

EXHIBIT 1

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Comparing the Level of Public Support: Charter Schools versus Traditional Public Schools

SUMMARY

MANY ADVOCATES OF CHARTER SCHOOLS argue that their schools succeed despite significantly less public funding on a per student basis than the support provided for students at traditional public schools. Some of those who are skeptical of the growing number of charter schools counter that these schools receive more support than just the basic allocation for each student and also note that per student spending in traditional schools is inflated by the high cost for special education students, particularly those with the most needs who rarely attend charter schools.

IBO has compared the per student public financial support for charter schools to per student funding at traditional public schools at the request of Panel for Education Policy member Patrick Sullivan. To do this we reviewed the amount of money allocated to charter schools plus the supplemental public support given to these schools, some of which is required by the state and some provided at the city's discretion. We also estimated per student spending at traditional public schools. For both types of schools we disregarded spending that depends on the makeup of the student body.

Based on the 2008–09 school year, IBO found:

- Per student general education spending at traditional public schools totaled \$16,678.
- While public support per student at charter schools was less than at traditional public schools, the size of that difference depended on whether the charter school was located in a public school building or in private space.
- For charter schools located in public school buildings, public support was just \$305 less per student than at traditional public schools and totaled \$16,373.
- For charter schools located in private space the shortfall was a more substantial \$3,017 per student and public support totaled \$13,661.

More than two-thirds of charter schools in New York City are located in public school buildings, a practice that is not common in the rest of the country. For charter schools housed in public school buildings, the arrangement is financially advantageous. IBO estimates that the value of the savings for these charter schools on facility, utility, and school safety costs is \$2,712 per student.

INTRODUCTION

At the request of Patrick Sullivan, the Manhattan Borough President's appointee to the Panel for Education Policy, IBO compared the per student public financial support received by charter schools in New York City with per student funding for the city's traditional public schools. Charter schools received \$310 million in direct operating funding from the New York City Department of Education (DOE) for the last school year (2008–09) and the budget for this year has grown to \$418 million as the number of charters in the city expanded from 78 to 99. This allocation of public dollars from the traditional public schools to charter schools is determined by New York State Law. In addition, there are numerous other public supports that flow to charter schools.

For this report, IBO reviewed the amount of money allocated to charter schools plus the supplemental types of assistance granted to charters, some required by state law and some determined by city policy. This combined amount, which we refer to as public support for charter schools, was then compared on a per capita basis to an IBO estimate of traditional public school per pupil spending across the entire DOE system. Both charters and regular public schools also receive various forms of categorical aid from the state and federal governments as reimbursement for delivering services to individual students. Our measures for both charters and traditional schools exclude categorical spending.

Constructing measures that allow an apples-to-apples comparison of support for charters and the other public schools is challenging due to the complexities of the aid formulas in state law as well as the education department's opaque accounting, which makes it hard to associate spending with discrete programs. IBO found that using the most comparable per pupil costs, which excludes special education spending, per capita public support for charter schools located in DOE buildings—as more than two-thirds of New York City charter schools are—is slightly lower than the per capita public support in traditional public schools by \$305 (1.8 percent). Charters operating in their own space do not receive in-kind assistance for their space such as custodial services from the education department and, therefore, the public support they receive is \$3,017 (18.1 percent) per pupil below that of traditional public schools.

Background. Charters are publicly funded schools that are independently managed by nonprofit boards rather than by their local school district administrators. They can also receive substantial private funding to supplement the public support. Although charters are publicly funded, they bear the sole responsibility for managing their own resources and meeting

academic performance goals for their students. The autonomy permits the schools to do things such as utilize alternative teaching methods and curricula, set class sizes as they see fit, and alter the length of the school day or school year. They are also not bound by the DOE's collective bargaining agreement with the teachers union. The "charter" is a five-year contract that can be renewed at the option of the granting authority based on the academic performance of the school.

Charters in New York State were first authorized by legislation passed in 1998. Until 2007 the number of charters that could be granted in the state was capped at 100, when it was raised to 200. In the 2008–09 school year New York City had 78 operating charter schools. The DOE added 21 new charters to increase that number to 99 this school year. With just a handful of charters still available under the current cap, earlier this year the state Legislature could not resolve differences over proposals that would have raised the cap to 400 or more. Governor David Paterson and Mayor Michael Bloomberg had been strong proponents of a large increase.

Charters in New York are granted by one of three authorizing institutions: the State University of New York, the New York State Board of Regents, and the DOE. These authorizing institutions review charter performance, provide oversight, and can terminate rather than renew the school charter after five years.

About 23,500 public school students attended charter schools in the city in school year 2008–09, which is equal to about 2 percent of traditional public school enrollment. Charter enrollment is heavily minority, according to a study by the United Federation of Teachers of elementary and middle schools. In the 2007–08 school year 67 percent of charter students were identified as African-American and another 29 percent identified as Hispanic; combined, these two groups account for 96 percent of students in charter schools, compared with 76 percent in traditional public schools.¹ The study found other differences in the composition of the two types of schools. The share of students qualifying for free lunch at charters was 58 percent compared with 67 percent in other public schools, although there was little difference when comparing eligibility for free or reduced cost lunch, combined.² Charters had a smaller share of English Language Learners, with 4 percent of their enrollment receiving these services compared to 14 percent in traditional public schools. IBO's analysis of enrollment data indicate that 7 percent of charter students received special education services compared with almost 10 percent of public school students.

Charters are currently found in many areas of the city although there are concentrations in areas such as Manhattan District 5

(Harlem), Bronx District 7 (Mott Haven), and Brooklyn District 14 (Willimasburg/Greenpoint). Of the city's 32 community school districts there are only five that have no charter schools this school year. These were District 20 (Bay Ridge) in Brooklyn, and Districts 24 (Corona), 25 (Flushing), 26 (Bayside/Douglaston), and 28 (Jamaica) in Queens.

Comparing Public Spending. Because of their hybrid nature, the funding of charter schools' expenses is complicated, with some types of expense categories limited to specific funding sources and others more generally funded. Charters receive a per pupil allocation from their home school district (in the case of charters in New York City this is DOE) which is intended to provide most of their basic operating costs. The allocation is determined by a formula in New York State education law. Other expenses that are not covered by the allocation—including debt service and insurance—must be covered by other funding, usually private. Charters can also receive public support for certain other expenses via the pass-through of goods and services from DOE. As a matter of local policy, DOE has also chosen to effectively cover some other expenses faced by charter schools, particularly those located in DOE buildings. Charters also qualify for reimbursement for services provided to certain students based on their educational needs.

