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Class Size Matters testimony in support of Intro 2374-2021 and the need to reduce class size

October 27, 2021

Thank you for holding these important hearings today. My name is Leonie Haimson and I'm the Executive Director of Class Size Matters.

In 2003, in the Campaign for Fiscal Equity case, the NY Court of Appeals, the state's highest court, said that classes in NYC public schools were too large for children to receive their right under the State Constitution to a sound basic education:

Plaintiffs presented measurable proof, credited by the trial court, that NYC schools have excessive class sizes, and that class size affects learning....evidence of the advantages of smaller class sizes supports the inference sufficiently to show a meaningful correlation between the large classes in City schools and the outputs...of poor academic achievement and high dropout rates...[T]ens of thousands of students are placed in overcrowded classrooms . The number of children in these straits is large enough to represent a systemic failure.¹

Students who are in smaller classes do better in every way that can be measured. They get better grades, higher test scores, are more likely to graduate from high school, go onto college and graduate with a STEM degree. Disciplinary problems also sharply fall when classes are smaller, in part because students are able to develop stronger relationships with their teacher and classmates, feel like they are known and their needs are met. Teacher attrition also falls to far lower levels, especially in high needs schools with a preponderance of disadvantaged students.

And though all students benefit, the ones who see the greatest gains from smaller classes are those that need the help the most – students of color, those from low-income families, English Language Learners and children with disabilities. This is why class size reduction is only a handful of reforms that have been proven through rigorous research to narrow the achievement/opportunity gap, and why it is a key driver in improving education equity.

¹ Campaign for Fiscal Equity, Inc., et al. v. State of New York, et al., 100 N.Y.2d 893, 911-12 (2003) (“CFE II”).
https://www.law.cornell.edu/nycap/I03_0084.htm

Yet since the decision was made in the CFE case, class sizes have risen in NYC public schools, especially in the early grades, and are 15-30% larger than those in the rest of the state.² Charts showing these trends are included in the Appendix.

All this explains why when parents of children in grades K through 12 are asked what changes they would most like to see in their schools, their top priority is smaller classes. This is how they have responded every year since 2007, when the DOE's survey was first administered.³

Given the critical need for social distancing and the additional academic support required to make up for a year and half of disrupted education, the consensus for smaller classes this year was stronger than ever before.⁴ In recognition of the need for smaller classes, and the unprecedented resources being provided to the DOE via approximately \$8 billion in additional state and federal funds over the next three years, the City Council advocated that \$250 million be invested in smaller classes in schools this fall.⁵ And yet the Mayor and DOE instead is implementing a small, \$18 million class size "pilot", in which principals are encouraged to use the funds for either class size reduction or additional push-in teachers, which does not offer the same proven benefits to students in terms of safety, health, or academic support.⁶

² See the chart in the appendix from the most recent NYSED comparative class size data, which is for 2016-2017 at <http://www.p12.nysed.gov/irs/pmf/>

³ Every year between 2007 and 2014, smaller classes were the top priority of parents for their schools on the DOE survey when asked what changes they would like to see in their children's schools. In 2015, that option omitted from the survey, but after parents protested, the DOE put it back the following year. Starting in 2016, DOE reported that more enrichment was now the top choice of parents, but that year for the first time they included the responses of thousands of parents at CBO PreK programs. Class size in PreK is limited to eighteen to twenty students by state law. DOE also included the responses of D75 parents, where class sizes are also legally limited to much smaller levels. See https://nycpublicschoolparents.blogspot.com/2019/08/the-nyc-school-survey-changes-over-time_27.html An analysis of the latest 2020 DOE survey data reveals that if the responses of parents with children at DOE non-D75 schools are calculated, smaller classes are still their top preference, even though we were unable to subtract the responses of thousands of parents whose children attend PreK classes at elementary schools rather than CBOs. 2020 DOE parent survey data posted at: https://infohub.nyced.org/docs/default-source/default-document-library/2020-public-data-file_parent_final.xlsx In 2019, the survey received far more responses from parents since it was pre-Covid, 509,298 vs 302,713 in 2020, and class size also was the top priority among K12 parents, even before subtracting D75 families. See the 2019 data at https://infohub.nyced.org/docs/default-source/default-document-library/2019-public-data-file_parent.xlsx

