



November 7, 2023

VIA EMAIL

Jason Harmon

Deputy Commissioner P-12 Operational Support

New York State Education Department

89 Washington Avenue, Room 875 EBA

Albany, NY 12234

Re: Proposed Amendment of section 100.13 of Title 8 NYCRR to be consistent with Chapter 556 of the Laws of 2022 (Chapter 556)

Dear Deputy Commissioner Harmon:

The undersigned organizations submit these comments to urge the Commissioner of Education and the New York State Board of Regents to include the statutorily-required timeline in regulations for the C4E plans, which, in New York City, include its class size reduction plan.

The Alliance for Quality Education is a coalition mobilizing communities across the state to keep New York true to its promise of ensuring a high-quality public school education to all students regardless of zip code. Combining its legislative and policy expertise with grassroots organizing, AQE advances proven-to-work strategies that lead to student success and echoes a powerful public demand for a high-quality public school education for all of New York's students.

Class Size Matters is a non-profit organization that advocates for smaller classes in New York City public schools, and the nation as a whole, as a proven component of educational equity and quality.

Education Law Center (ELC) advocates for education justice and equity across the nation and, since 2011, has worked to advance the right of all New York schoolchildren to a sound basic education as guaranteed by the State Constitution and as effectuated by the landmark *Campaign for Fiscal Equity (CFE)* ruling. In addition, ELC has served as co-counsel for parents and students in New York's more recent major school funding cases: *Maisto v. State* and *NYSER v. State*. Consistent with the Court's ruling in *CFE*, ELC has fought for smaller class sizes in New York City schools, both in litigation and through legislative advocacy. Smaller class size is among the most effective tools for improving education outcomes, especially for students from low-

income families, students with special needs, and students of color. Reducing class size has been shown to have a lasting impact on a child’s academic and life outcomes, with gains that outweigh costs two to one.

Our organizations helped draft and advocate for the passage of the new class size law, now Chapter 556 of the Laws of 2022.

On September 8, Chapter 556 was signed into law and amended Education Law § 211-D (“C4E law”) to require that the School District of the City of New York’s Contract for Excellence include a plan to reduce actual class sizes. Chapter 556 also amended the C4E law to mandate specific deadlines by which the public process for C4E plans—including the class size reduction plan for New York City—must be accomplished, and the plans must be submitted to the New York State Education Department (NYSED).

As noted by the Board of Regents, the goal of the proposed regulations is to implement the requirements relating to: (1) class size targets that must be included in the plan, (2) development and compliance with the plan, and (3) reporting on the status of implementation of the plan.

Regarding the second requirement, which involves development and compliance with the plan, we respectfully submit that there is a crucial omission in the proposed regulations. While the proposed regulations set forth the methods by which the plan must be developed each year, they neglect to specify the statutorily required timeline by which the plan must be developed, completed and submitted to the NYSED.

A specific timeline for the development of the Contract for Excellence plan is set forth in Chapter 556. The amended N.Y.S. Education Law §211-d 4.d. provides:

In a city school district in a city of one million or more inhabitants, the public process set forth in paragraphs a through c of this subdivision shall **commence no later than thirty days after a state budget is enacted each year and be completed no later than thirty days after its commencement**. Notice of the public process shall be **provided fifteen days prior to the commencement of the first public hearing** and shall be posted on the city school district's website as well as transmitted via email to school administrators, parent and teacher organizations, and elected officials. The proposed plan shall be **submitted for state approval within two weeks following the completion of the public process**. The proposed plan shall be **posted on the city school district's website within twenty-four hours of its submission** along with a summary of the public comments and the city school district's explanation and reasons for which public comments were incorporated into the proposed plan and which public comments were not incorporated into the proposed plan. [emphasis added]

This section of the law was added because the New York City Department of Education (NYC DOE) has a long and unfortunate history of delaying the Contracts for Excellence public process, including holding hearings and submitting its C4E plan for state approval well after the school year has begun, school budget allocations have long since been made, and C4E funding has long since been spent, making the entire public process essentially meaningless. Indeed, the impetus for the amendment to the C4E law spelling out a timeline was the NYC DOE's chronic delays in the development and finalization of its C4E plans.

For example, the public hearing process for the city's 2021-2022 C4E plan was conducted so late that it was meaningless. As you know, the NYC DOE's public process must include both borough hearings and Community Education Council (CEC) district hearings. While the borough hearings were held in June 2021, the CEC district hearings did not take place until November and December 2021, with the deadline for public comment set for [January 2022](#), after half the school year had already passed and long after the C4E funds had already been allocated and mostly spent.

Even worse, the CEC district hearings for the city's 2020-2021 C4E plan were not scheduled until [February and March 2021](#)—with no deadline listed for public comment. The result of these long-delayed hearings has been a justifiable cynicism on the part of many parents and other stakeholder groups, who feel these hearings, and indeed the entire public engagement process, are worthless, and public input matters not at all.

This year, the borough and CEC district hearings were held within the statutory timeline. However, despite the clear mandate in the law that the C4E plan "*shall be submitted for state approval within two weeks following the completion of the public process,*" the NYC DOE actually submitted its final draft C4E plan and class size reduction plan to the state on [September 29, 2023](#), more than two months after the July 15 date that should have been the deadline, given that the state budget was adopted on May 2 of this year.

Promulgating regulations that set forth the statutorily-required schedule will help ensure that the mandatory public input process has the potential to be meaningful and affect the city's development and implementation of its class size plan, as well as the manner in which its C4E funds are spent. We strongly urge you to do so.

Thank you very much for your attention to this matter.

Sincerely,

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