For this study, IBO sought to compare per student public support for charters with that for traditional public schools. To facilitate the comparison, we constructed measures of per student funding available to all schools, disregarding spending that depends on the make-up of the student body. For charter schools, our measure includes the basic operating allocation, the value of pass-through support from DOE, and in the case of charters in education department buildings the value of the additional support for space and school safety. We exclude most special education spending and other categorical spending as these items are reimbursed at essentially equal rates for charter schools and regular public schools.³ Because we are focused on public resources used for charter schools, IBO's analysis did not account for private contributions.

PUBLIC SUPPORT FOR CHARTER SCHOOLS

Adjusted Operating Expense. The largest form of public support for charter schools is the per pupil allocation known as the adjusted operating expense (AOE), which is multiplied by the number of students enrolled in the charter school to arrive at the school's total payment. These allocations are paid by the local school district to the charter schools in its jurisdiction, drawing upon the district's current budget. This amount is determined by a formula defined in the state charter law. It is often thought of as equal to per pupil spending by the local district for direct operation of the traditional public schools, but what is included and excluded in the formula yield an AOE result that is not really equivalent to other comprehensive measures of education spending. In some cases, the AOE will include spending amounts for items such as pensions that will almost certainly be lower for charters than in traditional public schools, allowing resources to be directed to other parts of the charter's budget. In other cases, the AOE does not cover some fundamental costs for the charters. Notably, the calculation of local district spending in the formula excludes facility costs such as debt service and leasing, as well as transportation costs.

The AOE is based on local expenses from two years earlier, multiplied by the percentage change in the statewide measure of those expenses from three years prior to one year prior. Thus,

| Measuring Public Support Per Student at Charter Schools | | |
|--|---|-----------------------------|
| 2008-09 School Year | | |
| | Per Student Public Support for Charter Schools | |
| | In DOE School Buildings | Not in DOE School Buildings |
| Adjusted Operating Expense | \$12,443 | \$12,443 |
| Software | 10 | 10 |
| Library Materials | 6 | 6 |
| Textbooks | 58 | 58 |
| Special Education Evaluation | 64 | 64 |
| Health | 21 | 21 |
| Transportation | 343 | 343 |
| Classroom supplies, furniture/fixtures | 287 | 287 |
| Food | 388 | 388 |
| Other Administrative Services | 40 | 40 |
| Facilities | 877 | n/a |
| Utilities (Heat, Light, Power) | 272 | n/a |
| Safety | 217 | n/a |
| Debt Service | 1,346 | n/a |
| TOTAL Charter School Support | \$16,373 | \$13,661 |
| Public School Per Student General Education Spending | \$16,678 | \$16,678 |
| Difference in Per Student Support for Charter Schools | \$(305) | \$(3,017) |
| SOURCES: IBO; Department of Education | | |

the 2008–09 adjusted operating expense for each district in New York State was based on the New York City AOE in school year 2006–07 adjusted by the statewide change from 2005–06 to 2007–08. For the New York City district, the per capita AOE for 2008–09 was \$12,443.⁴ Because of this lag in the calculations, the adjusted operating expense can be significantly out of line with current school budgets, particularly at times when spending is growing or falling rapidly.

Pass-through Support for Charter Schools. Charter schools are eligible to receive goods such as textbooks and software, as well as services such as special education evaluations, health services, and student transportation, if needed and requested from the district. In New York City there is a long-established process for nonpublic schools to access these services, and charter schools have access to similar support from DOE. For these items, charter schools receive the goods or services rather than dollars to pay for them. Most of these noncash allocations are managed centrally through DOE.

IBO calculated the portion of what each of these services or goods cost the public sector and added the per student amount to our measure of public support for charter schools. The underlying assumption is that the cost to DOE of providing pass-through services for charter schools is the same when providing these services to traditional public schools. The price of a book is the same regardless of whether it is received by a charter or traditional public school student. Depending on the type of service under consideration, there may be economies of scale and threshold expenses that would result in differences in costs between services delivered at charters and in traditional public schools, although our estimates did not account for them.

New York State Textbook Law Purchases. Under state education law, aid is provided for textbooks, library books, and computer software in equal per capita amounts for students at regular public schools, charter schools, and private schools. The combined money for these three particular programs flows through the school district as a \$74 per pupil allocation. The Department of Education accepts charter school requests for these items, which are purchased with the state aid and loaned to the charter school. IBO adds this spending to its measure of public support for charter schools.

Health Services. Health services are another form of pass-through assistance where the charter school receives the services but pays no cost. Besides ensuring that all students have proper immunization records, charters are also required to provide health and welfare services in the same way that traditional public school students receive these services. For charter schools,

this means working with the Department of Health and Mental Hygiene’s Bureau of School Children and Adolescent Health to have the school staffed with a qualified nurse. Just as with regular public schools, school nurses are on the health department’s payroll and not on the charter’s budget. IBO estimates that the cost per student of providing school nurses at traditional public schools is \$21. Given that essentially the same services are provided to both types of schools, IBO adds that amount to our measure of public support for charter schools.

Transportation. A charter school can request that transportation services be provided by the home school district at the district’s expense. In New York City, charters follow established DOE procedures for requesting transportation services already established for nonpublic school students. Transportation eligibility guidelines for charter school students are similar to those for traditional public school students. If a charter school chooses to offer additional transportation services beyond what is provided by the DOE, it is responsible for those costs. IBO’s estimate of the cost per student of providing transportation to DOE general education students is \$343. We add the same amount to our estimate of per capita public support for charter schools.

Special Education Evaluations. The public school district is responsible for evaluating and developing specific individualized education plans for charter school students who may need special education services. Department of Education spending to provide these evaluations to charter and traditional public school students is included in the calculation of adjusted operating expense. But DOE bears the costs of the evaluations when charter students need them, so IBO adds the \$64 per student cost of providing this service to the measure of public support for charter schools. Our estimate of the DOE expenditure is based on the spending for the Committees on Special Education.⁵

Facilities, Utilities, and School Safety. There is an additional

CAPITAL FUNDING FOR CHARTER SCHOOLS

The city has chosen to provide support for charters from its capital budget as well. The Department of Education’s five-year capital plan provides resources to help fund the construction of buildings for charter schools. The charter must also raise 30 percent of the cost from its own sources. In its 2005–09 capital plan, DOE allocated \$250 million for charter school projects. Eight projects were funded with a total of 4,704 new seats. The current 2010–14 plan allocates \$210 million for charter and partnership schools (new small schools developed with private supporters); charters are likely to account for a majority of the projects.

set of noncash benefits that are received by some charter schools—those housed in DOE buildings. These include the cost of facilities, utilities, and school safety.

Facilities and Utilities. Under the state’s charter law, there is no provision for direct public funding of the cost of school facilities. When charters are located in private space, the school pays its own lease obligations or other capital expenses, as well as the cost of janitorial services and utilities. Given the high cost of land and construction in the city, the lack of direct capital support for charters creates a significant barrier to their establishment in the five boroughs.