⁴ According to the survey posted by Class Size Matters, NYC Kids PAC and Teens Take Charge, posted last May, 46% of respondents said that their #1 priority for the additional federal and state funds was to reduce class size <https://nyckidspac.org/2021/05/results-from-parent-action-conference-2021-how-do-parents-educators-students-want-8b-in-state-federal-funds-spent-to-improve-our-schools/> Similarly, in a statewide survey of Black and Latinx families, students and educators, the Alliance for Quality Education found that the top two priorities were to hire more staff for mental health support and for class size reduction. http://www.aqeny.org/wp-content/uploads/2021/06/survey_report.pdf

⁵ See <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2021/04/Fiscal-2022-Preliminary-Budget-Response-1.pdf#page21>

⁶ For more on this "pilot", see <https://classsizematters.org/list-of-elementary-schools-to-be-included-in-class-size-pilot/>; Chalkbeat at <https://ny.chalkbeat.org/2021/6/30/22558104/nyc-budget-deal-2022-smaller-class-size-covid-learning-loss>

In addition to the billions of dollars in additional federal funds that our schools are receiving, our schools are also being provided with an additional \$530 billion this year in state Foundation funds that will increase to \$1.3 billion annually over the next three years, in fulfillment of the goals of the Campaign for Fiscal Equity lawsuit. The Contracts for Excellence law that passed in 2007 was supposed to address this constitutional deficiency, by requiring that in return for more funding, DOE had to submit and implement a five-year plan to lower class size in all grades.⁷ And yet, rather than lower class size as that plan required, class sizes rose sharply after 2008, especially in the early grades, and remain much larger today than when the law was passed, and indeed larger than when the Court of Appeals issued its decision in 2003.

Given the fact that NYC students are still deprived of their right to smaller classes, many believe that there remains a clear ethical obligation if not a legal one for the city to reduce class size. I'd like to thank Chair Treyger and Speaker Johnson for introducing Intro 2374, as well as the twenty-six other legislators have signed onto it as of last evening. If this bill is passed and enforced would finally deliver to NYC children what is needed for a truly equitable and excellent education.⁸

We have not yet found another district or state where the classroom space requirements are so small as the current NYC building code of only 20 square feet per student. [See the chart in the Appendix.] For example, the current code in Florida requires that classrooms provide 49 sq. ft. per student in grades K-3, 39 sq. ft. per student in grades 4-8 and 32 sq. ft. per student in high school.⁹

Intro 2374 would enlarge the current NYC building code from twenty square feet per student in grades 1-12 to 35 square feet per student.¹⁰ Given the average class size in NYC schools of about 650 square feet, according to the Independent Budget Office this would mean a limit of about 19 students per class in an average size classroom, to be achieved over three years.¹¹ This is an ambitious target, and one would clearly benefit students, both educationally and in terms of health and safety

This would also reverse the trend in which DOE has actually shrunk the size of a minimum classroom and removed all class size standards from their Instructional Footprint since 2007, the document used to guide space allocations and facilitate co-locations, in which more students have been crammed into smaller and smaller spaces over time.¹²

⁷ See N.Y. Education Law §211-d(6) at <https://codes.findlaw.com/ny/education-law/edn-sect-211-d.html>

⁸ <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5072014&GUID=C4487B7C-8916-4C24-A86C-FD376A3D55B5>

⁹ See p.87 <https://www.fldoe.org/core/fileparse.php/7738/urlt/srefrule14.pdf>

¹⁰ New York City Department of Buildings, Building Code Plus Reference Standards and Selected Rules and Regulations of the Department of Buildings, Includes Amendments to October 1, 2004, New York: New York City Department of Buildings, 2004, 166, http://www.nyc.gov/html/dob/downloads/bldgs_code/amendment_set_1.pdf

¹¹ The IBO found that average size of a 'regular classroom' to be about 650 sq. ft across the DOE system excluding districts 75, 79 and charter schools. Email from Taina Guarda <TainaG@ibo.nyc.ny.us> to Leonie Haimson, Aug. 12, 2021.

