



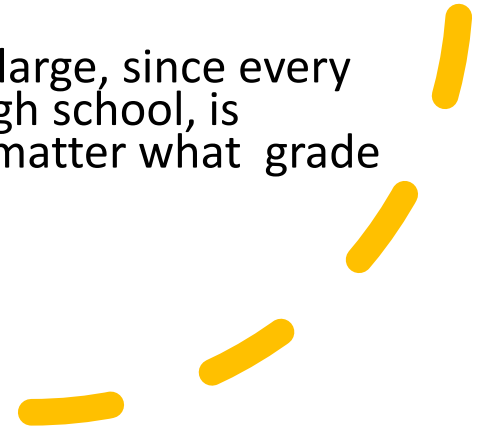
Why the cap on charter schools should NOT be raised & how we need more charter accountability instead

Class Size Matters briefing
Updated March 2023

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What did Gov. Hochul propose & how would this affect NYC public schools?

- Gov. Hochul has proposed to [allow about 100 additional more charter schools](#) in NYC, by eliminating the regional limits and by adding 15 more, the number of previously authorized “zombie charters” which closed or had their charters revoked.
- NYC already has [275 charter schools](#) – the vast majority of those authorized in the state;
- The amount of funding diverted by charters from DOE budget is already [\\$2.69 billion](#) per year and growing fast, not counting the space and services that co-located NYC charter schools receive for free.
- [OMB estimates](#) the cost of allowing another 100 charter schools in NYC to be about \$1.3 billion – coincidentally, the same as their estimate for the new class size reduction law.
- Yet the potential cost could be three times that large, since every charter school, whether elementary, middle, or high school, is currently allowed to expand to three schools, no matter what grade levels it was originally authorized to serve.

