)	\$20,460.00 (1.05%)
Rosalyn Yalow Charter School	3490 Third Avenue, Bronx, NY	N/A	\$702,459.96	N/A		N/A	N/A
Equality Charter School	2141 Seward Ave Bronx, NY	\$725,300.00	\$1,763,027.00	\$640,000.00	\$1,762,611.00	\$1,037,727.00 (143.08%)	\$1,122,611.00 (175.41%)
South Bronx Classical Charter School III	3458 Third Avenue Bronx, NY	\$1,133,640.00	\$1,339,032.79	\$991,404.16	\$1,339,032.79	\$205,392.79 (18.12%)	\$347,628.63 (35.06%)
South Bronx Early College Academy Charter School	766 Westchester Avenue/801 East 156th Street, Bronx, NY	\$302,940.00	\$1,533,333.33	\$1,433,333.33	\$1,533,333.33	\$1,230,393.33 (406.15%)	\$100,000.00 (6.98%)
Storefront Academy Charter School	609 Jackson Avenue Bronx, NY	\$843,333.30	\$756,893.73	\$580,000.00	\$756,893.73	-\$86,439.57 (-10.25%)	\$176,893.73 (30.50%)
New York City Montessori Charter School	423 East 138th Street, Bronx, NY	\$920,000.00	\$1,425,025.02	\$406,400.85	\$468,104.52	\$505,025.02 (54.89%)	\$61,703.67 (15.18%)
Bronx Charter School for Excellence 2	1804 Holland Avenue, Bronx, NY	\$975,000.00	\$353,736.00	\$346,800.00	\$353,736.00	-\$621,264.00 (-63.72%)	\$6,936.00 (2.00%)

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019-2020 DOE Rent Payments Change (%)
Legacy College Preparatory Charter School	416 Willis Avenue, Bronx, NY	\$719,455.00	\$1,569,224.00	\$931,224.00	\$1,569,224.00	\$849,769.00 (118.11%)	\$638,000.00 (68.51%)
Brilla College Preparatory Charter School at Highbridge	452 College Avenue, Bronx, NY	\$943,613.33	\$1,290,000.00	\$646,000.00	\$1,193,018.27	\$346,386.67 (36.71%)	\$547,018.27 (84.68%)
South Bronx Classical Charter School IV	3458 Third Avenue, Bronx, NY	\$2,589,600.00	\$721,017.65	\$557,664.84	\$721,017.65	-\$1,868,582.35 (-72.16%)	\$163,352.81 (29.29%)
Bronx Charter School for Excellence 3	3956 Carpenter Avenue, Bronx, NY	\$616,057.00	\$681,850.68	\$665,810.93	\$681,850.68	\$65,793.68 (10.68%)	\$16,039.75 (2.41%)
Amber Charter School II	3120 Corlear Avenue, Bronx, NY	\$1,942,295.00	\$1,083,540.00	\$916,968.98	\$1,083,540.00	-\$858,755.00 (-44.21%)	\$166,571.02 (18.17%)
Cardinal McCloskey Charter School	685 East 182nd Street, Bronx, NY	\$1,542,830.63	\$269,425.00	\$412,829.79	\$269,425.00	-\$1,273,405.63 (-82.54%)	-\$143,404.79 (-34.74%)
Emblaze Academy Charter School	1164 Garrison Ave Bronx, NY	\$1,727,021.00	\$600,000.00	\$332,905.47	\$600,000.00	-\$1,127,021.00 (-65.26%)	\$267,094.53 (80.23%)
Bronx Charter School for Excellence 4	3956 Carpenter Avenue, Bronx, NY	\$1,195,950.00	\$367,150.36	\$784,789.89	\$367,150.36	-\$828,799.64 (-69.30%)	-\$417,639.53 (-53.22%)
Zeta Charter Schools – New York City 2	222 Alexander Avenue, Bronx, NY	\$530,000.00	\$1,176,803.00	\$473,101.10	\$1,138,700.97	\$646,803.00 (122.04%)	\$665,599.87 (140.69%)
Urban Dove Team Charter School II	860 Forest Avenue, Bronx, NY	N/A	\$950,004.00	N/A	\$950,004.00	N/A	N/A



Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019–2020 DOE Rent Payments Change (%)
AEII: NYC Charter High School for Engineering and Innovation	423-435 East 138th St Bronx NY	N/A	\$431,250.00	N/A	\$431,250.00	N/A	N/A
Creo College Preparatory Charter School	650 Grand Concourse, Bronx, NY	N/A	\$480,000.00	N/A	\$426,713.69	N/A	N/A
Bold Charter School	1090 Close Avenue, Bronx, NY	N/A	\$430,000.00	N/A	\$430,000.00	N/A	N/A
Bronx Arts and Science Charter School	925 Hutchinson River Parkway, Bronx, NY	N/A	\$731,716.13	N/A	\$731,716.13	N/A	N/A
Bronx Charter School for Excellence 5	1946 Bathgate Avenue, Bronx, NY	N/A	\$1,003,832.00	N/A	\$417,760.13	N/A	N/A
Neighborhood Charter School: Bronx	411 Wales Avenue, Bronx, NY	N/A	\$812,000.00	N/A	\$518,293.88	N/A	N/A
Ember Charter School for Mindful Education, Innovation & Transformation	833 Marcy Avenue, Brooklyn, NY	\$50,000.00	N/A	\$100,000.00	N/A	N/A	N/A
Inwood Academy for Leadership Charter School	431 West 204th Street, New York, NY	\$967,967.60	N/A	\$1,026,130.00	N/A	N/A	N/A

Charter School	Site Address	Site Base Rent for FY19	Site Base Rent for FY20	2019 Projected Total DOE Lease Payments	2020 Projected Total DOE Lease Payments	2019-2020 Base Rent Change (%)	2019–2020 DOE Rent Payments Change (%)
	108 Cooper/620 Isham, New York, NY	\$348,000.00	N/A		N/A	N/A	N/A
Family Life Academy Charter School II	14 West 170st Street, Bronx, NY	\$1,256,706.89	N/A	\$1,700,508.46	N/A	N/A	N/A
South Bronx Community Charter High School	890 Washington Avenue, Bronx, NY	\$1,156,544.00	N/A	\$55,547.91	N/A	N/A	N/A
		<b>\$89,514,012.27</b>	<b>\$127,980,750.00</b>	<b>\$76,716,266.95</b>	<b>\$107,914,386.80</b>	<b>\$38,466,737.73 (42.97%)</b>	<b>\$31,198,119.85 (40.67%)</b>

## Appendix C: New York State Education Law §2853(3)(d), §2853(3)(e), and §3602(6)(g)

### **NYSEL §2853(3)(d)**

Source: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>

Notwithstanding any other provision to the contrary, in a city school district in a city having a population of one million or more inhabitants, the chancellor must first authorize in writing any proposed capital improvements or facility upgrades in excess of five thousand dollars, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building. For any capital improvements or facility upgrades in excess of five thousand dollars that have been approved by the chancellor, regardless of the source of funding, made in a charter school that is already co-located within a public school building, matching capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of such improvements or upgrades.

### **NYSEL §2853(3)(e)**

Source: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>

In a city school district in a city having a population of one million or more inhabitants, charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to this article, approved by their charter entity for the two thousand fourteen--two thousand fifteen school year or thereafter and request co-location in a public school building shall be provided access to facilities pursuant to this paragraph for such charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to this article, approved by their charter entity for those grades newly provided.

(1) Notwithstanding any other provision of law to the contrary, within the later of (i) five months after a charter school's written request for co-location and (ii) thirty days after the charter school's charter is approved by its charter entity, the city school district shall either: (A) offer at no cost to the charter school a co-location site in a public school building approved by the board of education as provided by law, or (B) offer the charter school space in a privately owned or other publicly owned facility at the expense of the city school district and at no cost to the charter school. The space must be reasonable, appropriate and comparable and in the community school district to be served by the charter school and otherwise in reasonable proximity.

(2) No later than thirty days after approval by the board of education or expiration of the offer period prescribed in subparagraph one of this paragraph, the charter school shall either accept the city school district's offer or appeal in accordance with subparagraph three of this paragraph. If no appeal is taken, the city's offer or refusal to make an offer shall be final and non-reviewable. The charter school may appeal as early as issuance of an educational impact statement for the proposed co-location.

(3) The charter school shall have the option of appealing the city school district's offer or failure to offer a co-location site through binding arbitration in accordance with subparagraph seven of this paragraph, an expedited appeal to the commissioner pursuant to section three hundred ten of this chapter and the procedures prescribed in paragraph (a-5) of this subdivision, or a special proceeding pursuant to article seventy-eight of the civil practice law and rules. In any such appeal, the standard of review shall be the standard prescribed in section seventy-eight hundred three of the civil practice law and rules .