¹² The original DOE Footprint from 2007 assumed class sizes of twenty students per class in grades K-3, and 25 students in grades 4-5 in non-Title One schools. In 2009, however, the Footprint raised class size standards for grades 4-5 to 28, without explanation. Then in 2011, the Footprint eliminated any standards for class size from the document completely, except in the case of alternative learning centers, transfer high schools, full time GED programs, and Young Adult Borough Centers. In 2010, the Footprint also shrunk the minimum size for regular classrooms from 600 square feet to 500 square feet in grades

These more capacious requirements would promote both health and safety and higher academic achievement, given that there is a growing body of research showing that the higher CO2 levels of overcrowded classrooms are negatively correlated with student achievement.¹³

If implemented well, smaller classes would also likely lead to substantial cost savings by lowering special education referrals and reducing the need for expensive intervention services. According to a report from the Independent Budget Office, the cost of private school placements in the DOE budget has doubled in the last four years, to \$710 million in fiscal year 2020.¹⁴ These costs would decrease or level off if students with the personalized attention and feedback they need in the public schools.

Moreover, NYC has a lower student-teacher ratio but larger class sizes than the national averages, so out-of-classroom positions could be redeployed to lower class size.¹⁵ Smaller classes would also likely lower teacher turnover which is a major problem in high-poverty NYC schools.¹⁶ According to a UFT teacher survey, 99% teachers responded that class size reduction would be an effective reform to improve NYC schools, far outstripping any other proposal. About 90% said that this would be a “highly effective” reform.¹⁷

Many teachers have expressed frustration with the excessive class sizes this year, especially as compared with the smaller in-person classes last year, when most students opted for remote learning. Here’s the comments of one teacher:

“I have one student now who I had last spring in a tiny class. He is challenging to engage and had a reputation for cutting and wandering the halls. In a tiny class, my co-teacher and I built a relationship and he started doing assignments. Now he sits in the back of a big class and I can't get him off his phone. It's frustrating.”

1st through 12th, and the minimum size for cluster rooms from 1000 to 500 square feet. See the various versions of the Instructional Footprint over time here. <https://classsizematters.org/doe-instructional-footprints-shrinking-through-time/>

¹³Santosh Gaihre, et. al. *Classroom Carbon Dioxide Concentration, School Attendance, and Educational Attainment*, Journal of School Health, Sept. 2014 at https://www.researchgate.net/publication/264744115_Classroom_Carbon_Dioxide_Concentration_School_Attendance_and_Educational_Attainment; Haverinen-Shaughnessy U, et.al.. *Association between substandard classroom ventilation rates and students' academic achievement*. Indoor Air. April 2011. <https://pubmed.ncbi.nlm.nih.gov/21029182/>

¹⁴ <https://ibo.nyc.ny.us/iboreports/carter-case-spending-for-students-with-special-needs-continues-to-grow-rapidly-march-2021.pdf>

¹⁵ See Table 208.10 for 2018 national average in student/teacher ratios: all schools at 16.1, Elementary schools 16.0 and Secondary schools 16.6 https://nces.ed.gov/programs/digest/d20/tables/dt20_208.10.asp
The same year NYC student/teacher ratios were two students smaller: 14.1 for all schools, with elementary at 13.6; MS at 13.8; and HS at 14.9. See slide 3 in NYC Class Size report for 2018-19 (Final/Updated) Feb. 2019, https://infohub.nyced.org/docs/default-source/default-document-library/february_class_size_report_-_webdeck_-_2-15-19.pdf

¹⁶ <https://www.cityandstateny.com/articles/policy/education/new-ideas-how-slow-teacher-turnover.html> ; see also Class Size Matters Testimony on teacher recruitment and attrition, January 2017, <https://secureservercdn.net/198.71.233.96/3zn.338.myftpupload.com/wp-content/uploads/2017/01/CSM-testimony-class-size-and-teacher-retention-1.24.17.pdf> See also NYC Council, A Staff Report of the NYC Council Investigation Division on Teacher Attrition and Retention, 2004. <http://www.nyc.gov/html/records/pdf/govpub/1024teachersal.pdf>

