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Class Size Matters Testimony before the Council Education Committee on the Mayor's preliminary budget and the Feb. amendment to the Capital plan

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

Council should take the opportunity to reverse the school budgets slashed this year

Last June, the City Council approved a budget that cut school-level funding by hundreds of millions of dollars. According to the City Comptroller, 77% of schools had their Fair Student Funding allocations cut by a total of \$469 million this fall.¹

However, his analysis just looked at one portion of entire school budgets. As of January 12, we analyzed schools' Galaxy budgets, and found that 86% of schools experienced cuts totaling \$893 million compared to last year, averaging about \$655,000 each.²

After the Council voted to approve the budget in June, many members realized the severity of the cuts and their devastating impacts on schools. On July 12, a letter was sent to the Mayor asking for the opportunity to revote, signed by forty one out of fifty one Council Members, including Speaker Adams.³ They wrote:

"The DOE's school budget policies are disrupting school communities in every borough, and we cannot afford for them to continue. The response we have received from you thus far – to wait until the school year to address this issue – is unacceptable, because it will be too late to avoid the negative impact on students."

Yet the mayor denied the Council this opportunity, and as a result most schools suffered sharp increases in class size and the loss of valuable staff and programs.

But now the Council has an opportunity to make things right by restoring the cuts made to school budgets in next year's budget.

The need for more school funding is greater than ever.

Students are still recovering, both emotionally and academically, from the huge disruptions caused by Covid and school shutdowns. They need the close support of their teachers, counselors, and other support staff as much as

¹ <https://comptroller.nyc.gov/newsroom/statement-from-comptroller-brad-lander-on-education-budget-changes/>

² <https://classsizematters.org/cuts-to-school-budgets-as-of-jan-12-2023-compared-to-last-year-total-823-million-net/>

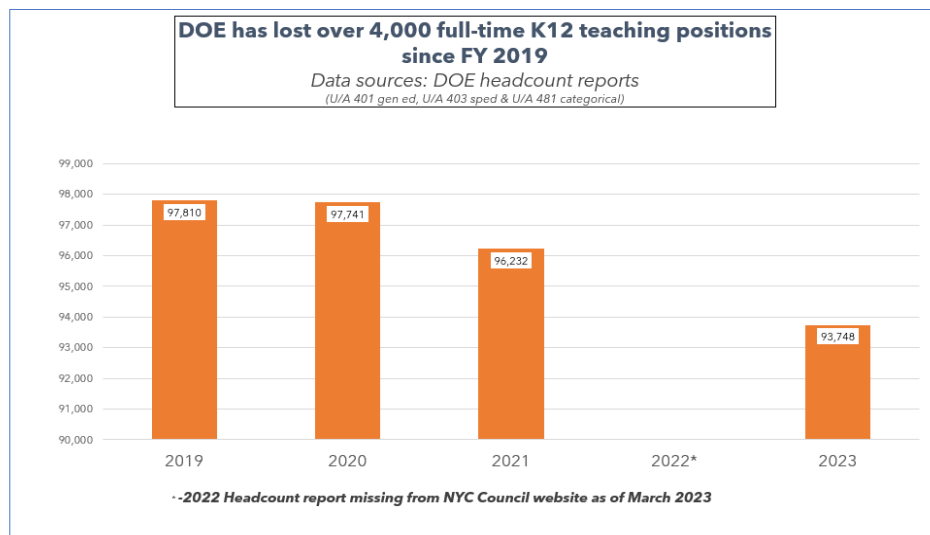
³ <https://council.nyc.gov/press/wp-content/uploads/sites/56/2022/07/Council-Leadership-Letter-to-Mayor-Chancellor-re-School-Budgets-1.pdf>

ever before. Moreover, schools are supposed to be phasing-in smaller classes starting next fall, in accordance with the new state law, S9460/ A10498 .

And the city can afford to do right by these students. The DOE will receive an additional \$568 million in Foundation Aid next year, the final tranche of a three-year phase-in of \$1.3 billion resulting from the CFE case, meant to ensure that students receive their right to a sound basic education. In addition, the IBO has estimated that NYC will end fiscal year 2023 with a \$4.9B surplus and as of early February, its cash balance was at \$14.6B, including reserves.