(4) If the appeal results in a determination in favor of the city school district, the city's offer shall be final and the charter school may either accept such offer and move into the space offered by the city school district at the city school district's expense, or locate in another site at the charter school's expense.

(5) For a new charter school whose charter is granted or for an existing charter school whose expansion of grade level, pursuant to this article, is approved by their charter entity, if the appeal results in a determination in favor of the charter school, the city school district shall pay the charter school an amount attributable to the grade level expansion or the formation of the new charter school that is equal to the lesser of:

(A) the actual rental cost of an alternative privately owned site selected by the charter school or

(B) thirty percent of the product of the charter school's basic tuition for the current school year and (i) for a new charter school that first commences instruction on or after July first, two thousand fourteen, the charter school's current year enrollment; or (ii) for a charter school which expands its grade level, pursuant to this article, the positive difference of the charter school's enrollment in the current school year minus the charter school's enrollment in the school year prior to the first year of the expansion.

(6) An arbitration in an appeal pursuant to this paragraph shall be conducted by a single arbitrator selected in accordance with this subparagraph from a list of arbitrators from the American arbitration association's panel of labor arbitrators, with relevant biographical information, submitted by such association to the commissioner pursuant to paragraph a of subdivision three of section three thousand twenty-a of this chapter. Upon request by the charter school, the commissioner shall forthwith send a copy of such list and biographical information simultaneously to the charter school and city school district. The parties shall, by mutual agreement, select an arbitrator from the list within fifteen days from receipt of the list, and if the parties fail to agree on an arbitrator within such fifteen day period or fail within such fifteen day period to notify the commissioner that an arbitrator has been selected, the commissioner shall appoint an arbitrator from the list to serve as the arbitrator. The arbitration shall be conducted in accordance with the American arbitration association's rules for labor arbitration, except that the arbitrator shall conduct a pre-hearing conference within ten to fifteen days of agreeing to serve and the arbitration shall be completed and a decision rendered within the time frames prescribed for

hearings pursuant to section three thousand twenty-a of this chapter. The arbitrator's fee shall not exceed the rate established by the commissioner for hearings conducted pursuant to section three thousand twenty-a of this chapter, and the cost of such fee, the arbitrator's necessary travel and other reasonable expenses, and all other hearing expenses shall be borne equally by the parties to the arbitration.

### **NYSEL §3602(6)(g)**

Source: <https://codes.findlaw.com/ny/education-law/edn-sect-3602.html>

Charter schools facilities aid.

a. The city school district of the city of New York, upon documenting that it has incurred total aggregate expenses of forty million dollars or more pursuant to subparagraph five of paragraph (e) of subdivision three of section twenty-eight hundred fifty-three of this chapter, shall be eligible for an apportionment pursuant to this subdivision for its annual approved expenditures for the lease of space for charter schools incurred in the base year in accordance with paragraph (e) of subdivision three of section twenty-eight hundred fifty-three of this chapter.

b. The apportionment shall equal the product of (1) the sum of:

for aid payable for expenses incurred pursuant to subparagraph five of paragraph (e) of subdivision three of section twenty-eight hundred fifty-three of this chapter where the charter school prevails on appeal, the annual approved expenses incurred by the city school district pursuant to such subparagraph five multiplied by

(2) six-tenths.

c. For purposes of this subdivision, the approved expenses attributable to a lease by a charter school of a privately owned site shall be the lesser of the actual rent paid under the lease or the maximum cost allowance established by the commissioner for leases aidable under subdivision six of this section.

d. Notwithstanding any provision of law to the contrary, amounts apportioned pursuant to this subdivision shall not be included in: (1) the allowable growth amount computed pursuant to paragraph dd of subdivision one of this section, (2) the preliminary growth amount computed pursuant to paragraph ff of subdivision one of this section, and (3) the allocable growth amount computed pursuant to paragraph gg of subdivision one of this section, and shall not be considered, and shall not be available for interchange with, general support for public schools.

