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Testimony before the City Council on the Executive Budget for Fiscal Year 2025 and the proposed Capital Plan for Fiscal Years 2024-2028

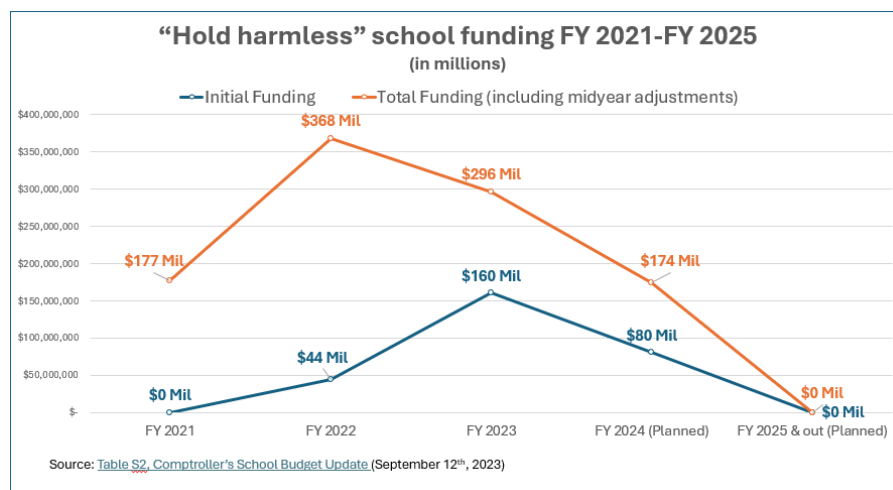
May 15, 2024

Thank you Chair Joseph, Chair Brannan, and the other members of the Education and Finance Committees for holding these important hearings today. My name is Leonie Haimson, and I am the Executive Director of Class Size Matters, and I am here with my Research Director, Michael Rance.

We have many concerns about the Executive Budget as it calls for an end to holding school budgets harmless next year, leading to cuts in their Fair Student Funding allocations based on their projected enrollment decline. While overall, DOE predicts enrollment will increase, a preliminary analysis suggests that the enrollment of 757 schools are projected to decline by 1% or more.

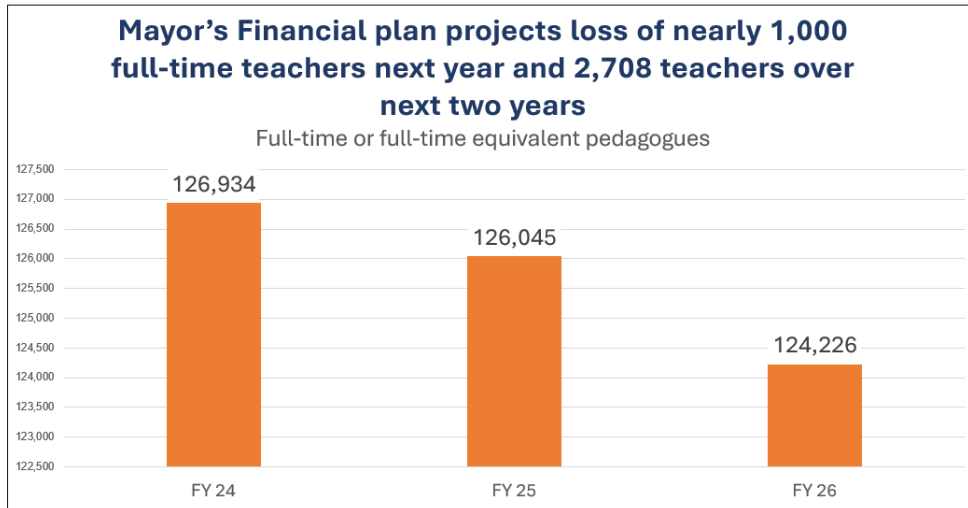
This year, DOE used \$160 million of federal stimulus fund to “hold harmless” school budgets, which funded approximately 1,778 pedagogical positions last year, according to IBO – although class sizes increased anyway at most schools.