The city’s education department has chosen to help overcome that barrier by making space for charter schools available—where feasible—in DOE buildings. Charter schools located in DOE facilities pay a nominal rental fee and avoid the capital costs. If charters share a DOE building with one or more regular public schools, their utilities and janitorial costs are also absorbed within the DOE’s budget. IBO estimated the per student value of this pass-through assistance using the department’s expenses for delivering these services to regular DOE school buildings. IBO added \$877 per student for facility expenses and \$272 per student for utilities to the unrestricted public support for charter schools for schools operating in DOE facilities.⁶

School Safety. Charters must develop their own safety plans, but for charters sharing DOE space, safety plans can incorporate those of the host school and safety expenditures can be shared and spread across all charter and noncharter students at the building. In contrast, charters in private facilities must carry this expenditure on their own. The per student cost of school safety for DOE facilities was estimated at \$217 and we included this amount in IBO’s measure of public support for charter schools located in DOE facilities.

DOE Payments for Specific Charter School Expenses.

Classroom supplies, furniture, and fixtures for new schools, as well as food service and storage, are other than personal services (OTPS) expenditures for which charter schools in the city receive an amount that is very similar to what traditional public schools receive. The allocation for these expenditures is received by charters regardless of whether they are located in DOE school buildings.

Start-up Supplies. All new schools, both charter and traditional public, get startup funding for supplies. The payments are largest in the first year of operation, but there are smaller payments in subsequent years as a new school fully “grades up.” Start-up funding can be used for classrooms and libraries, provision and

installation of communication and recordkeeping equipment, recruitment and enrollment of students, orientation programs, and staff development services. Although the allocation for charters resembles the funding for startups that is given to new schools in the traditional public school system, it is not provided by the Department of Education.⁷ Beginning in 2005, new charters have received their start-up OTPS allocation through the city’s Department of Youth and Community Development.

The structure of the payments has evolved over the years. In the first year for a new school, there is an amount that does not vary by grade, plus a portion that varies depending on the grades in the school. In subsequent years, there is only the portion that varies by grade. For 2009 the steady portion for schools in their first year was a flat \$91,000 for charters and \$80,000 for traditional public schools. For schools that opened before 2009, the portion of the first year allocation that did not vary by grade was equal to \$100 per student. The variable allocation depends on the number of grades added each year—charters, like other new schools, usually add one or more grades each year as they gradually phase in—and the grade level. Elementary, middle, and high school students are each worth a different per capita amount in calculating the school’s allotment.

Through 2008–09, the grade-level rates used for the variable component was the same for both charters and traditional public schools. Over a typical four-year phase-in for a new school, the annual value of start-up support averages \$287 per pupil. We add the four-year average amount to IBO’s estimate of public support for charter schools.

Beginning this school year, the DOE has changed its policy so that charters will only receive start-up costs in their first year. Assuming the policy is not changed again, the annual per capita amount of additional public support for new charters will decline.

Food Services. Although the cost of providing food services is one of the items excluded in the calculation of adjusted operating expense, DOE has chosen to support charters providing cafeteria services. Charter schools have the option to work either with the DOE’s Office of School Food and Nutrition Services or any other food service provider of choice. A charter school can also arrange to prepare food on-site using its own staff; the type of food service offered by a charter school will be determined by what the building can support in terms of storage and preparation.

Traditional New York City public schools participate in the federal school breakfast and lunch programs which provide reimbursement based on the number of meals served. Children

attending charter schools are also eligible for free or reduced price lunch through the same programs, although, as with other categorical reimbursable expenses, the charter is responsible for applying for those grants.

If DOE is the food service provider, the cost of serving a charter school student either in a DOE building or a private facility is assumed to be the same as for a traditional public school student. Reimbursement for food services works similar to transportation services, with the amount the same regardless if it is for public school or charter school students. Based on the spending at traditional schools, IBO adds \$388 to our measure of the per student public support for charter schools.

Charters operating in DOE buildings typically share the kitchen and cafeteria space with the traditional public school(s) operating in the same building at no cost to the charter. This likely gives such schools an advantage over charters operating in buildings that are not DOE's as they can avoid the costs and operational responsibilities for the food preparation.

Administrative Services. The Department of Education offers administrative and logistical support to charters operating in New York City. Some of these expenses are quantifiable for this analysis—namely those in the DOE's Office of Charter Schools—and others could not be identified for this study.

District 84 Office of Charter Schools. Listed within the central DOE budget is funding for the Office of Portfolio Development, which plays a role in the creation of new schools including charter schools. Currently the charter school office is part of the Division of School Support and functions with an 11-member team. A portion of the office's workload concerns the DOE's role as a charter authorizing entity. The office, however, also handles some of the administrative work related to providing the goods and services that pass through to charter schools, including coordination of the New York State Textbook Law program and student enrollment and transfers. In this way, administrative overhead supplied to charter schools remains part of DOE's budget. From a charter school's point of view, it receives the benefit of administrative services without a corresponding operational cost. IBO added \$40 to the per pupil measure of public support for charters to account for this spending in the DOE budget, which is less than \$1 million inclusive of both personnel and OTPS expenditures.⁸

Other Administrative Support. The education department offers a range of other services to charters that are not reflected in IBO's estimates. According to DOE these include help with student placement and transitional services, human resources, facilitating

the transfer of students to and from charter schools and participation in the school choice process for middle school and high school admissions, and public engagement. The education department's legal staff is also involved in legal and legislative initiatives in support of charter schools.

Debt Service. Capital costs are excluded from the calculation of adjusted operating expense. Charters located in DOE buildings, however, have the benefit of using facilities without paying financing or leasing costs. In this case, the averted cost is another form of public support for those charters in DOE buildings. The city relies almost exclusively on bond financing to pay for school construction, with the yearly debt service expenses representing the annual cost of sustaining the capital stock of the school system. The savings to charters that operate in DOE buildings can be estimated using the city's spending on debt service for DOE—an amount that is carried in the city's general budget rather than DOE's. Based on that estimate, IBO adds \$1,346 to the per student public support for charter schools that operate in DOE facilities.

COMPARISON WITH REGULAR PUBLIC SCHOOL FUNDING

IBO calculated a comparable per pupil spending number for traditional public schools. This required adjusting both the official enrollment and spending figures for DOE in order to arrive at figures that would be reasonable comparisons with our charter school per student measure. For traditional public schools we started with actual spending by DOE, which totaled \$17.9 billion in 2008–09, and then subtracted the following: all categorical spending including fringe benefits, all special education (citywide and district) spending including fringe benefits except for the school-based assessment teams, special education pre-kindergarten contracted services, payments for nonpublic school and foster care contracts, and DOE's payments to charters. This leaves \$11.4 billion in spending for the general education services and systemwide overhead that is provided to all general education students in DOE schools through its agency budget.