## Appendix D: New York City DOE Regulation of the Chancellor A-190, I.H and III.B

### Regulation of the Chancellor A-190, I.H

Source: <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-190>

A “capital improvement or facility upgrade” shall mean an addition or alteration to an existing building, which is permanent and is intended to increase a building’s value, beauty, or utility, or to adapt the building for a new purpose. Such addition or alteration becomes part of the existing building, or is intended to be permanently affixed to the existing building so that removal would cause material damage to the building or article itself. In addition to the foregoing, the following is a non-exhaustive list of additions or alterations that shall constitute facility upgrades: painting; the replacement of floor covering(s); the installation of electrical or computer network wiring; and the addition of window unit air conditioners. The Chancellor retains final authority to determine whether a given proposed project qualifies as a facility upgrade.

### Regulation of the Chancellor A-190, III.B

Source: <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-190>

#### Charter Schools Co-Located with One or More Non-Charter Schools or Certain D75 School Organizations

1. Shared Space Committees
  - a. A shared space committee shall be established in each public school building in which one or more charter schools are co-located with one or more non-charter public schools or a D75 school organization. The shared space committee shall be comprised of the principal (or an assistant principal of the D75 school organization), a teacher, and a parent from each co-located school or D75 school organization. With respect to a non-charter school’s teacher and parent members, such shared space committee members shall be selected by the corresponding constituent member of the SLT at that school. a.
  - a. Such committee shall meet at least four times per school year. With respect to charter schools whose location or co-location in a public school building was approved by the PEP after May 28, 2010, the shared space committee shall review implementation of the building usage plan approved by the PEP. With respect to charter schools that were approved to be located or co-located in a public school building prior to May 28, 2010, the shared space committee shall review implementation of the current building space plan in place at those buildings.
2. Capital Improvements and Facility Upgrades
  - a. The Chancellor or the Chancellor’s designee must first authorize in writing any proposed capital improvement or facility upgrade in excess of five thousand dollars, regardless of the source of funding, made to accommodate the colocation of a charter school within a public school building. The Chancellor or the Chancellor’s designee may condition such authorization on the receipt from the requesting entity of funding up to the amount necessary to fund the capital improvements or facility upgrades that must

be made to each non-charter school within the public school building to meet the requirement of paragraph d of subdivision 3 of § 2853 of the Education Law. The costs of both labor and supplies shall be included in the calculation of the cost of a proposed capital improvement or facility upgrade. All work undertaken and supplies purchased as part of a single project shall be considered in the calculation of the cost of a proposed capital improvement or facility upgrade. For any such improvements or upgrades that have been approved by the Chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter school within the public school building. For any capital improvements or facility upgrades in excess of five thousand dollars that have been approved by the Chancellor, regardless of the source of funding, made in a charter school that is already co-located within a public school building, matching capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of such improvements or upgrades.

b. Approval Process

- i. All proposed capital improvements and facility upgrades must be submitted in writing to the building's building council and shared space committee before submission to the Division of School Planning and Development/Space Management and the Division of School Facilities. The written proposal must be submitted to the Division of School Planning and Development/Space Management and the Division of School Facilities, or other designated office, at least 15 school days prior to the proposed date of the project's commencement. A charter school's funding for a proposed capital improvement or facility upgrade must be secured at the time of submission.
- ii. The Division of School Planning and Development/Space Management, or its designee, shall review the charter school's application for approval of its proposed capital improvement or facility upgrade and make recommendations regarding approval to the Chancellor or the Chancellor's designee.
- iii. The Chancellor or the Chancellor's designee shall notify the charter school's operator and the co-located non-charter schools of the decision to grant or deny approval of the proposed capital improvement or facility upgrade.
- iv. Any changes to the original proposed scope of the charter school's capital improvement or facility upgrade must be approved by the Chancellor or the Chancellor's designee in advance of implementing the change in the scope of work.
- v. Any charter school which proceeds with a capital improvement or facility upgrade that has not been approved by the Chancellor or the Chancellor's designee shall be responsible for funding improvements or upgrades to be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of

