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Class Size Matters Testimony on Mayoral Control before the NY Senate Standing Committee on Education

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Thank you for allowing me to testify today. My name is Leonie Haimson and I am the Executive Director of Class Size Matters, a citywide advocacy organization dedicated to providing information on the benefits of smaller classes. I am also the co-chair of the national organization Parent Coalition for Student Privacy, on the steering committee of the statewide coalition NY State Allies for Public Education, and on the board of the Network for Public Education.

I am also a member of NYC Kids PAC, which released an education report card for the Mayor yesterday, copies of which you should have received along with my testimony. This report card grades the Mayor in several education categories based primarily on whether he has followed up on his campaign promises.¹ The members of NYC Kids PAC include four sitting Presidents of Citywide and Community Education Councils, three past presidents of CECs, and one member of the Panel for Educational Policy.

The report card exhibits particular disappointment with the lack of parent input at the school, district and citywide levels. Citywide and Community Education Councils remain largely disempowered, with little or no say as to co-locations and space planning, and the DOE has argued in court that School Leadership Teams have only advisory powers, in an effort to keep their meetings closed to the public. School overcrowding and class size also continue to be major concerns.

For the purposes of this testimony, however, I speak for only Class Size Matters. I have opposed Mayoral control and have done so since its inception in 2003. Unlike others who have switched their positions depending on who is Mayor and what policies he espouses, I have been consistent in our views.

I was part of the Parent Commission on School Governance that issued a comprehensive report in 2009 that recommended a school board without a mayoral majority, replaced in part by six parents to be selected by Community Education Councils, among other proposals for significant reform.² Last year, I co-authored a column in Gotham Gazette with Shino Tanikawa, the President of NYC Kids PAC and the

¹ <http://nyckidspac.org/wp-content/uploads/2016/05/DeBlasios-Ed-Report-Card-2016-final.pdf>

² http://www.parentcommission.org/parent_commission_Final_Report.pdf

Community Education Council in District 2 in Manhattan, in which we pointed out many of the weaknesses in Mayoral control, which is appended to this testimony.³

Why have we consistently opposed this governance system? Mayoral control as it exists here, in Chicago and a few other cities around the country, is inherently undemocratic and provides no real checks and balances to autocratic rule. As a result, it has too often suffered from insufficient input from parents and community members, closest to conditions on the ground, the result being damaging policies and unwise spending priorities. Our entire system of democratic rule, from the federal government on down, relies on a separation of powers. Can you imagine if the Governor decided to dismiss the State Legislature on the grounds that it was an inefficient governance system?

It is simply unacceptable and frankly racist that the only places where Mayoral control currently exists have student populations that are majority students of color. Suburban and rural cities and towns in the rest of the state and the country would never accept a system that so disempowers voters, including the towns that many of you Senators represent, and neither should we here in NYC. I would add that nearly every poll that has surveyed NYC voters have found the majority against Mayoral control as well, and in favor of the executive sharing power with the City Council or an independent school board.⁴

And we're not alone in this. In Chicago, where Mayoral control was first instituted, there is now a big push including legislation to replace the current governance system with an elected school board. This is also the case in Detroit, which has suffered under one-man rule by the Governor's unelected Emergency Manager. Both cities have witnessed a lack of real accountability in the top-down management of their schools.⁵

What about the record of Mayoral control here in New York City? Despite claims of great progress, Class Size Matters analyzed test scores city students received on the NAEPs, the most reliable assessments known that exist, also known as the National Assessment of Educational Progress. When gains in student test scores since mayoral control was instituted in 2003 are disaggregated by race, ethnicity, and economic status, it is apparent that New York City schools came out second to last among ten cities in improved achievement.⁶ Though it is true that graduation rates have increased, our gains mirror increased rates nationally, and as has been argued may also reflect increased pressure on schools to inflate their figures, through discredited methods such as credit recovery schemes and the like.⁷

³ <http://www.gothamgazette.com/index.php/opinion/5744-time-to-reform-mayoral-control>

⁴⁴ See for example <https://www.gu.edu/news-and-events/quinnipiac-university-poll/new-york-city/release-detail?ReleaseID=2225>

⁵ <http://www.nbcchicago.com/blogs/ward-room/Illinois-House-Passes-Bill-for-Elected-School-Board-in-Chicago-370967541.html> and <http://www.detroitnews.com/story/news/politics/2016/01/14/detroit-schools-plan/78782806/>

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

⁷ <http://www.ed.gov/news/press-releases/us-high-school-graduation-rate-hits-new-record-high-0> and http://www.pbs.org/newshour/bb/american-graduate-jan-june13-amgrad_04-11/