We all remember how in the prior year, schools were initially cut by \$488 million, and while they were provided with more funding mid-year, that was too late for many of them to keep all their teachers on staff or hire additional ones, which led to increasing class sizes and the loss of critical programs at many schools.¹ After the city budget was approved by the Council, there was an uproar and many Council Members said they regretted their vote. We fear this will happen once again if school budgets are not held harmless and these cuts are made. Our estimate is that 765 schools are projected to see enrollment declines compared to their Oct. 31, 2023 figures.



¹ Data from <https://comptroller.nyc.gov/wp-content/uploads/documents/School-Budget-Spotlight-0923.pdf>

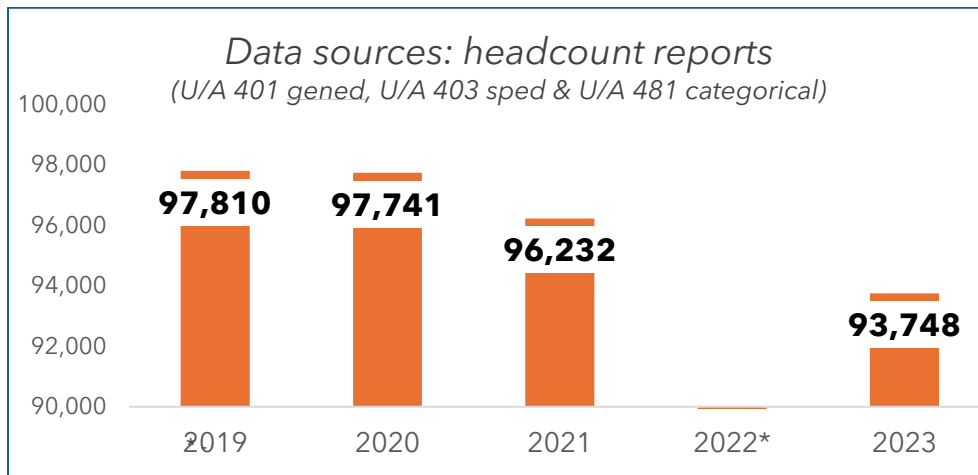
Moreover, the Executive Budget contains about \$100 million in cuts via school hiring freezes and vacancies reductions, and projects a contraction of the teaching force by nearly 1,000 educators next year, and a total of nearly 3,000 over the next two years.² This would not only further undermine the quality of education but also likely prevent DOE from complying with the state class size law, which requires 40% of schools to meet the new caps next year.



Data source: April 2024 Executive Financial plan at <https://www.nyc.gov/assets/omb/downloads/pdf/exec24-stafflevels.pdf>, p. 22

The class size law calls for the phase-in over five years of smaller classes of no more than 20 students per class in grades K-3, no more than 23 students per class in grades 4th-8th, and no more than 25 students per class in high school, except for physical education and physical education and performing groups such as orchestra and band, which must be capped at forty students per class.

Our analysis of DOE headcount reports, posted on the Council website, reveals that DOE already eliminated over 4,000 full-time K12 teachers between FY 2019-FY 2023.



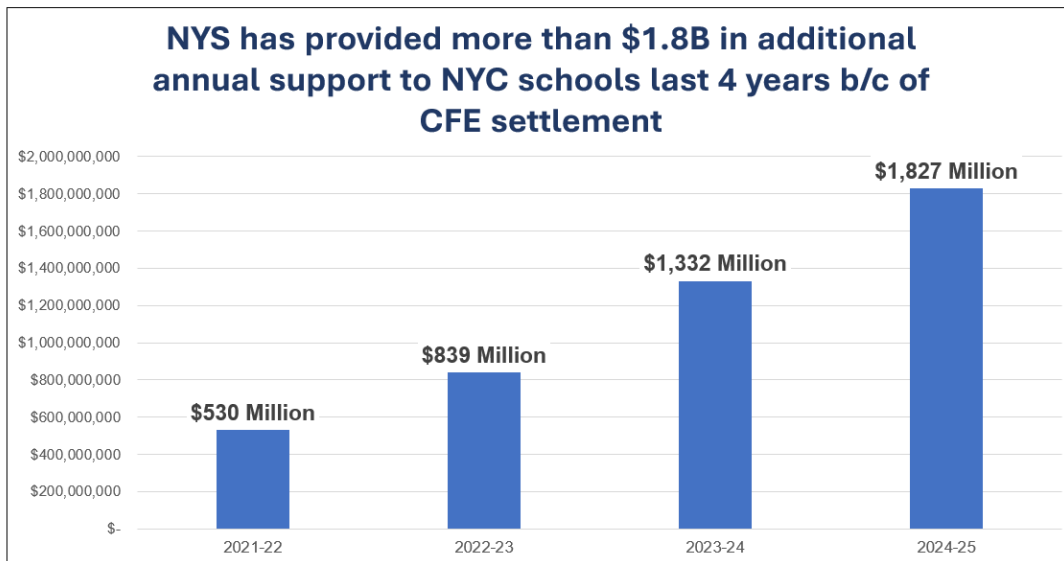
Sadly, class sizes have increased in most schools for the last two years in a row, and likely will continue to increase next year if this budget is adopted. In fact, compliance with the law will require significant changes in DOE budgeting policies and planning.