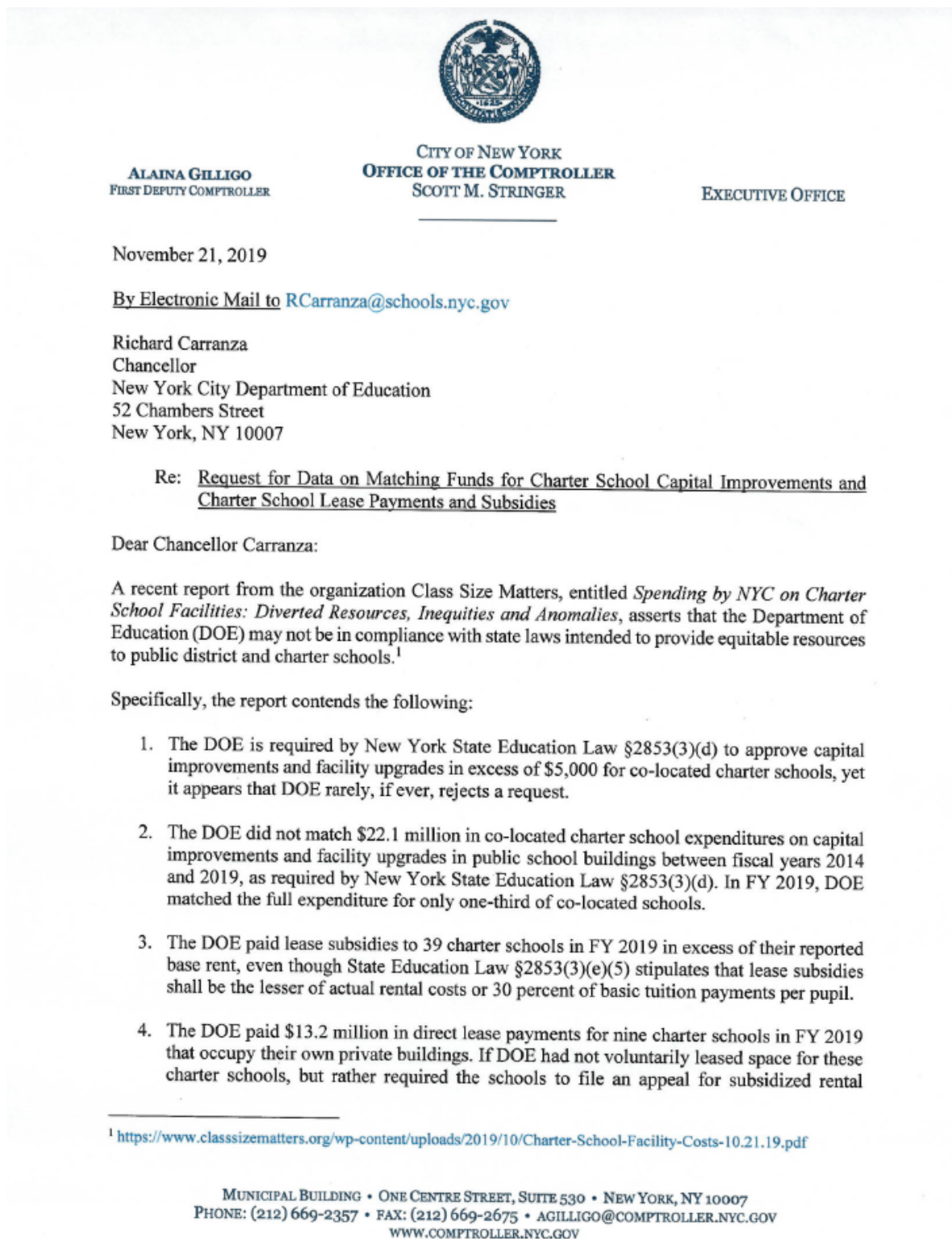


the charter school's improvements or upgrades. The Chancellor may also choose to exercise any other remedy available by law.

c. Appeals

Once a proposal to locate or co-locate a charter school within a public school building and its accompanying building usage plan have been approved by the 11 A-190 - SIGNIFICANT CHANGES IN SCHOOL UTILIZATION AND PROCEDURES FOR THE MANAGEMENT OF SCHOOL BUILDINGS HOUSING MORE THAN ONE SCHOOL – 8/1/2019 PEP, the approval of the proposal and/or implementation of and compliance with the approved building usage plan may be appealed to the Commissioner of Education pursuant to § 2853(3)(a-5) of the New York Education Law

## Appendix E: First Deputy Comptroller Alaina Gilligo's to Chancellor Richard Carranza, November 2019



assistance with the State Education Department, the lease payments would be eligible for 60 percent reimbursement from the State, under State Education Law §3602(6-g).