In the 2008–09 school year, general education enrollment in traditional public schools in grades K–12 in the 32 community school districts totaled 865,385. Dividing the spending by the enrollment yields \$13,118 in per student spending for general education purposes and systemwide overhead by DOE.⁹ The education department's budget does not reflect two major expenses for running the schools: debt service for financing construction and major repairs and pensions. Because one is accounted for in the AOE that charters receive and one is not,

| Per Student General Education Spending at Traditional Public Schools | |
|---|---------------------|
| 2009 School Year | |
| Spending <i>Dollars in thousands</i> | |
| Total Department of Education | \$17,906,497 |
| Less All Categorical Programs ¹ | (1,912,308) |
| Less All Special Education Spending ² | (2,303,111) |
| Less All Nonpublic School Payments ³ | (1,565,041) |
| Less Fringe Benefits for Categorical Programs ⁴ | (283,615) |
| Less Fringe Benefits for Special Education Programs ⁴ | (490,528) |
| Subtotal DOE General Education Spending | \$11,351,894 |
| Debt Service for DOE ⁵ | 1,349,679 |
| Pensions for DOE Staff | 2,188,406 |
| TOTAL Support for DOE General Education Spending | \$14,889,979 |
| Enrollment | |
| Total Students Department of Education | 1,080,787 |
| Less Pre-Kindergarten (General Education) | (21,768) |
| Less Charter Enrollment | (23,507) |
| Less Nonpublic School Enrollment | (70,819) |
| Subtotal: Traditional Public School Enrollment | 964,693 |
| Less Special Ed Enrollment | (99,308) |
| Traditional Public School General Education Enrollment | 865,385 |
| Per Capita General Education Spending | |
| Dept. of Education General Education Spending | \$13,118 |
| Per Student Debt Service for Education From City Budget ⁶ | 1,346 |
| Per Student Pension Costs for Education From City Budget ⁷ | 2,215 |
| TOTAL Per Student General Education Spending | \$16,678 |
| SOURCES: IBO; Department of Education; Mayor's Office of Management and Budget | |
| NOTES: ¹ Units of appropriation 481 and 482. | |
| ² Units of appropriation 403, 404, 421, 422, 423, 424, and other than School Based Assessment Staff, plus special education administration in 414 and 415. | |
| ³ Units of appropriation 470, 472, and 474, which includes special education pre-k, contract schools, other nonpublic schools, charter schools, and Fashion Institute of Technology. | |
| ⁴ Fringe costs were prorated based on the share of personal services costs associated with special education and categorical programs. | |
| ⁵ Includes General Obligation, Transitional Finance Authority, and Building Aid Revenue Bonds. | |
| ⁶ Debt service per capita based on total DOE enrollment minus non-public school enrollment and 30 percent of charter enrollment. | |
| ⁷ Pension per student based on Total DOE enrollment minus pre-kindergarten and nonpublic school enrollment. | |

adjustments are needed to reflect the differences.

The city's cost of pensions for staff is built into the adjusted operating expense even though it is not reflected in DOE's budget. Therefore, IBO added \$2,215 per student to our estimate of public support for general education at traditional DOE schools.¹⁰ To the extent that the individual charters are funding retirement benefits less generous as those offered by DOE, some of this support is excess and used for other charter expenses.

Debt service is excluded from AOE. Because it is also excluded from the DOE budget, IBO added \$1,346 in per pupil debt service costs to the estimate of support for general education spending at traditional schools. Because charters located in DOE buildings also benefit from the capital investment made over the years by the city, we also add that amount to our estimate of public support for those charters. In the case of most charters outside DOE buildings, there is no additional debt service support. A handful of charters outside DOE buildings have been financed through DOE's capital plan and there are more on the way. Such schools are receiving a debt service benefit although the amount is currently small. IBO has not calculated the size of this subsidy.

After accounting for debt service and pensions, IBO's estimate of the total per student support for general education at traditional public schools is \$16,678. Based on IBO's measures, public support for charters located in DOE facilities is \$305 per student below public support for traditional schools. Charters not operating in DOE buildings are not able to benefit from the department's assistance with space, utilities, and safety costs. Without public support for those items, these charters receive an amount that is \$3,017 per student less than support for traditional public schools.¹¹

CONCLUSION

There are many conflicting claims made regarding the equity of charter school funding. Charter advocates point to the lack of a requirement for sharing the capital costs. It is also common to hear comparisons of

the adjusted operating expense to overall per pupil spending in traditional public schools, with the latter generally higher than the former. Charter school skeptics point to additional support available beyond the adjusted operating expense allocation and note that the overall per capita spending amount at traditional public schools is inflated by the high costs for special education students, particularly the highest need students, who are rarely enrolled in charter schools. In New York City the comparisons are even more complicated because the Bloomberg

OTHER SPECIAL EDUCATION COSTS

Although the Department of Education provides special education valuation services, once an individual education plan (IEP) is developed for a child, it becomes the charters' responsibility to implement the plan. Implementation can be done by hiring appropriate staff, using outside consultants, or asking the home school district to provide the service. Assuming the student qualifies for special education, the home district pays for the service just as it does for students in regular public schools who need services using a combination of state and federal categorical funding and city support. Because IBO's measure for comparing public support for charter schools with support for traditional schools is limited to support that is available regardless of the specific characteristics of the student body, we have not included these special education costs in our comparison measures.

Charter schools qualify for categorical state funding in the form of excess cost aid and high cost aid, as well as federal Individuals with Disabilities Education Act (IDEA) per pupil payments. Excess cost aid is defined as money to support the additional costs of providing resource intensive programs for students with disabilities. Excess cost aid is awarded in varying amounts based on the amount of time during the school day the student spends receiving the services mandated by the IEP. Excess cost aid also takes into account the method of service provision (self-contained or integrated) and the city supplements excess cost aid with its own funds. Similarly, state high cost aid is triggered when the cost of student special education services is three times the approved operating expense per pupil.

All pupils in charters eligible for IDEA funding must be identified by December of the school year. In the following February, schools will receive a per pupil funding allocation. For school year 2008–09, charters were entitled to \$1,223 per eligible student.

Administration decided to provide many charter schools with access to space in DOE buildings, a form of support for charter schools that is rare outside the city. Charters in DOE buildings receive a variety of public supports that come close to eliminating the gap in AOE funding.

More than two-thirds of New York City charter schools are operating in DOE facilities and for these schools the total public support they receive, including the basic charter allocation, the value of pass-through goods and services available to all

The education department's fair student funding (FSF) methodology provides local resources to support special education. Fair student funding uses a variety of "need weights" to allocate resources to schools based on the characteristics of the students at each school, including additional weighting for students who require special education services. The resulting additional dollars pay for mandated special education support that supplements core classroom instruction.