¹⁷ Survey results here: <https://www.uft.org/news/news-stories/what-works-what-doesnt-teachers-speak-their-minds>

This fall, Catherine Vail, an experienced teacher who had taught in Brownsville for 18 years, wrote a heartbreaking oped in the Daily News, explaining how she had quit because of the class sizes and the lack of social distancing: “*Twenty-six kids, most in ill-fitting masks drooping below their noses, were in my small classroom barely a foot apart.*” She teaches in a high poverty school with unused rooms and plenty of space to lower class size if they had more teachers. ¹⁸

In about half of the districts there would be room for smaller classes now. In some overcrowded districts, Pre-K and 3K classes currently provided in elementary schools could be relocated to DOE PreK centers and Community Based Organizations, many of which are under-enrolled and have extra space. According to the DOE data, there were 14,908 open 3K and PreK seats at these centers in FY 2020 and 16,316 open seats in FY 2021. ¹⁹ No loss of quality would result. In fact, according to the to evaluation systems that are used to assess the quality of PreK programs, those sited in CBOs come out ahead of those sited in NYC public schools. ²⁰

In the longer run, the school capital plan should be accelerated and expanded, aided by an expedited program of leasing and purchasing empty parochial school buildings and requiring developers to provide space for new schools or pay Impact fees into a fund to support the necessary infrastructure.

Thank you for the opportunity to speak to you today.