The justification for mayoral control is that the previous system was scandal-ridden, with corrupt local school boards exhibiting patronage and the like. But the reality is that Community School Boards had their power to hire and fire taken away from them in 1996, years before Mayoral control was instituted.⁸

Moreover, the waste and fraud that has continued under the current system far outstrips what occurred previously. There were multiple, multi-million dollar no-bid contracts awarded under Mayor Bloomberg that subsequently turned out to be wasteful and/or corrupt. One of the largest related to a contract awarded Custom Computer Specialists, to provide internet wiring from 2002 to 2008, with the vendor hired by Ross Lanham, a DOE consultant. As a 2011 report from the Special Investigator's office revealed, Lanham and CCS were involved in a massive kick-back scheme that stole millions from the DOE.⁹ The CEO of CSS and Lanham also started a real estate business together. Lanham later was indicted and sent to jail for his crimes, and the FCC excluded the DOE from more than \$100 million of E-rate reimbursement funds because of the resulting scandal.

In February 2015, I learned that a new contract, amounting to \$1.1 billion over five years, renewable to \$2 billion over nine years, was about to be awarded the same vendor, for more school internet wiring and equipment.¹⁰ After the media was alerted, the contract was hurriedly "renegotiated" by DOE in 24 hours to \$627 million, suggesting how inflated it was in the first place.¹¹ Yet the Panel for Educational Policy rubberstamped the contract, 10-1, with only the Bronx representative, Robert Powell, voting no.¹² Luckily, City Hall was alerted to the controversy through the media and subsequently cancelled the contract. They later rebid the contract to other vendors, at a savings estimated of between \$163 million and \$727 million.¹³

An E-rate consent decree was issued by the FCC in December, imposing a \$3 million fine on DOE for what they called the "massive fraud" engaged in by Lanham and CCS, and ordering that an independent monitor and auditor be hired at city expense, while warning the DOE to refrain from engaging with any companies previously involved with Lanham.¹⁴

Yet as we recently learned, the DOE awarded nine new contracts to CCS since the Special Investigator issued his report in 2011, worth more than \$20 million, with several of them current. Indeed, the

⁸ <http://www.gothamgazette.com/index.php/archives/1630-school-boards>

⁹ <http://www.nycsci.org/reports/04-11%20Lanham%20Rpt.pdf>

¹⁰ <http://nycpublicschoolparents.blogspot.com/2015/02/was-company-due-to-receive-125-billion.html>

¹¹ <http://www.nydailynews.com/new-york/education/dept-ed-contract-sketchy-tech-firm-not-compute-article-1.2128207>

¹² <http://nycpublicschoolparents.blogspot.com/2015/02/last-nights-approval-of-huge-computer.html>

¹³ See <http://www.nydailynews.com/new-york/education/gonzalez-nyc-backs-huge-school-contract-saves-163m-article-1.2474357> and <http://nycpublicschoolparents.blogspot.com/2015/12/how-class-size-matters-helped-city-save.html>

¹⁴ https://apps.fcc.gov/edocs_public/attachmatch/DA-15-1434A1_Rcd.pdf

company has received over \$158,000 in payments from the DOE and the School Construction Authority in just the last two weeks.¹⁵

Since the CCS controversy, along with former PEP member Patrick Sullivan, we have formed a Citizens Contract Oversight Committee and we have identified many wasteful contracts, including several awarded companies previously found to have overcharged the city and the state by many millions.¹⁶ These include a contract approved just last night to a special education vendor found to have submitted nearly \$3 million in non-reimbursable expenses to the state, according to a December 2015 audit from the State Comptroller's office, including over \$570,000 for salaries of personnel who did not work for the program.¹⁷

Never to my knowledge, has the PEP voted to reject a single DOE contract.

In addition, as has been recently reported, the PEP members have never been provided with the minimum of six hours of training on their "financial oversight, accountability and fiduciary responsibilities" required of all school board members by a 2005 state law, despite requests to receive this training from at least one member. Nor does the board have an internal audit committee as the law requires.¹⁸ The lone PEP member who voted against the hugely inflated CCS contract, Robert Powell, recently resigned under pressure, and both he and another former member, Norm Fruchter, have stated publicly that the Panel does not provide sufficient checks and balances to Mayoral control.¹⁹

I would be remiss if I didn't speak about class size, the top concern of parents according to the DOE own surveys. In June 2003, in the Campaign for Fiscal Equity case, the state's highest court wrote that "[T]ens of thousands of students are placed in overcrowded classrooms ... and provided with inadequate facilities and equipment. The number of children in these straits is large enough to represent a systemic failure."²⁰ The Court of Appeals held that our students were deprived of their constitutional right to a sound basic education because their class sizes were too large.