While FSF allocation weights for traditional public schools cannot be directly compared with DOE's rates of special education support for charter school students, examining the two reveals some significant differences in how non-categorical funding for special education needs are handled. The additional city support for charter school students only recognizes two broad categories of special education need. The categories are for students who require special education services for 20 percent to 60 percent of their instructional day and for students who need services for more than 60 percent of their school day. The FSF special education weights for public school students are based on additional, more narrowly defined categories. Most significantly, they also give consideration to students needing service for less than 20 percent of the school day. Moreover, the distinction for students needing service for more than 60 percent of the day is further refined to reflect school level (elementary and middle versus high school) as well as instructional model (self-contained versus an integrated or collaborative team teaching setting).

Thus, charter schools receive no additional city support for students needing services for less than 20 percent of the day. For students needing more intensive services, however, the rate of support for charter schools generally exceeds the special education allocation weight rates assigned to similar students in traditional public schools.

charters, plus the value of the space and utilities provided by the DOE totals \$16,678 per student, which is fairly close to IBO's estimate of per student spending for general education services in traditional public schools. The difference amounts to \$305 or about 1.8 percent. Charters in private space, which do not receive the \$2,712 in per student facilities and energy assistance from the DOE, have a much larger shortfall—\$3,017 or 18.1 percent—from their traditional public school counterparts.

This report prepared by Yolanda Smith

ENDNOTES

¹United Federation of Teachers, “Separate and Unequal: The Failure of New York City Charter Schools to Serve the City’s Neediest Students,” pg. 15.

²Ibid., pg. 4.

³We left the bulk of the funding for the School-Based Assessment Staff (originally known as the School-Based Support Teams) in our general education student spending measure. Although the budgeting for these staff are included in the special education units of appropriation in the DOE budget, their role is focused on evaluating general education students to determine what special education services, if any, that they might need.

⁴Because of New York State’s fiscal difficulties, the AOE amounts for 2009–10 were frozen at the 2008–09 levels.

⁵In traditional public schools, the Committees on Special Education evaluate students entering the system, and the School-Based Assessment Staff provides evaluations for students already in the system. For charter schools, the Committees on Special Education perform both types of assessments.

⁶IBO’s estimate of per capita spending on facilities and utilities was calculated using a measure of enrollment that included all pre-kindergarten through 12th grade students in traditional DOE public schools, plus 70 percent of the charter school enrollment to account for the share in DOE buildings. The facilities cost for 2008–09 reflects the first year in which costs for pollution remediation are shown in the city’s expense budget to comply with new government accounting standards intended to preclude

using the capital budget to fund such items. The city is seeking legislation that would avert this change but it has not been enacted. Reporting the pollution remediation costs added \$158 million to the DOE’s expense budget for 2008–09, the equivalent of \$158 per capita.

⁷Department of Education School Allocation Memo No. 22, for Fiscal Year 2009.

⁸For this estimate IBO used charter school enrollment alone to calculate the per student amount.

⁹At least some of the spending recorded in the general education units of appropriation serves special education students outside District 75, and the systemwide overhead serves all types of students. Thus we could have used a larger enrollment number in our per capita calculation which would have resulted in a smaller estimate of the per capita support for general education spending at traditional public schools. However, without additional information as to the intensity of special education services students are receiving, it was not possible to further refine our estimate.

¹⁰We did not attempt to isolate the special education portion of pension costs for this analysis. Thus, this slightly overstates the amount of support for general education in traditional public schools. The per capita amount was measured using all DOE enrollment including charters but excluding pre-kindergarten and nonpublic schools.

¹¹As with pension costs, we did not attempt to account for debt service associated with special education. The per capita amount was based on total DOE enrollment minus nonpublic school students and 30 percent of the charter enrollment to account for those not in DOE facilities.

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EXHIBIT 2

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NEW YORK CITY PARENTS UNION; CLASS SIZE MATTERS; NEW YORK COMMUNITIES FOR CHANGE and LEONIE HAIMSON, NOAH GOTBAUM, STEPHANIE FIELDS, LASHAWN CHERRY, JACQUELINE PEREZ, CHRIS MOSS, AMANDA JACOBS, REGINA TIMBER, JERMAINE BLIGEN, NATASHA HOOPER, CHERYL AND ANGELO BLUE, SHARLENE HALE HALL, AMANDA COLON, ANGELA BALTIMORE, SANDRA E. HARPER, CYNTHIA GRIFFIN, HELENA CLAY, SONYA HAMPTON, ELLIOT WOFSE, HENRY CLEMENTE, YVONE WALKER, CYNTHIA BONANO, FAYE HODGE, and MUBA YAROFULANI, on Behalf of Their Children and Others Similarly Situated,

Plaintiffs,

– against –

THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK and DENNIS M. WALCOTT, as Chancellor of the City School District of the City of New York,

Defendants.

Index No. 108538/11

IAS Part 12 (Feinman, J.)

**AFFIDAVIT OF MICHAEL
REGNIER**

Michael Regnier hereby deposes and says:

1. I am the Director of Policy at the New York City Charter School Center (“Charter Center”), an independent, not-for-profit organization that works to improve access to first-rate public education by supporting public charter schools at every stage of their development. I submit this affidavit based on personal knowledge of all facts set forth herein.

2. The New York State Education Department makes available data it collects about public schools achievement and enrollment through its New York State Report Cards (“SRC”), which are available at www.p12.nysed.gov/irs/reportcard.

3. In the 2011-12 school year, there are 136 public charter schools operating in New York City. Of these, 82 charters are located wholly in space operated by the New York City Department of Education, and another five have some students in DOE space and other students in non-DOE space. Most, but not all, of the 87 charters operating in DOE space are co-located alongside one or more traditional public schools. The remaining 49 charter schools are located entirely in non-DOE space.

4. The Charter Center estimates that between 45 and 50 new charter schools will open in New York City in the next two school years (2012-13 and 2013-14). We expect that about half of these schools (22-25) will actively seek a DOE facility.

5. For the 2011-12 school year, the Charter Center estimates that 64,000 public schoolchildren applied for about 12,900 new available seats at public charter schools.

6. While official enrollment statistics are not yet available for the 2011-12 school year, based on last year's enrollments plus grade level expansions for returning schools, the Charter Center estimates that total public charter school enrollment for this year will be 45,500. Of this 45,500, the Charter Center estimates that 27,500 students are in DOE space and that 18,000 students are in non-DOE space.

