



October 16, 2023

Comments on DOE's final draft class size plan

To Commissioner Rosa and the Board of Regents:

We are disappointed in the final draft plan submitted by the NYC Department of Education to the State Education Department for approval on September 29, 2023.¹ It contains no substantive changes from the draft plan posted on July 21, 2023, has not specific proposals by which the city will be able to comply with the new class size law, and incorporates none of the suggestions or feedback that we sent to the DOE on August 18, 2023 in a letter signed from Class Size Matters, the Alliance for Quality Education, and the Education Law Center, along with more than 230 other advocates, parents, and educators.²

In addition to the submitted plan bearing no significant improvements from the plan posted on July 21, 2023, which does not include a single specific DOE promise to make any policy changes to be able to comply with the law,³ it also does not explain how the DOE will make efforts to lower class size first in the highest need schools, nor does it outline any steps it will take to reduce class size in any schools.

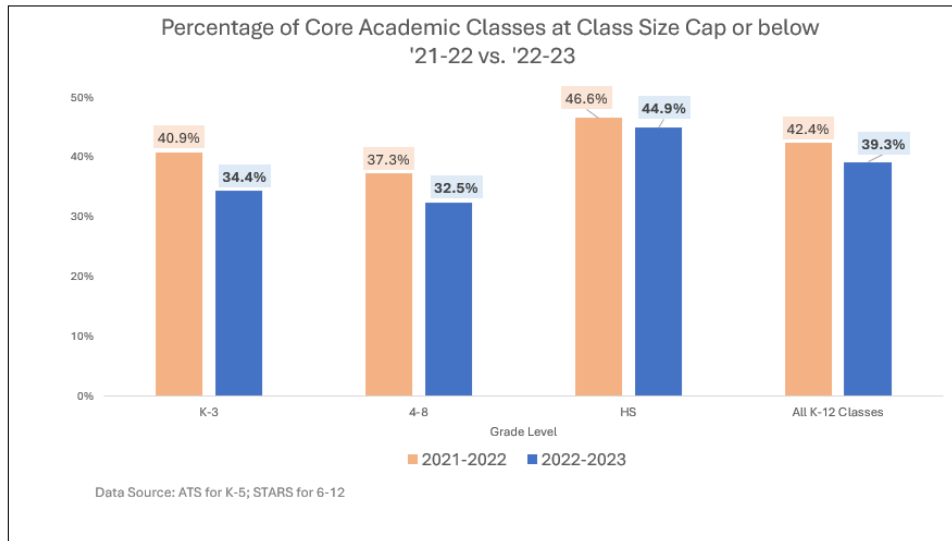
Without affirmative actions regarding school funding, enrollment policies, and the capital plan for school construction, none of which has DOE proposed in this plan, it is extremely unlikely that the class size caps can be met in years two through five.

The class size bill was approved overwhelmingly by the Legislature on June 2, 2022, and signed into law on Sept. 8, 2022, more than a year ago. While DOE repeatedly claims in the plan "that we will be in compliance with the law for school year 2023-24 and school year 2024-2025", that is unlikely to occur for year two without significant changes to school funding or enrollment policies; none of which are proposed in this plan. And without changes in space planning, enrollment, and an expanded five-year capital plan, it will be simply impossible to meet the class size benchmarks in years three to five.

¹ https://drive.google.com/file/d/1XVxM5dnJYDEzPCLLM-AObnt7Xyc_iFzq/view?usp=sharing

² The full letter is posted here: <https://classsizematters.org/comments-on-the-does-class-size-reduction-plan/>

³ July plan posted here: https://drive.google.com/file/d/1_BOYliiFZ5U7Q3q8gN6JRRIHgIf9j_Vp/view



While the DOE compares last year’s class sizes to those pre-pandemic during the 2019-2020 school year, they omit the more relevant data of the last two years, when class sizes have actually grown. As the above chart shows, the percentage of classes compliant with the caps fell by 3.1 percent last year. Class sizes will likely increase at many schools this year because of continued budget cuts to Fair Student Funding, the primary funding source for schools to pay K12 teachers. If current trends continue, DOE will be unable to reach the 40% benchmark in year two. Instead, the percentage of classes that meet the cap would instead fall to about 33%.⁴

We also looked at how many schools had classes that achieved all the caps in the law and found that a smaller number had met those caps last year than the year before – only 69 schools citywide in the fall of 2022, compared to 89 in the fall of 2021. The number of students enrolled in those schools declined from 18,248 to only 13,905, a decrease of nearly 25 percent.

