



July 22, 2024

VIA EMAIL

Dr. Betty Rosa  
New York State Commissioner of Education  
New York State Education Building  
89 Washington Avenue  
Albany, NY 12234

Dear Commissioner Rosa:

Education Law Center (ELC) writes to request that you require New York City to submit a detailed plan and analysis to ensure compliance with the Class Size Law, Chapter 556 of the Laws of 2022. The New York City Department of Education's (DOE) [FY 25 Class Size Reduction Plan](#) ("July submission") is not such a plan. It does not contain the necessary concrete planning steps to ensure that class sizes will be reduced to the required targets set forth in the Class Size Law. Moreover, the July submission does not incorporate most of recommendations of the Class Size Working Group, which has presented a detailed [roadmap](#) for cost-effective compliance with the law.

The flaws in the July submission are detailed in a July 22 [letter](#) submitted by Class Size Matters (CSM). ELC agrees with the points set forth in that letter, and we write separately to highlight several of those points and further emphasize the legal obligations of both the State and New York City:

- Despite acknowledging that an additional 10-12,000 teachers will need to be hired to comply with the law by the 2027-28 school year, the DOE has not allocated adequate funds to accomplish this task;
- DOE has not planned for the additional space necessary to meet the mandatory class size targets. For example, though DOE's submission notes that either 540 or 650

schools require additional space, it neither identifies those schools nor details how additional capacity will be created for them;

- Contrary to the recommendations of the Class Size Working Group, the DOE has given no indication it will adjust enrollment policies among schools to more evenly distribute students, alleviate overcrowding, and address pernicious demographic imbalances in many schools; and
- Rather than addressing class-size reduction on a citywide basis, the DOE appears to rely on individual districts or schools to address class size with the resources and space currently available, which will likely result either in *no* class size reduction or drastically reduced space for essential curricular activities such as the arts, science, or physical education.

Disturbingly, as pointed out by CSM, class sizes in New York City public schools have been *increasing*; recent data reveals that average class sizes increased significantly between October 2021 and June 2024 in the city's elementary and middle schools: from 21.6 to 23.4 in elementary schools, and from 23.7 to 25.3 in middle schools.

As you know, in 2003, New York's highest court found, in *CFE v. State*, that class size is an educational resource essential to a constitutionally sound basic education, and that the excessive class sizes in New York City public schools represented a systemic failure. The Class Size Law was enacted to address this failure and to ensure that New York City public school students have access to this vital educational resource. ELC has worked, through litigation and legislative advocacy, to safeguard the constitutional right of New York's public school students to a sound basic education. ELC was co-counsel in New York's two most recent school funding cases, *Maisto v. State*, and *NYSER v. State*, and ELC helped draft and advocated for the passage of the Class Size law.

Given this legal mandate, we were concerned to see, in a news article in a New York City press outlet, that Chancellor Banks expressed his opinion that class size is not important for the academic success of City students. Although he may be entitled to such an opinion as a private citizen, he is not at liberty to oppose, in his official capacity, policies set forth by the State Legislature over which he is the chief implementing official.

In sum, without concerted planning and adequate funding, the DOE will not meet the statutorily mandated class size targets, and students will continue to be deprived of the benefits of reasonable class size. We urge you to remind the City of its legal obligation to comply with the Class Size Law and to submit, as soon as possible, a detailed plan and analysis demonstrating such compliance.

Sincerely,



Robert Kim, Esq.  
Executive Director