



Agostini v Elia—The New York City C4E Class Size Case

In July 2017, nine parents from each borough of New York City filed a petition with the State Commissioner of Education (“Commissioner”) charging the City Department of Education (“DOE”) with failing to reduce class sizes as mandated by the Contract for Excellence Law (“C4E”). The parents, along with the Alliance for Quality Education and Class Size Matters, are represented by the Education Law Center.

NYC Class Size Provision of Contract for Excellence Law

The C4E law has a specific provision requiring the DOE to develop and implement a class size reduction plan for New York City schools. Pursuant to that law, DOE in 2007 developed a five-year plan to lower average class sizes in Kindergarten through third grade to no more than 20 students; in fourth through eighth grade to no more than 23 students; and to no more than 25 students in core high school classes. The Commissioner approved the 2007 plan.

DOE Failed to Implement NYC Class Size Reduction Plan

The DOE failed to implement the 2007 Plan. As a result, class sizes have increased sharply since 2007, particularly in the early grades, and are now substantially larger than when the C4E law was enacted. As of fall 2018, DOE data show classes in Kindergarten through third grade were more 14% percent larger, classes in grades four through eight were six percent larger, and high school classes also larger than in 2007.

As of fall 2018, almost 40,000 children in grades k-3 are consigned to classes of 30 students or more. Overall, over 336,165 students in New York City public schools are in classes of 30 students or more.

In the 2003 Campaign for Fiscal Equity v. State (“CFE”) ruling, the Court of Appeals concluded that City school children were deprived of their constitutional rights in part because tens of thousands were consigned to classes of 30 or more. Because DOE failed to abide by the C4E-mandated class size reduction plan, once again tens of thousands of New York City school children are in the same dire situation children faced in CFE.

Parents Appeal of Commissioner’s Refusal to Enforce Class Size Reduction Plan

Based on a misinterpretation of the C4E law, Commissioner Elia erroneously dismissed the complaint, and that dismissal was affirmed by a state supreme court in Albany.

The parents are in the process of appealing this decision to the Appellate Division, where there is a good chance they will prevail. However, if the C4E law is repealed, the parents’ appeal will be moot. Moreover, parents in New York City will have no recourse to redress the serious class size problem in New York City—a problem the C4E law was enacted to remedy.

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