The increase in Foundation Aid is the result of the CFE lawsuit, in which the state’s highest court found that NYC public school students were deprived of their right to a sound basic education under the state constitution, in large part because of their excessive class sizes.

Yet according to the DOE headcount data posted on the NYC Council website, the public schools have already lost about 4,000 full-time K12 teachers between FY 2020 & FY 2023. According to an Office of Management document released the same day as the preliminary budget, and the city plans not to add a single additional teacher through at least June 2025.⁴



In testimony today, the DOE Chancellor said that schools will be “**partially held harmless**” next year for enrollment decline, but he refused to explain by how much. This will likely lead to further cuts to staffing and further increases in class size. Meanwhile, the Deputy Chancellor also said that 9000 more teachers will have to be hired, starting in the third year of the phase-in to comply with the new class size law.

This hiring will be far easier to accomplish if DOE does not continue to cut teachers until then.

⁴ <https://www.nyc.gov/assets/omb/downloads/pdf/jan21-stafflevels.pdf> , p. 22.

The Council should insist that the capital plan to create new capacity be immediately expanded and accelerated

According to testimony by Deputy Chancellor Weisberg, it will cost an approximate \$30 billion to \$35 billion in capital costs to provide the necessary pace to lower class size to the levels required by the new class size. We do not believe that this estimate is accurate, given the approximate per seat cost of about \$121,000 in 2019, according to the Citizen’s Budget Commission, which would mean that DOE is calculating the required number of new seats to between 250,000 and 290,000.⁵ Even at the far higher apparent cost per seat of \$158,689 in the February 2023 proposed amendment, that amount would pay for about 190,000-220,000 new seats.

One should recall that in 2021, DOE officials claimed that it would take 200,000 seats to provide the additional space for a proposed City Council class size reduction bill – a bill that would require far smaller classes than required by the new state law, of about 19 students in all grades for a classroom of average size, compared to the state bill that would require class sizes of 20-25, dependent on the grade level.⁶ Yet the Independent Budget Office estimated the number of seats required by that earlier more restrictive bill at about half of DOE’s estimate, about 100,000 seats, based on 2019-2020 enrollment.⁷ The cost of those 100,000 seats through financing, according to Sarita Subramanian of the IBO, would be “*roughly \$993 million a year over 30 years.... though half of the tab would be covered by the state.*”⁸

Not only was the earlier City Council bill more restrictive in terms of class sizes required, but enrollment has fallen considerably since the 2019-2020 school year, alleviating overcrowding in many schools and thus likely requiring fewer additional seats to lower class size.⁹

In any case, instead of expanding the capital plan which would seem to be required, given the DOE’s claim that hundreds of thousands of additional seats will be needed, instead the SCA has repeatedly cut new capacity in the plan since the class size law was passed, including in the latest February amendment for reasons DOE and SCA officials failed to justify during the hearings.

First, the amount spent on new capacity plunged from \$7.8 billion to \$6.3 billion in the June 2022 adopted plan, compared to the plan adopted in June 2021, with more than 11,000 net seats cut (57,489 to 46,010). Then the