7. According to the Mayor's Executive Budget Message for Fiscal Year 2012, the DOE's total budget (including pension and debt service) for the 2011-12 fiscal year is \$23.88 billion. The DOE's total budget has increased every year for the last several years: for Fiscal Year 2009 it was \$21.496 billion; for Fiscal Year 2010 it was \$22.391 billion, and for Fiscal Year 2011 it was \$23.003 billion. This source for this information is available at: http://www.nyc.gov/html/omb/downloads/pdf/mm5_11.pdf. See p. 73 and treat all "Additional City Funds" as expenses, not credits. This calculation is consistent with the totals listed on the DOE web site. See, e.g., <http://schools.nyc.gov/AboutUs/funding/overview/default.htm>.)

8. It is the Charter Center's understanding that, since 2003, the DOE has, as a general matter, provided available space to high-quality public charter school in public buildings without entering into contracts and without charging them rent. A handful of charters may have signed use agreements that were purported to govern their use of space in those buildings, but to the best of our information and belief, those agreements were in fact, never executed. Nor is the Charter Center aware of any contract that currently governs the use of space by a public charter school in DOE space.

9. The Charter Center estimates that the average charter school teacher earns \$60,000 per year and is in front of a class of students for, conservatively, 6 hours per day for 190 days per year. \$96 million could therefore pay 1,600 charter school teachers to teach for a year, collectively spending about 1.8 million teacher class hours (in addition to professional development, prep time, and other out-of-class duties).

I state the foregoing under penalty of perjury.

Dated: New York, New York
September 12th, 2011


MICHAEL REGNIER

Sworn to before me this

12 th day of September, 2011


Notary Public

JUNELIA J. EDWARDS
Notary Public, State of New York
No. 01ED6245109
Qualified in Kings County
Commission Expires July 16, 2015

EXHIBIT 3

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NEW YORK CITY PARENTS UNION; CLASS SIZE MATTERS; NEW YORK COMMUNITIES FOR CHANGE; and LEONIE HAIMSON, NOAH GOTBAUM, STEPHANIE FIELDS, LASHAWN CHERRY, JACQUELINE PEREZ, CHRIS MOSS, AMANDA JACOBS, REGINA TIMBER, JERMAINE BLIGEN, NATASHA HOOPER, CHERYL AND ANGELA BLUE, SHARLENE HALE HALL, AMANDA COLON, ANGELA BALTIMORE, SANDRA E. HARPER, CYNTHIA GRIFFIN, HELENA CLAY, SONYA HAMPTON, ELLIOT WOFSE, HENRY CLEMENTE, YVONE WALKER, CYNTHIA BONANO, FAYE HODGE, and MUBA YAROFULANI, on Behalf of Their Children and Others Similarly Situated,

Plaintiffs,

- against -

THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, and DENNIS M. WALCOTT, as Chancellor of the City School District of the City of New York,

Defendants,

- and -

HARLEM SUCCESS ACADEMY CHARTER SCHOOL 1, HARLEM SUCCESS ACADEMY CHARTER SCHOOL 4, OCEAN HILL COLLEGIATE CHARTER SCHOOL, EMPOWER CHARTER SCHOOL, DEMOCRACY PREPARATORY CHARTER SCHOOL, NEW VISIONS CHARTER HIGH SCHOOL FOR HUMANITIES, NEW VISIONS CHARTER HIGH SCHOOL FOR ADVANCED MATH AND SCIENCE, TEACHING FIRMS OF AMERICA CHARTER SCHOOL, INVICTUS PREPARATORY CHARTER SCHOOL, SUMMIT ACADEMY CHARTER SCHOOL, DREAM CHARTER SCHOOL, BROOKLYN CHARTER SCHOOL, INWOOD ACADEMY FOR LEADERSHIP CHARTER SCHOOL, LA CIMA ELEMENTARY CHARTER SCHOOL, CONEY ISLAND PREPARATORY CHARTER SCHOOL, SOUTH BRONX CLASSICAL CHARTER SCHOOL, GIRLS PREPARATORY CHARTER SCHOOL, and NEW YORK CITY CHARTER SCHOOL CENTER

Intervenor-Defendants.

Index No. 108538/11

IAS Part 12 (Feinman, J.)

AFFIDAVIT OF
IAN NEWTON

Ian Newton hereby deposes and says:

1. I am the Managing Director, Operations & Finance at Explore Schools, Inc. (ESI). Explore Empower Charter School (Empower) signed a contract with ESI to lead and manage core functions for the school, including legal compliance, financial planning, and program design. ESI is located at 155 Water Street, Brooklyn, New York, 11201. Empower is located at 188 Rochester Avenue, Brooklyn, New York, 11213 in Community School District 17. It shares Building K210 with M.S. 394, which serves students in kindergarten through eighth grade.

2. I submit this affidavit in support of Intervenor-Defendants' Joint Memorandum In Opposition To Plaintiffs' Motion For A Preliminary Injunction.

3. I submit this affidavit based on personal knowledge.

4. Empower opened its doors for the first time in 2009. During the 2009-2010 school year, it served 168 students in kindergarten through second grade. In 2010-2011, it served 221 students in grades kindergarten through third grade. And, in 2011-2012, Empower, which opened on August 24, 2011 for the current school year, will serve 300 students in kindergarten through fourth grade.

5. Empower is slated to expand at the rate of approximately 60 students per year to serve approximately 540 students in grades K-8 for the 2015-2016 school year.

6. Empower is, and since 2010 has been, co-located in building K210 alongside M.S. 394, a traditional public school. During the 2009-2010 school year, Empower was co-located in building PS 138 with K138, a traditional public school.

7. The DOE and Empower do not have a contract or use agreement regarding Empower's use of space at or maintenance of Building K210.

8. Empower does not pay any amount of money to the DOE for use or maintenance of space in Building K210. The DOE has never attempted to charge Empower for its co-location in Building K210.

9. Empower does pay permit fees for summer or extended hours, when it will be utilizing the building outside of the hours utilized by the co-located traditional public school. During the 2010-2011 school year, Empower was not required to pay any permit fees.

10. Empower's operation model currently depends upon receiving space in public school buildings from the DOE without charge.

11. I understand that based on the complaint in the above captioned case, Plaintiffs allege that Empower owes the DOE approximately \$813,600 in rent for the 2011-2012 school year and approximately \$1,054,968 in back rent for 2009-2011.

12. The 2011-2012 school year budget for Empower currently provides for a surplus of approximately \$130,000.

13. If Empower had to pay only the money that Plaintiffs seek for the 2011-2012 school year immediately, it would have to cut no less than four enrichment staff teaching positions in gym, technology, art, and science. The current budget is constrained such that the persons in those enrichment staff positions also provide support services, so their loss would have a compounded effect on the education of children with special needs and also funding for special education services.