² <https://www.nyc.gov/assets/omb/downloads/pdf/peg4-24.pdf>, pp. 16-17 ; April 2024 Executive Financial plan at <https://www.nyc.gov/assets/omb/downloads/pdf/exec24-stafflevels.pdf>, p. 22

Need to hold school budgets harmless and allocate \$304 million for staffing to lower class size

We urge the City Council to allocate \$304 million to provide funding for 3,000 more teachers – one fourth of the 10,000 to 12,000 additional teachers that DOE says will be necessary over the next four years to comply with the class size law. The longer the DOE waits to hire additional teachers, the more difficult it will be to increase the hiring of high-quality educators with the proper certification.

The city can clearly afford this, given that we are now receiving \$1.8 billion in additional state Foundation funding, with nearly \$500 million more this year, as a result of the Campaign for Fiscal Equity settlement. Class size was a central issue in the case, causing the state’s highest court to say that NYC students were denied their right under the state constitution because of overly large classes. In addition, the city surplus for FY 2025 is expected to total \$3.3 billion, to add to the current rainy-day fund of \$1.96 billion and general reserve of \$1.2 billion.³



We also urge the Council to demand a commitment that DOE will hold school budgets harmless next year, as school budget cuts could devastate schools and undo much of the benefit of the additional hiring cited above. The DOE should also promise that they will refrain from enacting any hiring freezes or vacancy reductions, which would counteract efforts to provide the increased staffing necessary.

Need to expand the school capital plan and require more specificity

The following provision is in the state budget, which was finalized on April 20, 2024:

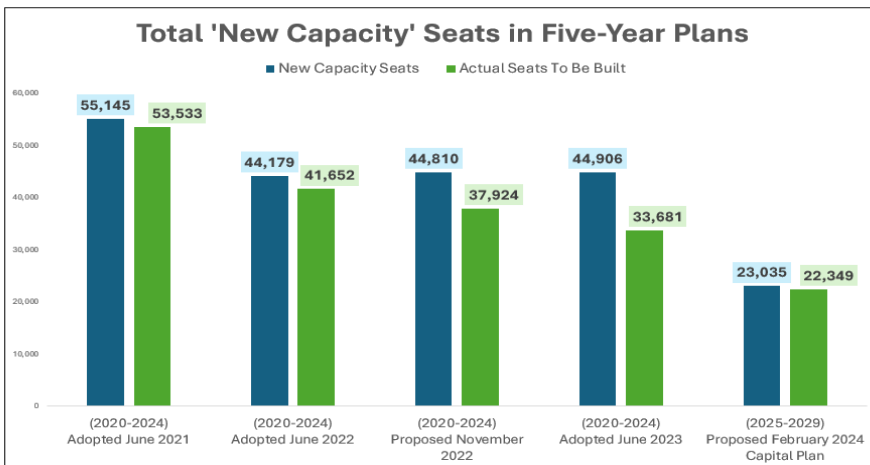
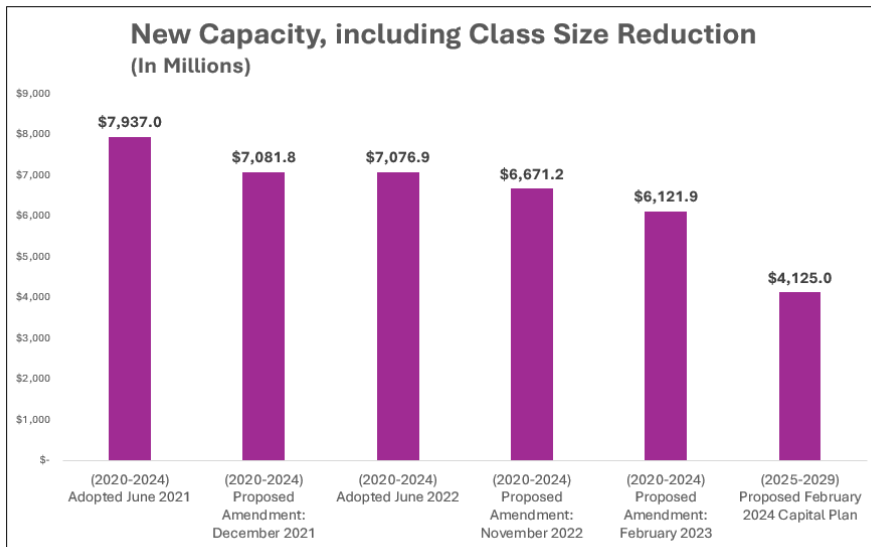
“For the purpose of achieving the class size targets, as required by section 211-d of the education law, the city of New York shall increase planned spending on classroom construction by two billion dollars (\$2,000,000,000) over and above the planned capital spending as detailed in the February 2024 School Construction Authority capital plan. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2024.”⁴

³ IBO on city FY 25 surplus <https://ibo.nyc.ny.us/iboreports/giving-some-back-leaving-others-out-ibos-analysis-of-the-administrations-second-consecutive-program-to-eliminate-the-gap-this-fiscal-year-february-2024.pdf>; Office of Management and Budget on rainy day and general reserve fund at <https://www.nyc.gov/site/omb/reserves.page>

⁴ https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=S08306&term=2023&Summary=Y&Text=Y

This expansion of the capital plan is badly needed, as the SCA has cut funding for the number of new school seats planned by over \$2.5 billion and the number of new seats by half, since the class size law was passed.⁵

And yet we have seen no change in the school capital plan posted on the SCA website, and the plan as released by the Mayor as part of the executive budget on April 22 includes no additional funding.⁶ Instead, the city announced that they would sign two big contracts to build more jails, costing at least \$6.8 billion – much more than the \$4.1B in the proposed five-year plan for new schools.⁷ The Queens jail will cost at least \$3.9 billion, far more than the DOE plans to spend on building any new schools in that borough, while the Bronx jail will cost at least \$2.9 billion—with not a single dollar specified in the capital plan for any new schools in the Bronx.



According to an earlier Council briefing paper and the testimony of SCA President Nina Kubota at the preliminary budget hearings, she claimed that 85,000 new seats would be needed to reach compliance with

⁵ When the Chancellor and Deputy Chancellor was asked about these radical cuts to the capital plan at a meeting on Nov. 10, 2023, they said that this was a decision made not by them but by the NYC Office of Management and Budget. See: <https://vimeo.com/manage/videos/883381018>

⁶ See p. 38 on <https://www.nyc.gov/assets/omb/downloads/pdf/cb4-24.pdf>

⁷ <https://www.nydailynews.com/2024/05/07/new-jails-in-bronx-queens-on-track-to-open-four-years-after-deadline-to-close-rikers-island/>

the class size law, at a cost of \$22 billion to \$25 billion. ⁸ Yet even with \$2 billion added to the February five-year plan, that still would total only \$6.1 billion.

In any case, we do not understand her estimate, as the cost per seat in the proposed five-year capital plan for 2025-2029 is approximately \$179,000. ⁹ When multiplied by 85,000, that equals \$15.2 billion, or \$7-\$10 billion less than the amount she claimed.