⁵ <https://cbcny.org/research/cut-costs-not-ribbons>

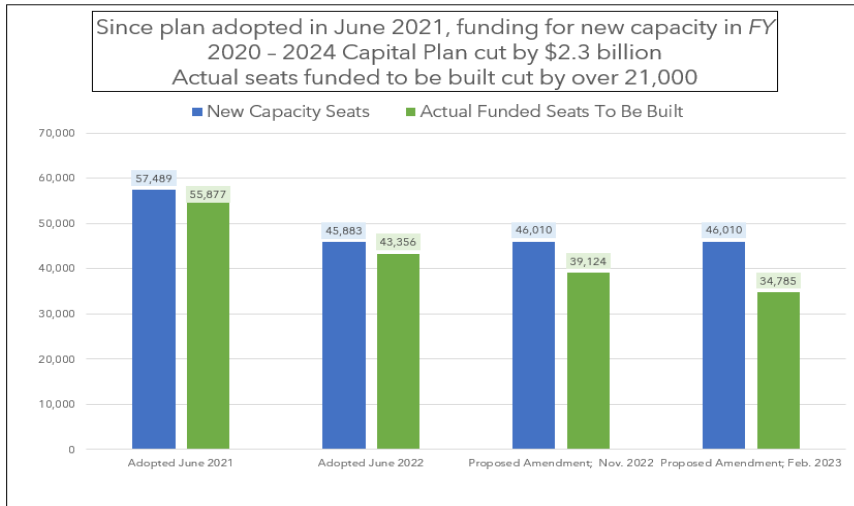
⁶ <https://classsizematters.org/wp-content/uploads/2021/10/CSM-testimony-on-class-size-bill-10.27.21.pdf>

⁷ <https://ibo.nyc.ny.us/iboreports/education-committee-testimony-academic-recovery-space-usage-in-city-schools.pdf>

⁸ <https://ny.chalkbeat.org/2021/12/15/22834858/nyc-schools-smaller-class-size-bill-vote-city-council>

⁹ Based on the latest enrollment figures from last year’s Blue Book, we estimate that anywhere between from 48,000 to 100,000 additional seats may be needed, depending on the assumptions regarding the efficiency ratio and class sizes. In 2019-2020 Blue Book, the SCA changed the “efficiency ratio” in the utilization formula, that is the assumptions of how many classrooms can be scheduled daily in middle schools and high schools, along with changing the assumptions about class size. Previously regular classrooms were expected to be in use seven of eight periods a day, and specialty rooms five of eight periods a day; but now all middle and high school rooms are expected to be scheduled 100% of time – difficult if not impossible to achieve. This change alone, even though at the same time they lower classroom class size capacities to the figures in the new law, artificially added 2593 seats to existing middle schools and 20,279 seats to high schools without building any actual additional space. See <https://classsizematters.org/class-size-school-overcrowding-presentation-to-public-advocate-office/> However, given the known inaccuracies of the Blue Book and the uncertainties of future enrollment, even this wide range must be taken with a grain of salt

February proposed amendment would further cut new capacity by another \$820 million and put 11,000 seats in eleven districts into the category of “funded for design only.”



Source: New Capacity section of FY2020 - 2024 Capital Plan, including un-sited D75 seats

The only explanation made by Nina Kubota, SCA President, for these huge cuts to new seats is that they intend to push the 11,225 seats now “funded for design only” into the next five-year plan.¹⁰

Plan	New Capacity Seats	PS/IS Seats	HS Seats	Total Estimated Cost	Funded Design-Only Seats	Actual Funded Seats To Be Built
Adopted June 2021	57,489	50,804	6,685	\$ 7.80 Billion	1,612	55,877
Adopted June 2022	45,883	40,202	5,681	\$ 6.34 Billion	2,527	43,356
Proposed amendment: Nov. 2022	46,010	40,137	5,873	\$6.02 Billion	6,886	39,124
Proposed amendment: Feb. 2023	46,010	40,137	5,873	\$5.52 Billion	11,225	34,785

Source: New Capacity section of FY2020 - 2024 Capital Plan, including un-sited D75 seats

Two glaring issues are wrong with her response. The first is that she ignored that more than 11,000 seats were already cut between the capital plans adopted in June 2021 and June 2022, and that pushing 11,225 seats into the next plan will not nearly be sufficient to comply with the law, given the DOE’s estimates of the need for far more seats. Secondly, new capacity projects have taken an average of 41 months from the start of design to

¹⁰ In response to the Speaker’s questions about the severe and ongoing cuts to new capacity since the plan adopted in June 2021, Nina Kubota, SCA President, said the following: “I just want to clarify that it wasn't the funding wasn't cut. It was pushed into the next into the subsequent years. The shifting of funding from this plan to the next is really as a result of a couple of factors. economic realities of this time, a drop in enrollment, as well as a challenge in identifying appropriate sites to build. As I mentioned in my testimony, we continue to look for sites for all 47,000 seats that we've identified in this plan. Although the funding for construction may have been pushed to the next.”

completion, according to the Citizens Budget Commission, excluding time for site selection and scoping, which can delay the process even more.¹¹

Given that it can take about five years to site and build new schools, it is inconceivable why the SCA is proposing to cut so many seats from the capital plan at this point, and to wait until the next capital plan which is not scheduled to be adopted until fifteen months or so.¹² ***There is no time to waste***, given that all schools are supposed to meet the class size caps by the end of the 2027-8 school year.