New York City public schools have lost 4,000 K-12 teachers over the last five years, according to DOE data.⁵ The Independent Budget Office points out that there was a decline of more than two thousand teachers last year alone.⁶ Moreover, as of July 2023, there were approximately 11,000 pedagogical vacancies and the DOE’s current budget plan reduces the total teacher headcount by another 3,500 from 2023 to 2026, which would make it impossible to lower class size to the levels outlined by the law.⁷

⁴ It is also unclear why throughout the document the DOE claims that 41% of classes were compliant last year, when from the chart on p. 5 that 39% of Core subject classes were compliant –the classes subject to the new law -- which is the same figure we found in analyzing DOE class size data. This is unless the DOE is also counting performing art and physical education classes which they say they are not sure of.

⁵ The figure is analyzed from DOE headcount reports, posted on the City Council website.

⁶ <https://www.ibo.nyc.ny.us/iboreports/roll-call-recent-trends-in-teacher-retention-and-hiring-in-new-york-city-public-schools-september-2023.pdf>

⁷ <https://www.ibo.nyc.ny.us/iboreports/how-would-the-new-limits-to-class-sizes-affect-new-york-city-schools-july-2023.pdf>

In their first draft class size plan posted in May, DOE made only one promise for the coming school year:

Support schools that already meet class size mandates: Ensure that schools with classrooms that currently meet the class size mandate have appropriate funding to continue to maintain these class sizes in SY23-24. As noted above, roughly 39% of classes across New York City currently meet the law's requirements.⁸

But after parents and advocates pointed out that there was no additional funding available for this purpose, despite an additional \$535 million in Foundation Aid, DOE omitted that one promise from its July and September draft plans.

Moreover, despite the fact that more than 320,000 students were crammed into overcrowded schools last year, the School Construction Authority instead slashed the number of new school seats to be built by 38%, compared to the plan adopted in June 2021.⁹

The need to provide space to lower class size was never mentioned in either of the most recent two versions of the capital plan, both introduced months after the class size bill was signed into law by the Governor. A new five-year capital plan will be introduced in November, and the DOE and SCA must show how it funds sufficient new space to lower class size in the most overcrowded areas. Neither has DOE made any commitments to adjust enrollment in the most overcrowded schools, even those that sit close by underutilized schools.

Instead, the DOE now writes that they will *“analyze existing space across all NYCPS schools to consider approaches to utilizing existing space differently to accommodate the new class size caps, with a focus on school and building-level survey to gather feedback and verify/respond to central-level data analysis”* by the end of December 2023. This is too late to provide input into the new five-year capital plan, even though they already have had over a year to carry out this survey, given that the bill was signed into law in Sept. 2022.

Finally, the data provided in Figure 6 is misleading, showing that students with the highest economic need are more likely to have smaller classes already. When Class Size Matters analyzed the class size data in relation to economic need, we found that the number of highest need students in the top quartile was smaller than in the other quartiles. See below.

⁸ <https://drive.google.com/file/d/1gv9DZ6aENexWyzozVWV0SwhnlXLVJ2a/view?usp=sharing>

⁹ <https://classsizematters.org/wp-content/uploads/2023/05/CSM-testimony-on-exec-budget-FY-24-cap-plan-5.24.23-final.pdf>

Class size by school ENI

Quartile (by Economic Need Index)	Number of Schools	Enrollment	Average ENI	Est. Classes Over Cap	Classes At or Below Cap	Black Students	Hispanic Students	ELL Students	Students at Poverty Level
Quartile 1 (5% - 67%)	381	277,314	46.9%	78.5%	21.5%	33,434 (21.2%)	65,678 (19.5%)	19,622 (15.4%)	147,609 (24.9%)
Quartile 2 (67% - 82%)	381	232,601	75.6%	65.8%	34.2%	50,429 (32.1%)	93,300 (27.7%)	38,606 (30.3%)	181,254 (30.6%)
Quartile 3 (82% - 91%)	381	162,603	86.6%	51.1%	48.9%	38,471 (24.5%)	88,420 (26.3%)	35,610 (28.0%)	139,760 (23.6%)
Quartile 4 (91% - 96%+)	380	133,948	93.9%	41.1%	58.9%	35,007 (22.2%)	89,355 (26.5%)	33,504 (26.3%)	123,457 (20.9%)
Grand Total	1,523	806,466	75.7%	62.0%	38.0%	157,341	336,753	127,342	592,081