The SCA estimate was also made presumably without taking any of cost-free steps the Class Size Working Group proposed, including adjusting enrollment between nearby schools and/or moving some 3K and PreK classes into now-empty seats in Community Based Organizations and Early Childhood Centers. Shifting some of these classes from overcrowded schools to nearby CBOs and ECCs could free up as many as 1,400 elementary school classrooms, while offering important extended day and extended year childcare services to more working parents. ¹⁰

In any case, the \$2 billion required in the state budget deal should be included in any capital budget the Council approves, as well as a thorough accounting of how many additional seats will be created, in what districts, subdistricts, and grade levels.

Right now, the capital plan fails to provide this information for 77% of the seats funded. Instead, the SCA asserts that new capacity projects will only be listed in the plan “*following the identification of a suitable site and the commencement of the school facility’s design process.*” ¹¹

This unprecedented lack of transparency not only leaves the public and elected officials entirely out of the potential siting of schools and their input ignored as to where new schools are needed, it also appears to violate two state laws. EDN § 2590-o requires the Chancellor to annually prepare an “*educational facilities master plan...including a list of prioritized projects to the extent ascertainable and [to] list each proposed new educational facility and set forth a justification, including demographic data, documenting the long term need therefor.*” ¹²

It also appears to violate the class size law, now Chapter 556 of the Laws of 2022, which requires that the DOE produce an annual class size plan that includes “*the annual capital plan for school construction and leasing to show how many classrooms will be added in each year and in which schools and districts to achieve the class size targets.*” ¹³

⁸ See <https://legistar.council.nyc.gov/View.ashx?M=F&ID=12758494&GUID=0CF82049-2A0B-42E9-BFF9-D5A2A4E65031>

⁹ SCA proposed Five-Year Capital plan for FY 2025- FY 2029, Feb. 2024
https://dnnhh5cc1.blob.core.windows.net/portals/0/Capital_Plan/Capital_plans/02012024_25_29_CapitalPlan.pdf?sv=2017-04-17&sr=b&si=DNNFileManagerPolicy&sig=ExyJ25yWw4Gt5zwwG%2F%2F9rdA14929cO%2Ba%2FMb0vAWq7Gw%3D

¹⁰ Class Size Working Group report, Dec. 2023,

https://drive.google.com/file/d/1gSiFUcuLOjJ49PLCMptkroFjXBHow2b_/view

¹¹ NYC School Construction Authority, FY 2025-2029 Proposed Five-Year Capital Plan, February 2024
https://dnnhh5cc1.blob.core.windows.net/portals/0/Capital_Plan/Capital_plans/02012024_25_29_CapitalPlan.pdf?sv=2017-04-17&sr=b&si=DNNFileManagerPolicy&sig=ExyJ25yWw4Gt5zwwG%2F%2F9rdA14929cO%2Ba%2FMb0vAWq7Gw%3D, p. 16

¹² <https://codes.findlaw.com/ny/education-law/edn-sect-2590-o/>

¹³ <https://www.nysenate.gov/legislation/laws/EDN/211-D> this refusal to divulge where new schools are planned appears contrary to the promises in an Memorandum of Understanding with the Council, signed by Mayor, Speaker and Chancellor on November 10, 2004, renewed annually which “Requires the annual amendment to the capital plan to include siting and/or location of each project (by building or school district, as appropriate), cost estimates, start dates and completion dates for each project. The 2022 version of the MOU is posted at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5691569&GUID=DF0D66A7-2A38-470D-9CEA-4D084DBEE5EC&Options=&Search=>

Finally, the lack of specificity violates Local Law 167, passed by the Council in 2018, requiring DOE to provide the number of seats needed by community school district, subdistrict, and grade level, while including the data and methodology used for these projections.¹⁴

We urge the Council to take heed and refuse to approve any capital plan that has not expanded the amount to be spent on new capacity by at least \$2 billion, and also require that it specifically identify where new seats will be built to alleviate overcrowding and allow schools to lower class sizes to the levels required by the class size law. Thank you again for holding these hearings today.

¹⁴ <https://legistar.council.nyc.gov/View.ashx?M=F&ID=6714467&GUID=ED9C486B-ACA7-4D5B-8D56-F2EA0A950976>