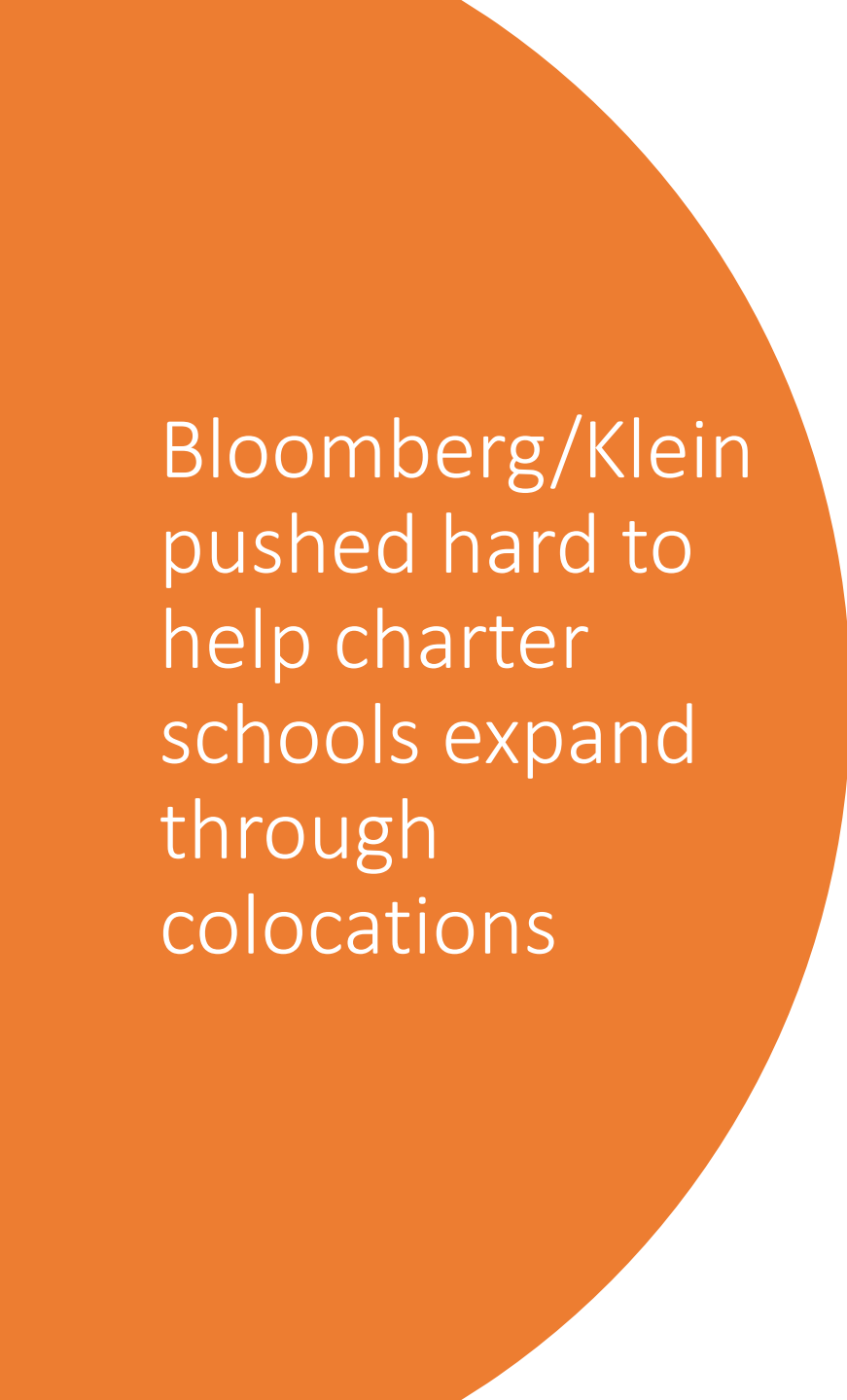


Timeline of charter cap: Part I

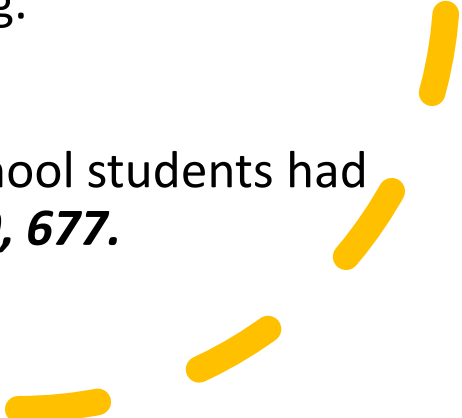
- NY Charter school law first passed in 1998, in a deal with the Legislature in which Gov. Pataki agreed to raise their salaries.
- The 1998 law established a cap of 100 charter schools statewide, plus an unlimited number of existing public schools that could convert to charter schools.
- In 2002, Mayor Bloomberg was elected; and he and Chancellor Klein were aggressive supporters of charter schools, along with Democrats for Education Reform, billionaire hedge funders & Robin Hood Foundation.
- In 2007, Legislature raised charter cap to 200, with 50 more reserved for New York City.

Timeline of charter cap Part II

- In 2010, statewide charter cap raised once again to 460, with a maximum of 114 additional slots for NYC.
- In 2015, the charter school sub-cap for New York City was increased, adding another 50.
- In 2017, Legislature added 22 “zombie” charters that could be authorized in NYC, number of charters which had been previously revoked, terminated or not renewed.
- In 2021, NYC hit its current cap of 290, though some charter schools already authorized under this cap have not yet opened

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Bloomberg/Klein
pushed hard to
help charter
schools expand
through
colocations

- When Bloomberg was elected in 2002, there were only 2,400 students enrolled in NYC charter schools.
 - In 2003, Chancellor Klein had meetings with top charter management officials (KIPP, Uncommon Schools, Achievement First, Harlem Children's Zone, Success) and convinced them to establish new networks & expand existing ones.
 - Klein said he would give them space in existing school buildings for only \$1 per year; and in July 2003, Bloomberg and Klein held a press conference, celebrating the 1st charter to be co-located, a KIPP charter in a Harlem public school building.
 - By 2012-2013, the total number of charter school students had increased to 59,000. ***That number is now 140, 677.***
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- A decorative graphic consisting of several short, thick yellow dashes arranged in a curved, upward-pointing path in the bottom right corner of the slide.

2011 charter co-location lawsuit

- In 2011, IBO estimated that the space & services provided by DOE to co-located charter schools in 2008-9 totaled \$2,712 per student.
- At that time, Section 2853(4)(c) of the NY State Education Law said that districts could lease public school “buildings and grounds” to charter schools, but that “*any such contract shall provide such services or facilities at cost.*”
- In July 2011, CSM along with other groups & about 25 parents sued the DOE because the cost was about \$100M a year – far more than the \$1 a year outlined in the law.

What happened to the lawsuit?