Data Sources: DOE school class size data via [Chalkbeat](#); DOE Demographic Snapshot '22-'23

What this shows is that 78% of Black students; 74% of Hispanic students, 74% of English Language Learners and 82% of students in poverty were enrolled in schools in the other three quartiles last year. In fact, there were greater numbers of Black and ELL students enrolled in schools in Quartiles 2 and 3 than in Quartile 4; more Hispanic students in Quartile 2 than in Quartile 4, and more students in poverty in each of the three other quartiles.¹⁰

This analysis further demonstrates that only with a systemwide plan to lower class size will smaller classes be provided to our highest need students.

Moreover, only 69 schools citywide fully met the caps in the fall of 2022, compared to 89 in the fall of 2021, and the number of students enrolled in those schools declined from 18,248 to only 13,905, a decrease of nearly 25 percent. Fewer still will likely do so this year. Only thirty of the 380 highest need schools with 90 percent or more poverty fully complied.

Finally, this class size plan was submitted nearly a month after the deadline in the law, which states that the plan “shall be submitted for state approval within two weeks following the completion of the public process,” which this year occurred on August 21, 2023.¹¹

The deadline on the NYSED calendar for district submission of their Contract for Excellence plans, of which the city’s class size plan is a component was August 31, 2023.¹² Given this

¹⁰ We also reanalyzed the data in a Chalkbeat article that purported to show a similar pattern; and we found that their account was similarly misleading. See the oped by Leonie Haimson in the Answer Sheet here: <https://www.washingtonpost.com/education/2023/09/26/new-attack-small-class-size-doesnt-addup/>; and with charts attached here: <https://nycpublicschoolparents.blogspot.com/2023/09/why-bloombergs-attack-on-class-size.html>

¹¹ <https://www.nysenate.gov/legislation/laws/EDN/211-D>

¹² https://www.p12.nysed.gov/mgtserv/C4E/23-24_C4E/2023-24-contracts-for-excellence-calendar-revised.pdf

unjustified delay, the entire public process including the state approval process itself, becomes far less meaningful, since the \$531 million in C4E funds for this year have already been allocated and likely spent.¹³

Instead, we urge the Commissioner and the State Education Department to require that the DOE revise its draft plan in the following manner:

- The DOE should be required to outline in which high-poverty schools class sizes will be lowered first, as the law requires, and set specific goals as to what percentages of classes citywide will achieve the mandated caps next fall and in each of the following years, by means of which policy levers;
- The DOE should commit to halting the shrinkage of the K12 teaching force;
- The DOE should change its enrollment practices to eliminate overcrowding that prevent class size reduction when there are underutilized schools nearby;
- The DOE and the School Construction Authority should expand the number of seats in the five-year capital plan to ensure there is sufficient space to meet the smaller class size caps in years three through five, especially as it takes at least four years to site and build a new school;
- The DOE should pledge to suspend all new co-locations, school closings and other significant changes in school utilization, until and unless there is a rigorous analysis in their Educational Impact Statements to show there is sufficient space for all existing district public schools in the building to lower class size to mandated levels, without capping their enrollment and causing more overcrowding in other schools nearby.

We would be happy to discuss with you in detail all of these points going forward.

Yours sincerely,

Leonie Haimson, Executive Director, Class Size Matters

Robert Kim, Esq., Executive Director, Education Law Center

Marina Marcou-O'Malley, Policy and Operations Director, Alliance for Quality Education

¹³ See contracts amounts for NYC here: https://www.p12.nysed.gov/mgtserv/C4E/23-24_C4E/2023-24-c4e-contract-amount-increase-table-3-year.pdf