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Via Email

March 15, 2022

Brad Lander
City of New York Comptroller
Office of the New York City Comptroller
New York, NY 10007

Dear Comptroller Lander,

Congratulations on your new position as New York City Comptroller. We write to you today regarding a 2021 [report](#) from Class Size Matters (CSM), which concluded¹ that the New York City Department of Education (DOE or Department) overspent on charter rental subsidies while denying co-located public schools their legally required matching funds for facility upgrades. To maintain the integrity of City operations, the undersigned elected officials urge you to undertake an audit of the rising costs of DOE charter school rental subsidies; and whether the DOE has properly provided matching funds to public schools co-located with charter schools for facility upgrades.

After your predecessor requested the DOE to respond to findings from an earlier 2019 CSM report², the Department produced a new spreadsheet with FY 2014 to FY 2019 spending and expenditures different from the amounts originally reported to CSM and the City Council. Though a state law was passed in 2010 requiring that public schools co-located with charter schools receive matching funds for facility upgrades, according to the analysis, not a single public school received the same amount that its co-located charter school spent on upgrades from FY 2014 to FY 2019. Instead, the report found that 127 co-located public schools were owed a total of \$15.5 million over the six-year period. Two of the five schools that lacked the most in matching funds were District 75 schools providing highly specialized instructional support for students with significant challenges. Several of the co-located public schools lacking funds had considerable facility upgrade and repair needs.

¹ Class Size Matters, “DOE Overspending on Charter School Facility Costs and Underspending on Matching Funds to Public Schools: Confirmation of Class Size Matters’ Original Findings,” March 2021.

https://secureservercdn.net/198.71.233.96/3zn338.myftpupload.com/wp-content/uploads/2021/03/CSM_DOE-Spending_Charter-Schools-Facilities_FINAL-3.21.pdf

² Deputy Comptroller Gilligo letter dated Nov 21, 2019 is posted at <https://www.classsizematters.org/wp-content/uploads/2020/04/DOE-Charter-School-letter-11.21.19.docx.pdf>;

Deputy Chancellor Karin Goldmark’s response dated Jan 23, 2020, is posted at <https://drive.google.com/file/d/11WU00slyXuDOUzINNo18RPHFiM3Xeatx/view>

In response to a Daily News [article](#) on the report's findings, DOE officials claimed that, "*some of the matching money may not arrive at public schools concurrently with the charter schools' spending, and thus would not have been reflected in the spending reports analyzed by Class Size Matters.*" However, state law requires matching funds be provided to the co-located public school within three months of the charter school's expenditures. Moreover, CSM found these schools lacked millions of dollars in cumulative deficits in matching funds over a period of six years.

On the spreadsheets, DOE officials claimed several reasons for exempting matching funds; including charter school spending on air-conditioners, repainting, and/or reflooring projects. When WCBS-TV aired a segment on the report's findings, the DOE said that while, "*data shows from 2014 to 2019, Success Academy Harlem East received about \$929,000 in renovation funding not matched by the Department of Education... \$913,000 of those expenditures, including the cost of new AC units, are exempt.*" However, charter school spending on air conditioners, repainting and reflooring are specifically mentioned in the Chancellor's Regulation A-190 as requiring matching funds³.

We urge you to audit the expenditures, and if your findings confirm CSM's report, urge DOE to provide all co-located public schools with the funds for upgrades to which they are entitled.

In addition, CSM analysis also found that in FY 2019, the DOE appeared to overspend on lease payments to thirty-nine charter schools in an amount that exceeded their base rents by a total of \$21 million. If your audit finds this to be the case, your office should urge DOE to demand these schools to return the excess payments or subtract these amounts from future payments.

DOE officials should also be asked to explain why the Department continues to rent buildings directly for eight charter schools, rather than require that they rent their own spaces which would allow the City to receive 60% in state reimbursement. In FY 2020, the City made itself ineligible to receive an estimated \$8 million in state funds by holding leases directly for these schools.

Charter rental subsidies spent by DOE increased by 41% from \$76.7 million in FY 2019 to \$107.9 million in FY 2020. These increases in some cases were triggered by steep rises to charter school rent. For example, the annual rent increased at all three Hebrew Language Academy Charter School sites. The building at 147 Saint Nicholas Avenue in Manhattan, rent increased from approximately \$148,000 to \$2.9 million in one year according to these records; their site at 2186 Mill Avenue in Brooklyn more than doubled from approximately \$931,000 to \$2.5 million; and the site at 1870 Stillwell Avenue in Brooklyn increased from just over \$80,000 to \$1.06 million, an increase of over thirteen times.

CSM also reported that in FY 2020 the DOE paid \$11.6 million in rental subsidies for eight charter schools whose Charter Management Organization, affiliated organization LLC, or foundation owned their own spaces. In some cases, the base rents of these charter schools also increased by as much as 400% in one year, which raises questions about whether the rents were fairly assessed and whether the increases reflected improper self-dealing. In one especially egregious example, the rent for the two Success Academy charter schools at Hudson Yards increased from approximately \$793,000 to over \$3.4 million, despite that the space is owned by

³ <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-190>

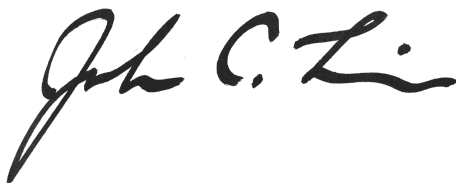
the Success Academy Charter Management Organization. This increase in rent allowed Success to charge the DOE \$3 million in rental subsidies in FY 2020 for these two schools, a 38% increase from the previous year.

We request that you also audit charter school rents and consequent DOE payments to analyze if these increases were based upon the property's fair market value, or if the City has been overcharged. If you find that the latter has occurred, it would be useful if your office could propose a reliable assessment system to prevent such overcharges from recurring in the future. The cost to DOE of rental payments for charter schools is increasing fast and will likely continue to do so. As enrollments expand and rents increase, funds which could be used instead to upgrade and expand the capacity of our public schools. Thank you for your consideration.

In Unity,



Robert Jackson
State Senator, 31st District
Civil Service & Pension Committee Chair



John Liu
State Senator, 11th District
New York City Education Committee Chair



Rita Joseph
New York City Council Member, 40th District
Education Committee Chair