The cost of meeting the class size caps in the law would be considerably less and the speed greater if the DOE accelerated the rezoning of elementary schools and revamped the admissions process in middle and high schools to more equitably allocate enrollment across all schools. This would also likely create more diversity across schools and enable currently under-enrolled schools to have more sustainable budgets.

Yet apparently, the DOE is not considering this option. During a Council hearing on January 25, 2023, when Deputy Chancellor Weisberg was asked whether the DOE was planning to cap enrollment at extremely overcrowded schools to better enable them to lower class size, he said that instead the DOE would rely upon “*new programming that is responsive to what the community is asking for in schools that are underutilized*,” though he did not specify what that programming might be and how this could be achieved, given how constricted budgets are at most under-enrolled schools.¹³

Again, we urge the City Council to reject any capital plan that fails to include expanded funding for new capacity, so that schools in the most overcrowded communities can achieve the new caps within the timeframe mandated by the law.

Enhanced DOE transparency in budgeting and results should be required.

In their testimony, the Chancellor and other DOE officials admitted that school budgets would be cut next year if the preliminary budget is adopted, though they would not provide projected estimates of how much these budget cuts would be. The Chancellor did agree to voluntarily provide a breakdown of funding by school level with comparisons to prior year funding when the DOE finalizes individual school funding, though it was not clear when that would occur.

In any case, so that no one is again misled or confused about the potential level and future impact of DOE overall budgets on school level funding, we urge the Council to require more transparency from now on in budgeting and reporting, including two new Units of Appropriation (U of A) that reflect school-level funding, as a subset of the existing General Education and Special Education U of As. Otherwise, it will continue to be impossible to know in advance how much the proposed cuts will affect school budgets, staffing and programming.

¹¹ This timeline for completion is according to an analysis by the Citizens Budget Commission of the time taken to complete new capacity projects in the previous 2015-2019 capital plan; see <https://cbcny.org/research/cut-costs-not-ribbons>

¹² The next capital plan for FY 2025-FY 2029 is not due to be introduced until next fall, to be adopted in June FY 2024. Thus any new capacity funded in that plan would not likely be completed until July 2029, which is two years after the end of the 2027-8 school year, which is the deadline in the law. . See <https://classsizematters.org/wp-content/uploads/2022/09/FAQ-on-new-class-size-law-11.1.22.pdf>

¹³ <https://legistar.council.nyc.gov/View.ashx?M=F&ID=11612014&GUID=1C796D91-62F0-4BC8-8B29-C75A60BB6ED7>

For example, we still do not know how the planned change in the Fair Student Funding formula that will allocate an additional \$90 million to schools that have large numbers of homeless and/or students with high needs will lead to cuts elsewhere in the DOE budget. In their testimony, the Chancellor and other DOE officials implied that they had not decided how they would pay for this additional \$90 million, and what other budget lines might be affected.¹⁴

We also urge you to amend the class size reporting law, Local Law 125, to require reporting on the actual size of classes at the school level. Currently DOE school-specific class size reporting only includes averages and range of sizes by type of class and grade level, which will not tell us how many classes in each school are actually compliant with the new caps.¹⁵

The law also needs to be amended to require that the second round of class size reporting in February reflects actual class sizes during the second half of the year, as originally intended, rather than an audited version of October 31 class sizes, since classes often re-organize and change size significantly during the second semester. Moreover, the new law requires full compliance to the new class size caps by the end of the 2027-2028 school year.