In 2007, the Contracts for Excellence (C4E) law was passed by the Legislature to settle the CFE case, which required NYC to reduce class size in all grades. Yet class sizes sharply increased— and now in grades K-3 are more than 14 percent larger than when that 2003 decision was written. Though average class sizes have stabilized since 2013, the number of students in classes of 30 or more in the early grades

¹⁵ <http://nypost.com/2016/05/02/city-still-paying-millions-to-firm-linked-to-kickback-scheme/> The CCS active contracts are listed on www.checkbooknyc.com as well as the payments since May 4, 2016.

¹⁶ See Citizens Contract Oversight Committee comments since February 2016 here: www.classsizematters.org/issues/education-contracts/

¹⁷ See Yeled v'Yalda Early Childhood Services audit here, <http://osc.state.ny.us/audits/allaudits/093016/15s19.htm> and article here: <http://nypost.com/2016/05/09/department-of-education-wants-new-contract-with-shady-special-ed-provider/>

¹⁸ See 2005 state law here: http://www.p12.nysed.gov/mgtserv/accounting/accountability_legislation05.htm While the law exempts NYC, it does so only the conditions that the city has a training program and an audit committee that meets or exceeds these requirements for training and an audit committee.

¹⁹ <http://nypost.com/2016/05/08/school-spending-panel-doe-bullies-us-to-side-with-de-blasio/>

²⁰ Court of Appeals decision, Campaign for Fiscal Equity, Inc., et al. v. State of New York, et al., 100 N.Y.2d 893, 911-12, June 2003.

continues to grow. This fall, there were over 48,000 K-3 students in classes of 30 or even larger, and more than 351,776 students in classes that large in all grades – more than one third of all NYC public school students in general education, inclusion and gifted classes.²¹

In their C4E plan, the DOE said that they would now focus their class size reduction efforts on the Renewal schools.²² Yet our analysis showed that nearly 40 percent of these schools did NOT reduce average class size this year, and that about 60 percent continue to feature classes of 30 or more. Only seven percent have capped class sizes at the C4E goals of 20 students per class in grades K-3, 23 per class in grades 4-8, and 25 in core high school classes.²³

So what should be done? I would like to propose, as our Parent Commission did seven years ago, that an office of an Inspector General be created, to report to the public any case of malfeasance, corruption or mismanagement by school system employees, as well as an Ombudsperson to address and resolve parent complaints and provide regular reports on how services and policies could be improved. Community Education Councils should also be given the authority to approve co-locations as they currently have in the case of rezoning. I also think it would be very useful for the City Comptroller and the Public Advocate to have their own appointees on the Panel.

As to the school board itself, if its members cannot be elected directly by the citizens of New York, at the very least the DOE should be made subject to city law. Currently, the Department of Education is **the only NYC agency** exempt from laws passed by the City Council, other than oversight legislation.

The Police Department, Housing, and Children's Services – all the other city agencies are under the Mayor's control and yet subject to the checks and balances of the City Council. Yet no one claims that this system unacceptably dilutes the Mayor's authority when it comes to addressing crime or the need for more housing. Why should our public schools have fewer checks and balances than any other city agency?

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

²¹ See <http://www.nydailynews.com/new-york/education/nyc-students-overcrowded-classes-study-article-1.2442810> and <http://www.classsizematters.org/nyc-class-size-data-released-average-class-sizes-still-increasing-according-to-doe-number-of-k-3-students-in-classes-of-30-or-more-risen-sharply-since-2011>

²² NYC DOE Assessment 2014-2015 Contracts for Excellence Public Comment, December 30, 2014, p. 4 <http://schools.nyc.gov/NR/rdonlyres/AF304521-9C1E-4EA6-B694-5F9CC80487E9/175614/C4EPublicCommentAssessment20142015FINAL.pdf> See also DOE Contracts for Excellence and DOE Contracts for Excellence Proposed FY 2016 Plan (CEC presentation), July 2015, slide 14 <http://schools.nyc.gov/NR/rdonlyres/26881653-C4C8-4ACC-AD13-537D6B93B486/187463/2016C4ECECPresentation.pptx>

²³ <http://www.classsizematters.org/wp-content/uploads/2015/11/Testimony-of-Leonie-Haimson-before-the-NYC-Council-Education-Committee.pdf>