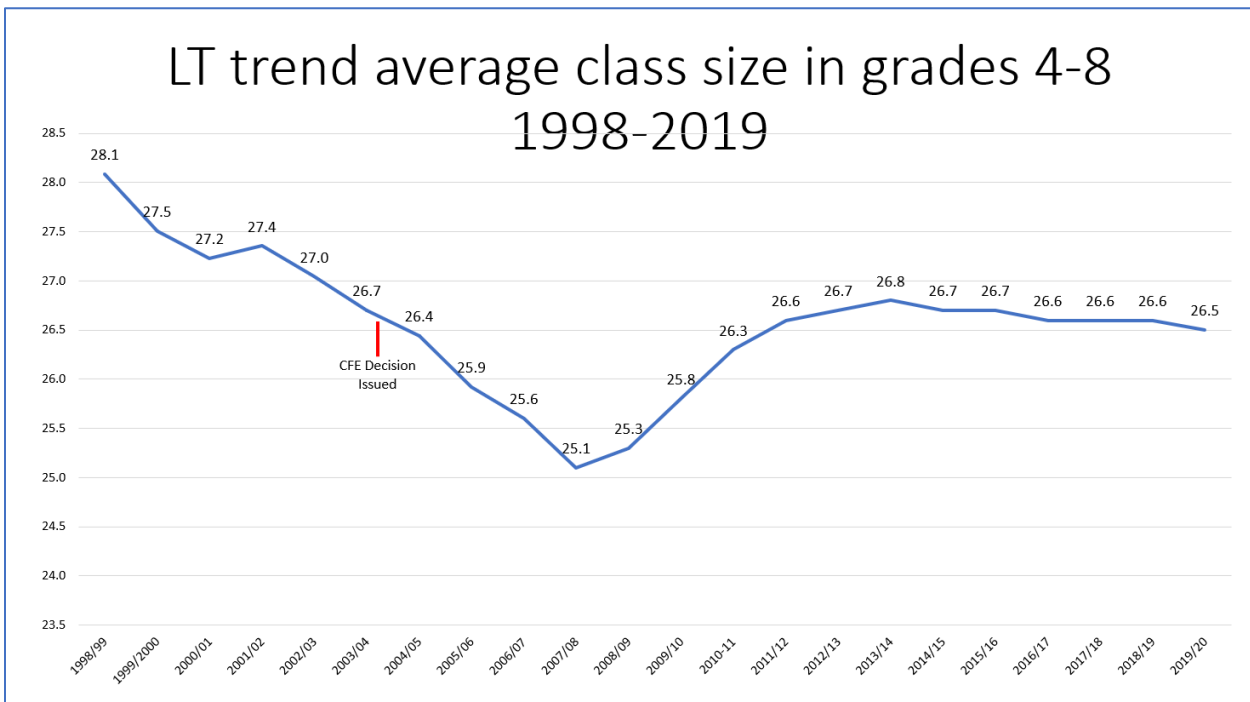
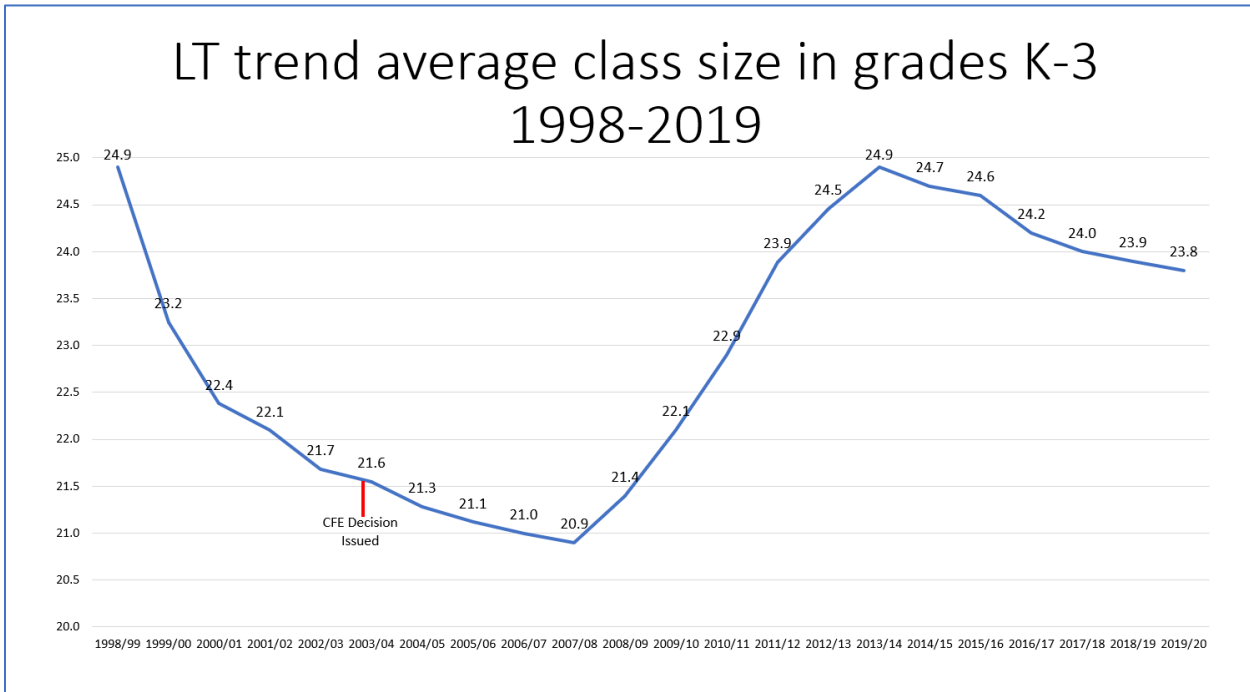
¹⁸ <https://www.nydailynews.com/opinion/ny-oped-making-schools-truly-safe-20211001-4ijorhlmtncl3g4ezwfaof4xwi-story.html>

¹⁹ Analysis of available seats from the data in NYC DOE UPK 3K and Early Childhood Enrollment reports for FY 2020 and FY 2021 at <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2020/09/Department-of-Education-UPK-3-K-and-Early-Childhood-Enrollment-Report.xlsx> and <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2021/06/Department-of-Education-%E2%80%93-UPK-3-K-and-Early-Childhood-Enrollment-Report.xlsx>