5. The DOE is paying rental subsidies to eight charter schools in seven private buildings, in which the charter school's Charter Management Organization or an associated LLC or foundation appears to own the building, seemingly in violation of at least the spirit of the relevant state education laws, which repeatedly refer to rental or lease costs in the determination of the rental subsidy.

If true, these findings indicate that DOE has underfunded co-located non-charter schools, while overpaying for charter school subsidies and failing to maximize available state funding.

To more fully investigate the assertions from Class Size Matters, pursuant to authority under Chapter 5 of the City Charter, the Office of the New York City Comptroller hereby requests information outlined in the attached schedule. For each item, if the DOE does not have the information requested, please so state in the response. In addition, when responding to this letter, please identify the request number to which the information or documents relate.

To further this inquiry, we would appreciate acknowledging receipt of this request and designating a liaison who can facilitate a response.

Please respond to this request by December 20, 2019. In doing so, please email the requested data in Excel or CVS form and any necessary explanatory materials to Dylan Hewitt, Director of Intergovernmental Relations, at [dhewitt@comptroller.nyc.gov](mailto:dhewitt@comptroller.nyc.gov).

If you have any questions or would like to discuss further, please call Dylan at 212-669-8056. Thank you in advance for the Department's anticipated cooperation.

Sincerely,



Alaina Gilligo  
First Deputy Comptroller

Enc.

### November 21, 2019 Data Request

1. In May 2010, New York State adopted legislation (A11310/S7990) that requires the Chancellor of the New York City Department of Education to approve any capital improvements or facility upgrades in excess of \$5,000 proposed by a charter school co-located within a public school building.<sup>2</sup> Specifically, New York State Education Law §2853(3)(d) states:

“Notwithstanding any other provision to the contrary, in a city school district in a city having a population of one million or more inhabitants, the chancellor must first authorize in writing any proposed capital improvements or facility upgrades in excess of five thousand dollars, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building.”<sup>3</sup>

In addition, the Chancellor’s regulation A-190 states:

“Any charter school which proceeds with a capital improvement or facility upgrade that has not been approved by the Chancellor or the Chancellor’s designee shall be responsible for funding improvements or upgrades to be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of the charter school’s improvements or upgrades.”

**Please provide the following information related to co-located charter school requests for capital improvements or facility upgrades.**

- a. A complete list of all co-located charter school requests for capital improvements or facility upgrades since May 2010, indicating which, if any, were not approved by the DOE, and the reasons for the denial.
  - b. For all projects that were not approved, please indicate if the project proceeded and if the charter school provided matching funding to co-located schools.
2. The aforementioned legislation further requires the DOE to provide an equal amount of capital improvements or facility upgrades to each co-located, non-charter public schools if the Chancellor approves a renovation project exceeding \$5,000 for a charter school. Specifically, New York State Education Law §2853(3)(d) states:

“For any such improvements or upgrades that have been approved by the chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building. For any capital improvements or facility upgrades in excess of five thousand dollars that have been approved by the chancellor, regardless of the source of funding, made in a charter school that is already co-located within a public school building, matching capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the

<sup>2</sup> <https://www.nysenate.gov/legislation/bills/2009/a11310/amendment/original>

<sup>3</sup> <https://www.nysenate.gov/legislation/laws/EDN/2853>



charter school for each non-charter public school within the public school building within three months of such improvements or upgrades.”

According to the Chancellor’s regulation A-190, issued on August 1, 2019, the DOE defines “capital improvements or facility upgrades” as:

“...an addition or alteration to an existing building, which is permanent and is intended to increase a building’s value, beauty, or utility, or to adapt the building for a new purpose. Such addition or alteration becomes part of the existing building, or is intended to be permanently affixed to the existing building so that removal would cause material damage to the building or article itself. In addition to the foregoing, the following is a non-exhaustive list of additions or alterations that shall constitute facility upgrades: painting; the replacement of floor covering(s); the installation of electrical or computer network wiring; and the addition of window unit air conditioners. The Chancellor retains final authority to determine whether a given proposed project qualifies as a facility upgrade.”<sup>4</sup>

Regulation A-190 further states:

“The costs of both labor and supplies shall be included in the calculation of the cost of a proposed capital improvement or facility upgrade. All work undertaken and supplies purchased as part of a single project shall be considered in the calculation of the cost of a proposed capital improvement or facility upgrade.”