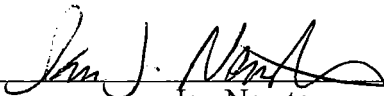
14. Empower currently has a model that provides for two teachers per classroom. If Empower was forced to pay the back rent that Plaintiffs seek for 2009-2011, in addition to the rent for the current school year, it would have to cut core teaching positions, increasing student-teacher ratios, and destroying the Empower teaching model parents sought to obtain by applying

for a lottery spot at Empower. The current student:teacher ratio is 15:1 with 20 core subject teachers. Empower would have to lay-off 12 teachers in order to increase the ratio to 40:1, a ratio that is not permitted legally by its charter, nor a ratio that could support a quality educational program.

15. As a public school serving low-income students (85% qualify for free or reduced-price lunch in 2010-11), we have met the needs of those students and remained financially sustainable by making careful spending choices. In the past two years, due in part to start-up funding that expired last year, Empower has been able to build a reserve of about \$210,000 plus a state-mandated escrow account of \$70,000. This represents less than one month of spending. We believe that by making the choice to increase class size, lay-off teachers, and reduce spending on classroom supplies, Empower's program would be significantly changed, and would still not be fiscally sustainable. If Empower had to pay the money Plaintiffs seek over the next two years, it would create a devastating deficit in our operating budget, and the school would have no choice but to close, uprooting its students and sending them back into the traditional public school system.

16. I state the foregoing under penalty of perjury.


Dated: New York, New York
September 9, 2011



Ian Newton

Sworn to before me this

 day of September, 2011



Notary Public
STEVEN MILLER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01M16081086
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES 9/30/2014

EXHIBIT 4

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NEW YORK CITY PARENTS UNION; CLASS SIZE MATTERS; NEW YORK COMMUNITIES FOR CHANGE; and LEONIE HAIMSON, NOAH GOTBAUM, STEPHANIE FIELDS, LASHAWN CHERRY, JACQUELINE PEREZ, CHRIS MOSS, AMANDA JACOBS, REGINA TIMBER, JERMAINE BLIGEN, NATASHA HOOPER, CHERYL AND ANGELA BLUE, SHARLENE HALE HALL, AMANDA COLON, ANGELA BALTIMORE, SANDRA E. HARPER, CYNTHIA GRIFFIN, HELENA CLAY, SONYA HAMPTON, ELLIOT WOFSE, HENRY CLEMENTE, YVONE WALKER, CYNTHIA BONANO, FAYE HODGE, and MUBA YAROFULANI, on Behalf of Their Children and Others Similarly Situated,

Plaintiffs,

- against -

THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, and DENNIS M. WALCOTT, as Chancellor of the City School District of the City of New York,

Defendants,

- and -

HARLEM SUCCESS ACADEMY CHARTER SCHOOL 1, HARLEM SUCCESS ACADEMY CHARTER SCHOOL 4, OCEAN HILL COLLEGIATE CHARTER SCHOOL, EMPOWER CHARTER SCHOOL, DEMOCRACY PREPARATORY CHARTER SCHOOL, NEW VISIONS CHARTER HIGH SCHOOL FOR HUMANITIES, NEW VISIONS CHARTER HIGH SCHOOL FOR ADVANCED MATH AND SCIENCE, TEACHING FIRMS OF AMERICA CHARTER SCHOOL, INVICTUS PREPARATORY CHARTER SCHOOL, SUMMIT ACADEMY CHARTER SCHOOL, DREAM CHARTER SCHOOL, BROOKLYN CHARTER SCHOOL, INWOOD ACADEMY FOR LEADERSHIP CHARTER SCHOOL, LA CIMA ELEMENTARY CHARTER SCHOOL, CONEY ISLAND PREPARATORY CHARTER SCHOOL, SOUTH BRONX CLASSICAL CHARTER SCHOOL, GIRLS PREPARATORY CHARTER SCHOOL, and NEW YORK CITY CHARTER SCHOOL CENTER

Intervenor-Defendants.

Index No. 108538/11

IAS Part 12 (Feinman, J.)

**AFFIDAVIT OF RICHARD
BERLIN**

Richard Berlin hereby deposes and says:

1. I am the Chairman of the Board of Trustees for DREAM Charter School (“DREAM”), located at 232 East 103rd Street, New York, New York, 10029 in Community School District 4. DREAM shares Building M121 with P.S. 38 Roberto Clemente, which serves students in pre-kindergarten through 5th grade.

2. I submit this affidavit in support of Intervenor-Defendants’ Joint Memorandum In Opposition To Plaintiffs’ Motion For A Preliminary Injunction.

3. I submit this affidavit based on personal knowledge.

4. DREAM opened its doors for the first time in 2008. During the 2008-2009 school year, it served 100 students in kindergarten and first grade. Every school year it has added an additional grade level of 50 students, opening for the 2011-2012 school year on September 6, 2011 with 250 students in kindergarten through fourth grade.

5. DREAM is slated to expand at the current rate of 50 students per year to serve 450 students in grades K-8 for the 2015-2016 school year.

6. DREAM is, and since 2008 has been, co-located in public building M121, alongside P.S. 38, a traditional public school.

7. DREAM’s operational model depends upon the use of space in public buildings provided by the DOE at no charge.

8. DREAM is proposed to co-locate in M121 for the next three years, inclusive of the current school year, after which DREAM is scheduled to move into a new building for the 2014-2015 school year and beyond. DREAM is currently in the process of constructing a new school building next to Building M121. The project is expected to cost approximately \$53 million, and DREAM has received a grant from the DOE for \$32.5 million, which requires a percentage matching in private funding raised by DREAM. DREAM has a fundraising goal of

\$20 million, and has received pledges for about half of that amount. These pledges, however, are restricted to DREAM's capital project and cannot be used for other purposes.

9. The DOE and DREAM do not have a contract or use agreement regarding DREAM's use of space at or maintenance of Building M121 for the 2011-2012 school year.

10. DREAM does not pay any amount of money to the DOE for use or maintenance of space in Building M121. The DOE has never attempted to charge DREAM for its co-location in Building M121. The only fees DREAM pays to the DOE are permit fees associated with DREAM's occupancy of the building outside of the hours that the co-located traditional public school would occupy the building, approximately \$20,000 per year.

11. I understand that based on the complaint in the above captioned case, Plaintiffs allege that DREAM owes the DOE approximately \$678,000 in rent for the 2011-2012 school year and approximately \$1,220,400 in back rent for 2008-2011.

12. In the 2011-2012 school year, DREAM has no operating surplus. DREAM has reserves of approximately \$1.2 million.

13. If DREAM immediately had to pay the money that Plaintiffs seek for the 2011-2012 school year as well as the back rent Plaintiffs seek, DREAM's operating reserves would be depleted and DREAM would have to reduce its current operating budget by approximately 10 to 15 percent. DREAM would likely first be forced to eliminate all afterschool and summer programs. Personnel expenses, which currently comprise approximately 70 percent of DREAM's expenses, would be the next to be cut. DREAM currently has a model that provides for two fully certified teachers per classroom, with teaching assistants for grades K-1. DREAM would likely be forced to reduce leadership and instructional staffing, eliminating

approximately 4 to 6 full-time teaching positions and 1 to 2 school leadership roles, destroying the DREAM teaching model parents sought to obtain by applying for a lottery spot at DREAM.