²⁰ The two evaluation tools for PreK programs are the Early Childhood Environmental Rating Scale—Revised (ECERS-R) and Classroom Assessment Scoring System (CLASS). A recent study showed that scores on these tools were slightly higher in PreK sites run by community-based organizations than in school-based sites or DOE PreK centers on the ECERS scale. See <https://www.k12dive.com/news/study-uneven-quality-found-in-pre-k-sites-across-nyc/580377> and Bruce Fuller et. al., *Equity and Institutions Distributing Preschool Quality in New York City*, University of California, Berkeley, July 2020 at https://gse.berkeley.edu/sites/default/files/nyc_pre-k_study_-_july_2020_update.pdf Bruce Fuller et. al. found that the mean ECERS score for CBO-based sites was 4.3, compared with 4.1 in public elementary schools and 4.0 in DOE PreK centers. There was no significant different between CBO and public school PreK programs in terms of CLASS scores, though DOE PreK centers scored lower than the other two. For an earlier study which also showed CBOs scoring higher in ECERS, see Gregory Brender, *Losing the Best*, March 2016, United Neighborhood Houses at <https://works.bepress.com/gregory-brender/2/download/>

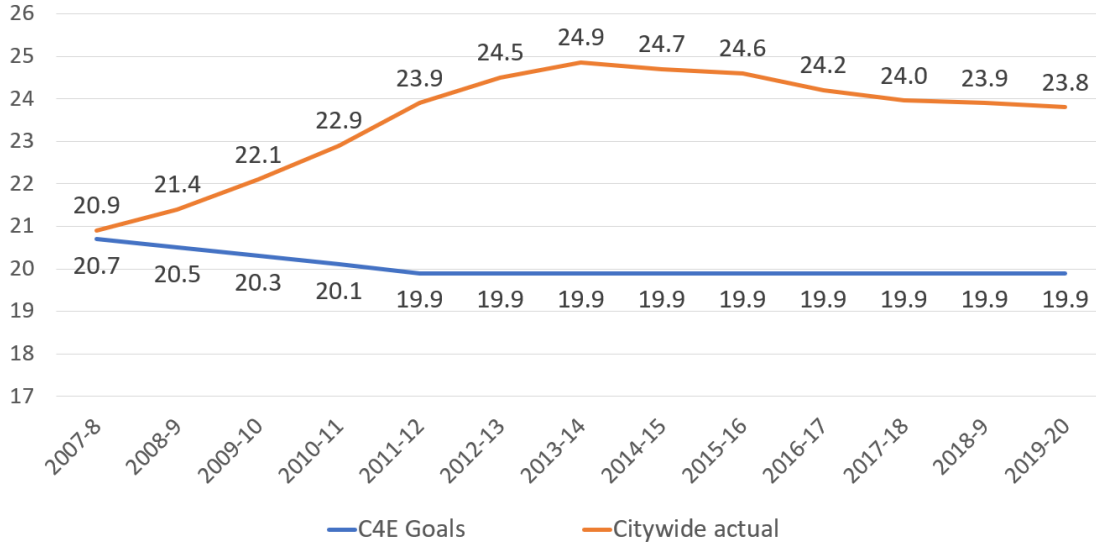
Appendix: Charts showing the increase in average class size since 2003 when the Court of Appeals issued their decision in the CFE case.

Data pre-2006, from the Independent Budget Office. Data 2007-2019 from DOE’s annual Nov. 15 class size reports. Contract for Excellence goals are from the DOE’s original class size reduction plan, submitted and approved by NYSED in 2007.