- Progress of our lawsuit slowed when our judge, who appeared sympathetic to our arguments, was promoted to the Appellate Court by Gov. Cuomo in 2012.
- Our next assigned judge, Judge Barbara Jaffe, ruled in 2013 that we first needed to submit a complaint to the NY Education Commissioner before bringing this to court.
- She added,, *“There is no dispute that charter schools, through public funding and private donations, have access to more financial resources than those available to traditional public schools....Parents of public-school students thus understandably bristle not only at the disparate treatment of the students, but at how open and notorious it is.”*
- In 2014 budget, Cuomo and Legislature amended the law to require NYC provide space to charter schools for free or help pay for their rent in private space. De Blasio accepted this in exchange for \$300 million in state funding to help fund PreK expansion.

NYC has unfair financial burdens regarding charters under state law

- ***NYC is the only school district in the NY state and the nation obligated to provide space for charters or help pay for their rent – in a city with the highest rental costs in the state and some of the highest in the nation***
- Currently, 128 charter schools are in buildings owned or leased by the NYC DOE and 147 charter schools are in private (non-DOE) space.
- The cost to DOE of charter rental subsidies in FY 2023 is more than \$187 million, with 60% of that reimbursable by the state; DOE is also spending another \$9.5 million to rent buildings for six Success Academy charter schools without any reimbursement.
- NYC is ALSO the only school district in the state exempted from state charter school transitional aid, meant to reduce the financial burden on public schools of charter school expansion
- Between 2011 and 2022, NYC [denied over \\$2.62 billion](#) in state charter school transitional aid.

Lack of matching funds for public schools co-located with charter schools for facility upgrades

- Given the new state law which mandates a phase-in of smaller classes starting next fall, further charter expansion and co-locations could deprive many public schools of the necessary space to lower class size.
- Recent DOE charter co-location proposals assume that current class sizes in the public schools will remain forever and ignore additional space needed to lower class size.
- Class Size Matters reports in [2019](#) and [2021](#) showed that public schools that shared buildings with charters were owed millions in matching funds for facility enhancements, compared to what was spent by their co-located charters, violating a state law passed in 2014.
- From FY 2014 to FY 2019, only 4 public schools out of 812 cases received matching funds equal to the amount spent by their co-located charter schools in the same year – as law requires.
- Not a single public school received the same total amount as its co-located charter school spent on facility enhancements over this six-year period.

How much were public schools owed in matching funds?

- From FY 2014 to FY 2019, we found that **127 co-located NYC public schools were owed a total of \$15.5 million.**
- For example, P.S. 368, a D75 school in D14 and D15 was missing over \$984,000 over this period, in matching funds, co-located with two branches of Success Academy.
- The branch of P.S. 368 co-located with Success Academy Bed-Stuy 1 in D14 was missing approximately \$398,000 and the branch co-located with Success Academy Cobble Hill in D15 was missing approximately \$586,000.
- The priority list for renovations sent to SCA by D75 Citywide Council in 2020 noted that the P.S. 368 located in District 14 needed air-conditioning in the cafeteria, gym, and auditorium; an upgraded computer lab and security system; plumbing and a sink in the nurse's office; and better Wi-Fi.
- At that time, P.S. 368 in District 15 also lacked ventilators in several classrooms and had broken seats in the auditorium, among other issues, according to its Building Condition Assessment Survey.

What did our reports find about charter rent?

- Our reports showed that in FY 2019, DOE overspent on charter lease subsidies by over \$21 million compared to their legal obligation.
- Also: In FY 2020, DOE spent over \$11.6 million on rent for charter schools whose buildings were owned by their Charter Management Organizations or other affiliated organizations
- In several cases, the charter rents appeared to be inflated, including in cases where the CMO owned the space
- As of FY 2023, 81 charter schools are housed in 103 buildings owned or subleased by their CMO or other affiliated organization, charging DOE about \$125 million per year.
- For 34 of these schools in 39 buildings, DOE is paying entire cost of the lease rather than per pupil amount, totaling nearly \$43 million in FY 2023 – and in these cases, unclear if rent is inflated or assessed at fair market value.
- On March 15, 2022, Senator John Liu, Senator Robert Jackson and CM Rita Joseph, [sent a letter to NYC Comptroller Brad Lander](#) asking him to audit the missing matching funds and charter rent. Yet to our knowledge, no such audit has yet been launched.