14. I state the foregoing under penalty of perjury.

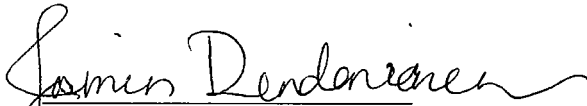
Dated: New York, New York
September 12, 2011



Richard Berlin

Sworn to before me this

12th day of September, 2011



Notary Public

JASMIN DENDARIARENA
NOTARY PUBLIC-STATE OF NEW YORK
No. 01DE6180822
Qualified in Manhattan County
My Commission Expires January 14, 2012

EXHIBIT 5

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

NEW YORK CITY PARENTS UNION; CLASS SIZE MATTERS; NEW YORK COMMUNITIES FOR CHANGE; and LEONIE HAIMSON, NOAH GOTBAUM, STEPHANIE FIELDS, LASHAWN CHERRY, JACQUELINE PEREZ, CHRIS MOSS, AMANDA JACOBS, REGINA TIMBER, JERMAINE BLIGEN, NATASHA HOOPER, CHERYL AND ANGELA BLUE, SHARLENE HALE HALL, AMANDA COLON, ANGELA BALTIMORE, SANDRA E. HARPER, CYNTHIA GRIFFIN, HELENA CLAY, SONYA HAMPTON, ELLIOT WOFSE, HENRY CLEMENTE, YVONE WALKER, CYNTHIA BONANO, FAYE HODGE, and MUBA YAROFULANI, on Behalf of Their Children and Others Similarly Situated,

Plaintiffs,

- against -

THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, and DENNIS M. WALCOTT, as Chancellor of the City School District of the City of New York,

Defendants,

- and -

HARLEM SUCCESS ACADEMY CHARTER SCHOOL 1, HARLEM SUCCESS ACADEMY CHARTER SCHOOL 4, OCEAN HILL COLLEGIATE CHARTER SCHOOL, EMPOWER CHARTER SCHOOL, DEMOCRACY PREPARATORY CHARTER SCHOOL, NEW VISIONS CHARTER HIGH SCHOOL FOR HUMANITIES, NEW VISIONS CHARTER HIGH SCHOOL FOR ADVANCED MATH AND SCIENCE, TEACHING FIRMS OF AMERICA CHARTER SCHOOL, INVICTUS PREPARATORY CHARTER SCHOOL, SUMMIT ACADEMY CHARTER SCHOOL, DREAM CHARTER SCHOOL, BROOKLYN CHARTER SCHOOL, INWOOD ACADEMY FOR LEADERSHIP CHARTER SCHOOL, LA CIMA ELEMENTARY CHARTER SCHOOL, CONEY ISLAND PREPARATORY CHARTER SCHOOL, SOUTH BRONX CLASSICAL CHARTER SCHOOL, GIRLS PREPARATORY CHARTER SCHOOL, and NEW YORK CITY CHARTER SCHOOL CENTER

Intervenor-Defendants.

Index No. 108538/11

IAS Part 12 (Feinman, J.)

**AFFIDAVIT OF RONALD
CHALUISAN**

Ronald Chaluisan hereby deposes and says:

1. I am the Vice President of New Visions for Public Schools “New Visions”), located at 320 West 13th Street, 6th Floor, New York, New York 10014. New Visions is the Charter Management Organization for the New Visions Charter High School for the Humanities (HUM) and the New Visions Charter High School for Advanced Math and Sciences (AMS), which are co-located at 99 Terrace View Avenue, Bronx, New York 10463 in Community School District 10 in Building X475 (“the Kennedy Campus”) with John F. Kennedy High School, the Bronx Engineering and Technology Academy, the Bronx School for Law and Finance, E.L.L.I.S. Preparatory Academy, Marble Hill High School for International Studies, and Bronx Theatre High School.

2. I submit this affidavit in support of Intervenor-Defendants’ Joint Memorandum In Opposition To Plaintiffs’ Motion For A Preliminary Injunction.

3. I submit this affidavit based on personal knowledge.

4. HUM and AMS opened for their doors for the first time this school year with a combined total of 250 students in ninth grade.

5. HUM and AMS are co-located in public building X475.

6. The DOE and New Visions do not have a contract or use agreement regarding HUM and AMS’s use of space at or maintenance of Building X475.

7. New Visions does not pay any amount to the DOE for use or maintenance of its location in Building X475. The DOE has never attempted to charge New Visions for the co-location of HUM and AMS in Building X475.

8. AMS and HUM do pay per-event permit fees when they will be utilizing the building outside of the hours utilized by the co-located traditional public school. AMS and HUM

were required to submit requests for permits for their Summer Bridge Program but have not yet been billed.

9. AMS and HUM's operational models currently depend upon receiving space in public school buildings from the DOE without charge.

10. I understand that based on the complaint in the above captioned case, Plaintiffs allege that HUM and AMS owe the DOE approximately \$678,000 in rent (\$339,000 per school) for the 2011-2012 school year.

11. In the 2011-2012 school year, HUM and AMS have no operating surplus.

12. If HUM and AMS had to pay the money that Plaintiffs seek for the 2011-2012 school year immediately, they would have to make cuts of 13 percent to both schools' budgets, which would result in the elimination of key positions and have a serious impact on the programming that defines the teaching model parents sought to obtain for their children by applying for a lottery spot at HUM and AMS.

13. Specifically, both schools would lose their Assistant Principals (AP), a key element of the model designed to ensure that an instructional leader (AP) is accountable for the academic success of each cohort of students. The schools would also lose the additional Special Education teacher that was hired to meet the needs of the students enrolled in AMS and HUM. The Business Manager of both schools would also be lost. This administrative position is designed to ensure that school operations are efficient and effective so that instructional staff are free to concentrate fully on instruction. In addition, AfterSchool programs from 4:30 to 6:00 pm and Saturday Academy would have to be eliminated. Both these programs provide additional time and personalized support for students to master content and skills. Finally, there would be no funds for a special education consultant and an ELL consultant to provide staff with best

practices in the instruction of students with disabilities and English Language Learners. If AMS and HUM were forced to pay rent to the DOE, these key elements would be lost.

14. I state the foregoing under penalty of perjury.

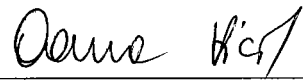
Dated: New York, New York
September 9, 2011



Ronald Chaluisan

Sworn to before me this

9 day of September, 2011



Notary Public

**OANA VICOL
NOTARY PUBLIC
No. 01VIG118609
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES NOV. 15, 2012**