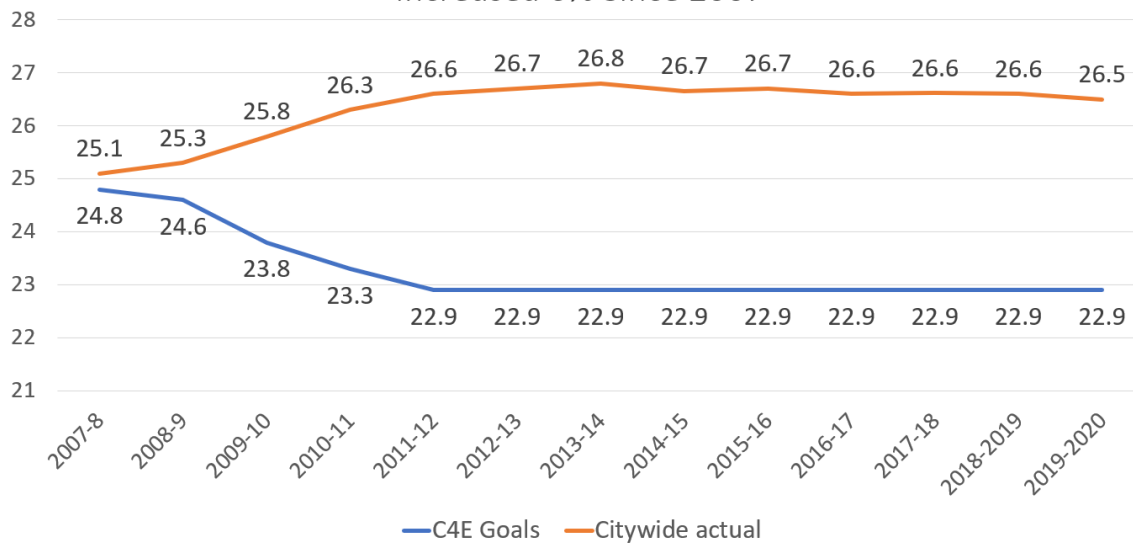
Average Citywide K-3rd Class Sizes

Increased 14% since 2007

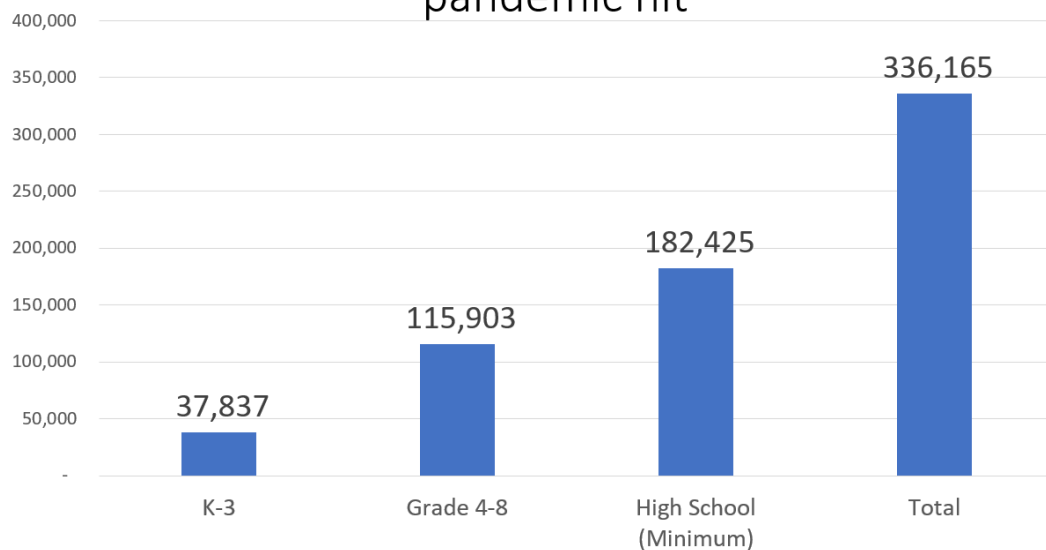


Average Citywide 4th-8th Class Sizes

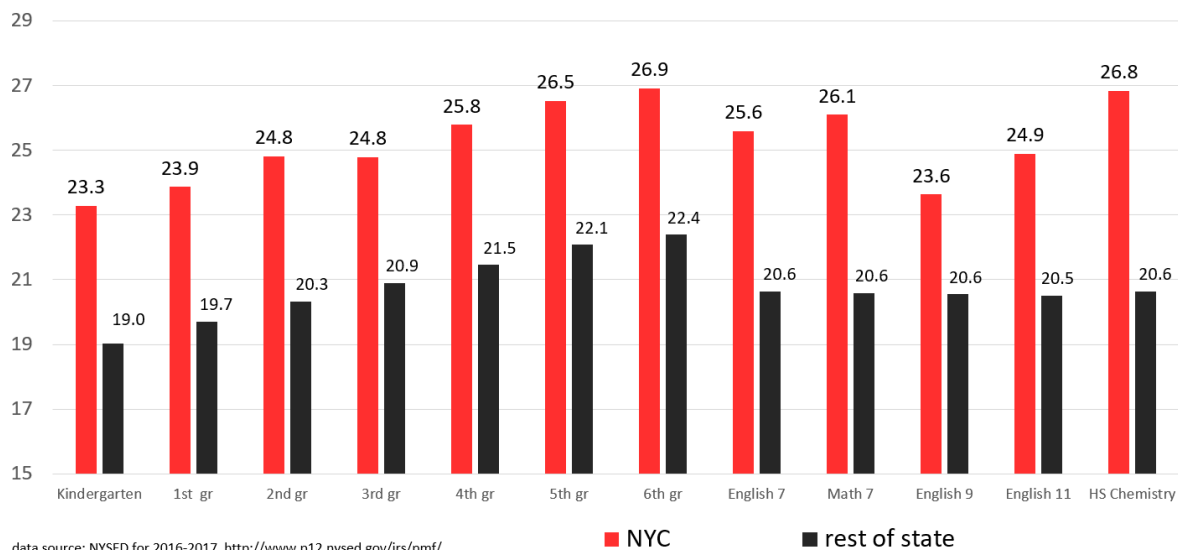
Increased 6% Since 2007



More than 336,000 students – or about 1/3 of all students were in classes of 30 or more before the pandemic hit



NYC class sizes are 15-30% higher on average than rest of the state



Student space requirements by state compared to NYC

State/City	Elem (Per Student)	MS (Per Student)	HS (Per Student)	Classroom Size	Req.?	Source
AZ	1st-3rd: 32 sq. ft.	4th-6th: 28 sq. ft. 7th-8th: 26 sq. ft.	25 sq. ft.	N/A	Yes	AAC - Ch. 6. School Facilities Board (R7-6-210)
FL	1st-3rd: 49 net sq. ft.	4th-8th: 39 net sq. ft.	9th-12th: 32 net sq. ft.	N/A	Yes	FL DOE - State Requirements for Educational Facilities (Sec. 6.1)
IN	30 sq. ft.	30 sq. ft.	30 sq. ft.	N/A	Yes	IAC - 410 IAC 6-5.1-5(d)
NH	36 sq. ft.	36 sq. ft.	32 sq. ft.	900 sq. ft.; HS: 800 sq. ft.	Yes	NH AC - Part Ed 321.10 - School Building Construction
NM	1st-5th: 32 sq. ft.	6th-8th: 28 sq. ft.	9th-12th: 25 sq. ft.	N/A	Yes	NM AC - 6.27.30.13