Finally, DOE and SCA should also be required to comply with two critical laws both passed in 2018, related to the efficiency and reliability of capital plan, that flowed out of the recommendations of an internal Council taskforce that released a report in March 2018 called "Planning to Learn."¹⁶ Many of the recommendations of this report have still not been adopted.

Local Law 167, approved in 2018, required DOE and SCA to provide their actual estimates of the need for new seats, along with the methodology and the data on which their estimates are based.¹⁷ Up until the year 2018, the capital plan included a column for their seats need estimates, separate from the number of seats actually funded. That column disappeared in 2018, so the capital plan is even less transparent than before. The page on which the SCA has posted data in supposed compliance with the Local Law 167 provides little more information than it previously provided, despite the rigorous requirements outlined in the law.¹⁸

For example, the enrollment projections that are produced by DOE consultants exclude all 3K, D75, D79 and co-located charter school students, all of whom are taking up more space in our public schools, and thus these trends should be analyzed in order to assess the need for more seats. No sub-district enrollment trends are available, although the SCA supposedly plans for new capacity based on sub-district needs. Nowhere do they supply their projected estimates of the need for elementary seats as opposed to middle school seats, though this too is required by the law. The posted housing start data is nearly three years old, with a multiplier based on 2010 census data. The number of lost seats caused by the lapsing of leases or the elimination of annexes is

¹⁴ In response to the Speaker's question about this issue, DOE COO Emma Vadehra said, "So as you know, we are still working through the budget process and where exactly those dollars are coming from is TBD, but it's something we've committed to fund and prioritize going forward as well as the full Fair Student Funding."

¹⁵ <https://legistar.council.nyc.gov/View.ashx?M=F&ID=890279&GUID=CFAAC008-AC94-4009-9AEA-9FB5858249FF> The class size reports are posted here: <https://infohub.nyced.org/reports/government-reports/class-size-reports>

¹⁶ <https://council.nyc.gov/land-use/wp-content/uploads/sites/53/2018/03/Planning-to-Learn-3.16.2018-high-resolution.pdf>

¹⁷ <https://legistar.council.nyc.gov/View.ashx?M=F&ID=6714467&GUID=ED9C486B-ACA7-4D5B-8D56-F2EA0A950976>

¹⁸ <http://www.nycsca.org/community/capital-plan-reports-data#Local-Law-167-Reports-352>

incomplete and has not been updated since November 2021. Worst of all, they fail to provide the methodology used to put together all these various data sets, and vaguely describe using “*qualitative analysis*” and “*various strategies to address need*” without specifying what these strategies might be.

DOE also remains in non-compliance with Local Law 168 that created a Task Force for School Siting, aimed at identifying sites where new schools could be built, including an analysis of all city-owned & privately-owned empty lots.¹⁹ The Task Force met only twice and released a two page summary report with no input from City Council or parent members.

Through FOIL, we received a spreadsheet that ruled out hundreds of city-owned sites for unclear reasons, and never reported on suitability of 22,065 privately-owned sites.²⁰ Given the fact that the SCA still has not identified sites for over 17,000 seats in the five-year plan that was first introduced in November 2018, amounting to 38% of the seats currently funded, plus over 1,000 unsited D75 seats, and the need to accelerate construction given the need to comply with the new class size law, they should be required to analyze all potential sites with deliberate speed.

Thank you for the ability to testify to you today.

¹⁹<https://legistar.council.nyc.gov/View.ashx?M=F&ID=6715118&GUID=2EE4A502-7E3B-44BF-9A06-EB8BC691F61B>

²⁰ The School Siting Task Force Report released in October 2019 is here: <https://www.classsizematters.org/wp-content/uploads/2020/01/School-Siting-Task-Force-Report-Final-10.4.19-1.pdf>; the spreadsheets are here: <https://www.classsizematters.org/wp-content/uploads/2020/01/Copy-of-School-Siting-Task-Force-LL168-Final-October-2019-4.xlsx> Our critique of the report and spreadsheets from 2020 is here: https://drive.google.com/file/d/1sDpB_i6sOUKEJwxVRrE6SHYNQ6-bZ0vr/view