The Class Size Matters report indicates that DOE may be excluding certain expenditures from the matching requirement, including “individual projects costing less than \$5,000, equipment purchases, computers, smartboards, shared space enhancements, and re-painting/re-carpeting areas previously upgraded within five years.”

**Please provide the following information related to DOE’s interpretation of State Education Law §2853(3)(d), as reflected in the Chancellor’s regulation A-190.**

- a. Please clarify how DOE interprets the \$5,000 threshold. Does DOE apply the matching requirement to each *individual project* exceeding \$5,000, or does DOE apply the matching requirement after the co-located charter school requests total capital improvements or facility upgrades exceeding \$5,000 in any given year or some other period of time?
- b. Has DOE ever matched any *individual projects* undertaken by co-located charters that cost under \$5,000, even if a match is not required by law? If yes, please provide a list of all projects that cost under \$5,000 that have been matched since the law took effect.

<sup>4</sup> <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-190-significant-changes-in-school-utilization-and-procedures-for-the-management-of-school-building-housing-more-than-one-school>

- c. For each project that triggered the matching expenditure requirement required under State Education Law §2853(3)(d) in FYs 2014 to 2019, please provide the following information:

- i. Total amount spent by the charter school
- ii. Specific exclusions to the DOE match calculation, including the dollar amount and the reason for the exclusion
- iii. Number of co-located non-charter schools
- iv. Total DOE matching funds

3. As reported by Class Size Matters, and as shown in the “Charter School Lease Report” posted on the City Council website, 39 charter schools received annual lease subsidies in excess of their site base rent in FY 2019.<sup>5</sup>

For each charter school that received lease assistance payments in FY 2019, please provide the following information, which is required under State Education Law §2853(3)(e)(5) to calculate the payment amount:

- a. Actual rental cost of the alternative privately owned site selected by the charter school in FY 2019. If the “actual rental cost” is different than the reported “site base rent,” please explain why.
  - b. Enrollment used to calculate lease subsidy, either total enrollment for a new school or the increase in enrollment for a school undergoing grade expansion
  - c. Actual lease subsidy payment in FY 2019
4. DOE directly holds leases for nine charter schools in eight buildings that do not share space with non-charter schools. Under State Education Law §3602(6-g), lease subsidies provided to charter schools following an appeal to the State Education Department are eligible for 60 percent state reimbursement.

Please explain the rationale for providing directly leased space to the following schools:

Building Code	Location Code	Location Name
K677	K882	Success Academy Charter School - Bushwick
K884	K886	Success Academy Charter School - Flatbush
M387	M265	Success Academy Charter School - Washington Heights - New York 1
M389	M357	Success Academy Charter School - Harlem 6
M389	M386	Success Academy Charter School - Harlem 4
X859	X598	KIPP Freedom Charter School
Q374	Q337	Success Academy Charter School - Rosedale - New York 5
Q781	Q374	Success Academy Charter School - South Jamaica
Q885	Q705	Renaissance Charter School

<sup>5</sup> <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/02/Department-of-Education-Charter-School-Lease-Report.xlsx>

5. According to Class Size Matters, the DOE is paying rental subsidies to eight charter schools that lease space from entities that appear to be related, including the school's Charter Management Organization and affiliated LLCs or foundations.

**Please clarify if the DOE believes that such arrangements are permissible under state law. Additionally, please provide any definitions or rules that the DOE uses in determining applicable rental costs, including but not limited to, the DOE's treatment of maintenance, costs of capital improvements, costs of occupancy, security, insurance and real property taxes.**

## Appendix F: Deputy Chancellor Karen Goldmark's Response to First Deputy Comptroller Gilligo's Letter, January 2020



**Karin Goldmark**  
Deputy Chancellor,  
School Planning and  
Development

**52 Chambers Street**  
**New York, NY 10007**

January 23, 2020

**Alaina Gilligo**  
First Deputy Comptroller  
Office of the Comptroller  
One Centre Street, Suite 530  
New York, NY 10007

Dear Ms. Gilligo:

The New York City Department of Education (DOE) is in receipt of your November 21, 2019 letter requesting information related to the recent report from the organization Class Size Matters, entitled *Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies*.

Please find responses to the Data Request below:

**Request One:** Please provide the following information related to co-located charter school requests for capital improvements or facility upgrades:

- a. A complete list of all co-located charter school requests for capital improvements or facility upgrades since May 2010, indicating which, if any, were not approved by the DOE, and the reasons for the denial.