NYC (Proposed)	35 sq. ft.	35 sq. ft.	35 sq. ft.		Yes	NYC City Council - INT. No. 2374
NYC (Current - Gen Ed)	K: 35 sq ft; 1st-12th: 20 sq. ft.	20 sq. ft.	20 sq. ft.	1st-12th GenEd: 500 sq.ft.;	Yes	Building Code of NYC See also: Instructional Footprint (rev. 2015)
NYC (Current - Special Ed)	n/a	n/a	n/a	Special ed 240-499 sq. ft.	Yes	NYC Instructional Footprint (rev. 2015)
OK	1st-6th: 28 net sq. ft.	7th-8th: 28 net sq. ft.	28 net sq. ft.	sq. ft.; MS & HS: 700 sq. ft.	No	OK DOE - Planning For Education: Space Guidelines for Planning
PA	30 sq ft.	25 sq ft.	25 sq ft.	N/A	Yes	PA Code - Title 22, §59.33. Indoor/outdoor space
TX	1st: 36 sq. ft. (Districts w/ small classes) 2nd-4th: 32 sq. ft. (Districts w/small class sizes)	5th-8th: 28 sq. ft. (Districts w/small class sizes)	9th-12th: 28 sq. ft. (Districts w/small class sizes)	1st : 800 sq. ft.; 2nd-12th: 700 sq. ft.	Yes	TX AC, Title 19, Part 2, Rule §61.1036
VT	1st-6th: 30 net sq ft.	30 net sq. ft.	30 net sq. ft.	N/A	No	Vermont School Construction Planning Guide
WV	1st-5th: 28-30 sq. ft.	6th-8th: 28-30 sq. ft.	9th-12th: 28-30 sq. ft.	N/A	Yes	West Virginia Administrative Law - Education §126-172