Charters claim they have long wait lists; but is this true?

- Chalkbeat found that [58% of the city's charter schools have lost enrollment over the past three years, not including charter schools that opened or closed during that time. 45% saw enrollment drop this year, including Success Academy \(down 7.7%\)](#)
- The charter lobby's claims made of high demand and large waiting lists are unconfirmed by any independent audits and likely inaccurate, as they include many duplicates.
- Some charters like those affiliated with Success Academy spend millions on advertising and marketing efforts to recruit more applicants; and yet Success was urging more families to apply [through October](#) of the current school year, suggesting a shortage of students in many of their schools.
- A research study revealed that [only about 50 percent of the students who won the lottery to attend Success Academy charters](#) chose to enroll; making their waiting list claims even more dubious;
- Success also recruits students outside the city for their charter schools, revealing a relative lack of demand in NYC.

Other problematic issues with charter schools

- Many charter schools exhibit high rates of student attrition, including at Success, where [75% of students leave](#) from Kindergarten on; [about 50%](#) of students who make it to high school leave before graduation.
- Most NYC charter schools have lower enrollment rates of high-needs students, including English Language Learners and students with disabilities.
- Many charter schools are known for their excessive disciplinary policies and pushing out students who do not comply with their strict disciplinary codes.
- Also, many NYC charter schools, including those affiliated with [Uncommon](#), [KIPP](#), and [Success](#), have been criticized for their racist practices.
- A [recent report](#) from the Civil Rights Project at UCLA revealed that charter schools in NYC are even more intensely segregated than district public schools.

What can CECs and/or individuals do?

- **Pass a resolution as a group**, urging Legislators not to raise the cap on charters, either by eliminating the regional caps or allowing authorization of the “zombie” charters;
- Ask them Legislature to repeal the law that obligates DOE to provide space to charter schools in public schools or help pay for their rent– the only district in the nation with this onerous requirement;
- Amend law to make NYC eligible for state charter transition aid from now on, and/or be provided with the \$2.62 billion in past transition aid that was unfairly denied;
- Eliminate the loophole in the law, so that NO charter school can add grade levels outside of the grades it was originally authorized to serve, whether elementary, middle, or high school;
- Sample resolution: <https://tinyurl.com/charterreso2023>.
- **Individuals can also send emails to Gov. Hochul and legislators here:** <https://tinyurl.com/dontraisechartercap>

Other ways the
NYS charter law
should be
strengthened re
accountability
& transparency

- All charter schools should be legally obligated to adhere to the same disciplinary and suspension rules that public schools are required to follow under state law; and not be allowed to push out students unfairly;
- The boards of all Charter Management Organizations (who really make the decisions regarding policies and practices) should be subject to Open Meetings law;
- There are many bills already introduced in the Legislature but not yet passed that would strengthen the accountability and transparency of charter schools -- here are some examples:
 - [S4200](#) (Hoylman); increasing with transparency and limiting charter co-locations to three years; [S1395](#) (Liu); providing the Board of Regents with final say over charter approvals and re-authorizations; [S2171](#) (Liu); requiring the appointment of an independent fiduciary upon the dissolution of a charter school; [S355](#) (Jackson); requiring more accountability for charter schools in multiple ways; [S2137](#) (Liu); repealing the requirement that NYC must help pay for private space rented by charter schools; [S2173](#) (Salazar); allowing the state Comptroller to audit NYC charter schools; and [S2292](#) (Mayer); including school districts and in NYC community school districts in the approval process for issuing any new charter schools, where charter enrollment is already above 5% of the total public school enrollment.
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Also, more
audits
needed!

- The law should be amended to allow both the NY State Comptroller and NYC Comptroller to perform performance audits as well as financial audits on the charter sector, including investigating their waiting lists and their practices of pushing out students;
- CECs could also urge the NYC Comptroller to audit DOE spending on rental subsidies for charter schools, especially those whose buildings are owned by their CMO or other affiliated organization, to ensure that they are not inflating their rents to receive more subsidies from DOE;
- Also, audit the issue of whether the DOE is providing full matching funds to co-located public schools for facility enhancements, to ensure that they receive the full amount they are entitled to under law.
- *A sample resolution with these provisions is at <https://tinyurl.com/charterreso2023>.*

Any
questions?

- For more information, or to ask for a briefing, please contact Class Size Matters at info@classsizematters.org