*Please see attached spreadsheet, which includes all Fiscal Year (FY) 2014-2019 co-located charter school requests; no request has been denied since the law was enacted in 2010.*

- b. For all projects that were not approved, please indicate if the project proceeded and if the charter school provided matching funding to co-located schools.

In the spirit of transparency we are happy to comply with this request. Please note, per State Education Law §2853(3)(d), it is the DOE, not the charter schools, that are required to provide matching funds for capital projects.

*See response to Request One (a) above.*

**Request Two:** Please provide the following information related to DOE's interpretation of State Education Law §2853(3)(d), as reflected in the Chancellor's regulation A-190:

- a. Please clarify how DOE interprets the \$5,000 threshold. Does DOE apply the matching requirement to each *individual project* exceeding \$5,000, or does DOE apply the matching



requirement after the co-located charter school requests total capital improvements or facility upgrades exceeding \$5,000 in any given year or some other period of time?

*All charter school requests for capital improvements and/or facility upgrades, regardless of amount requiring approval, are considered. If multiple requests below the \$5,000 threshold are submitted in the same school year, and the total then exceeds the threshold, the DOE would match the entire amount once it exceeds \$5,000.*

- b. Has DOE ever matched any individual projects undertaken by co-located charters that cost under \$5,000, even if a match is not required by law? If yes, please provide a list of all projects that cost under \$5,000 that have been matched since the law took effect.

*As stated above, the DOE reviews the total amount of the capital improvements and/or facility upgrades performed by a co-located charter school in a given school year to determine if the \$5,000 threshold has been met. The DOE has not provided matching funds for capital improvements and/or facility upgrades where the total did not exceed \$5,000 in a given school year. It should be noted that the DOE routinely performs facility upgrades and capital improvements for our district co-located schools even where the matching requirements set forth in State Education Law §2853(3)(d) are not triggered.*

- c. For each project that triggered the matching expenditure requirement required under State Education Law §2853(3)(d) in FYs 2014 to 2019, please provide the following information:
- Total amount spent by the charter school
  - Specific exclusions to the DOE match calculation, including the dollar amount and the reason for the exclusion
  - Number of co-located non-charter schools
  - Total DOE matching funds

*A full spreadsheet of all information requested above is attached.*

**Request Three:** As reported by Class Size Matters, and as shown in the “Charter School Lease Report” posted on the City Council website, 39 charter schools received annual lease subsidies in excess of their site base rent in FY 2019.

For each charter school that received lease assistance payments in FY 2019, please provide the following information, which is required under State Education Law §2853(3)(e)(5) to calculate the payment amount:

- Actual rental cost of the alternative privately owned site selected by the charter school in FY 2019. If the “actual rental cost” is different than the reported “site base rent,” please explain why.
- Enrollment used to calculate lease subsidy, either total enrollment for a new school or the increase in enrollment for a school undergoing grade expansion.
- Actual lease subsidy payment in FY 2019.

*Please identify the 39 charter schools referenced above and clarify whether this request is seeking information for all lease assistance payments in FY 2019, or only those payments made to the 39 schools.*

**Request Four:** DOE directly holds leases for nine charter schools in eight buildings that do not share space with non-charter schools. Under State Education Law §3602(6-g), lease subsidies provided to charter schools following an appeal to the State Education Department are eligible for 60 percent state reimbursement. Please explain the rationale for providing directly leased space to schools.

*The law provides that the DOE can offer a charter school space in a privately-owned facility at the DOE’s expense and at no expense to the school.*

**Request Five:** According to Class Size Matters, the DOE is paying rental subsidies to eight charter schools that lease space from entities that appear to be related, including the school's Charter Management Organization and affiliated LLCs or Foundations. Please clarify if the DOE believes that such arrangements are permissible under state law. Additionally, please provide any definitions or rules that the DOE uses in determining applicable rental costs, including but not limited to, the DOE's treatment of maintenance, costs of capital improvements, costs of occupancy, security, insurance and real property taxes.

*In accordance with the Commissioner's decisions, where a charter school provides a lease that shows the amount of the actual rental cost of an alternative privately-owned site, the DOE uses that information to determine the amount of rental assistance that the charter school is entitled to.*

Sincerely,



Karin Goldmark  
Deputy Chancellor  
New York City Department of Education