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## Class Size Matters Testimony on the Preliminary FY 26 Department of Education budget and February 2025 Five-Year Capital Plan for 2025-2029

March 13, 2025

Thank you, Chair Joseph and the members of the Education Committee for allowing me to speak today.

My name is Michael Rance and I am the Research Director of Class Size Matters. We are concerned about many aspects of the Department of Education preliminary budget and the capital plan, but particularly the lack of any funding allocation in the preliminary budget to ensure that schools will be able to lower class size to the levels required by the state class size law, which requires full compliance by the fall of 2028.

Next year, 60% of classes are required to comply with these caps, compared to the 40% requirement that was met this year. Yet the process designed by DOE to achieve this goal is entirely voluntary, in that principals were allowed to apply for class size funds, with no total funding amount disclosed or appropriated as of yet, nor any goal of how many teachers are to be hired. While the DOE had originally stated that an announcement would be made as to which schools would be awarded class size reduction fundings by the end of February, as of March 7 this had still had not occurred.

Most crucially, there has been little progress made so far to create sufficient space for overcrowded schools to be able to attain the class size caps in future years. The percentage of students enrolled in schools over 100% utilization rates actually increased last year, according to the annual report known as the Blue Book, and according to DOE, 495 schools do not have enough space to meet the class size caps. <sup>1</sup> And yet these 495 schools enroll nearly half (46%) of non-D75 public school students. A chart showing these number of schools by district is in the Appendix of this testimony.

While many practical and cost-effective proposals were contained in the report by the Class Size Working Group (CSWG) released over a year ago in December 2023, very few have been adopted. <sup>2</sup> One of those recommendations was to balance enrollment and utilization rates more evenly between nearby schools, which would improve both overcrowded and underutilized schools, by allowing overcrowded schools to offer smaller classes and more regular access to the cafeteria and gym, while underutilized schools would be able to offer more services and programs, given a more expansive budget.

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<sup>1</sup> DOE Class Size Space Analysis 2024-2025 at <https://infohub.nyced.org/docs/default-source/default-document-library/2024-2025-class-size-space-analysis-publish.pdf> Those schools without sufficient space are listed as Group 2.

<sup>2</sup> See [https://drive.google.com/file/d/1gSiFUcuLOjJ49PLCMptkroFjXBHow2b\\_/view](https://drive.google.com/file/d/1gSiFUcuLOjJ49PLCMptkroFjXBHow2b_/view). Class Size Matters' Executive Director Leonie Haimson was a member of this Group, and a co-author of the report.

Yet principals at overcrowded schools have been told they are forbidden to request lower enrollments to be able to reduce class size to the mandated levels, even when there are under-enrolled schools nearby.

Nor has the DOE acted on the CSWG proposal to shift some of the PreK and 3K classes in overcrowded elementary schools to nearby PreK programs run by Community Based Organizations, which have thousands of empty seats and are now threatened with closure by DOE if they do not have 95% of their seats filled. As the CSWG report pointed out, this could free up as many as 1,400 classrooms and more than 20,000 seats in elementary schools in public schools, while saving hundreds of millions of dollars in school construction costs in the process.

There are 266 elementary schools that, according to the DOE, do not have enough classroom space to meet the class size mandate in the law. Of that figure, more than half (54%) offer PreK programs, many of which could be moved to nearby underutilized CBOs to prevent them from closure. Unlike public schools, these CBOs are able to offer extended day and year services, and in many cases their programs are rated higher in quality than those provided by our public schools, according to the rating systems used by DOE.<sup>3</sup>

Nor does the DOE intend to build enough new schools or annexes quickly enough to comply. According to the Council testimony of Nina Kubota, the School Construction Authority President in February 2024, meeting the class size mandate in her estimation would require 85,000 new school seats.<sup>4</sup> Yet only about 33,000 seats or less than half that many are funded in the current five-year capital plan, and fewer than 20,000 are expected to be completed by September 2028, which is the deadline in the class size law. Most of these seats have been carried over from the previous five-year plan.

Because Mayor Adams cut \$2.5 billion from new capacity shortly after taking office, a sharply declining number of new seats will be completed over the next three years. While last July, \$2 billion was added to the capital plan to create more space for smaller classes, resulting from a requirement in the state budget that the city must do so in exchange for raising their borrowing limit for overall capital funding, it is extremely unlikely due to earlier cuts that enough space will be available by the deadline in the law. ***Worse yet, nearly half of all the new seats that are funded in the plan are still unspecified as to district, subdistrict or grade level.***

This lack of transparency leaves parents, community residents, and local elected officials in the dark, unable to help identify sites for new schools, or advocate for these sites to be acquired by the SCA. In the past, the active participation of parent leaders, community advocates, and their elected leaders has proven critical in this regard.<sup>5</sup>

Under no previous administration has the SCA capital plan refused to specify where schools are planned by district and grade level. Not only is this lack of transparency unfortunate, given the need to accelerate school construction to meet the timeline in the law, but it also appears to violate two laws.

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<sup>3</sup> See Class Size Matters, Testimony of Class Size Matters on proposed closures of Early Child Care Centers <https://classsizematters.org/why-doe-should-be-moving-more-prek-classes-to-cbos-to-provide-critical-benefits-to-students-and-the-city-as-a-whole/>

<sup>4</sup> <https://citymeetings.nyc/city-council/2024-02-29-0100-pm-committee-on-education/chapter/nina-kubota-president-and-ceo-of-the-nyc-school-construction-authority-sca-on-strategies-to-comply-with-class-size-requirements>

<sup>5</sup> Some examples of the critical participation of parents and local elected leaders in finding sites and pressing on reluctant SCA to follow through in acquiring them to relieve overcrowding are the Spruce St. School and Morton St. School in District 2, and four schools in Sunset Park in D 15, that had been funded for years in the capital plan but never built until neighborhood activists got involved.

First, the class size law itself requires DOE to submit an “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”<sup>6</sup> The lack of transparency also violates Local Law 167, passed by the Council in 2018, requiring the SCA to explain where seats are needed by district, subdistrict and grade level, as well as the demographic data and methodology used to make these projections.<sup>7</sup> Instead of becoming more transparent after these laws were passed, the capital plan became even more opaque.

The Class Size Working Group proposed many other ideas that could accelerate school construction and the acquisition of more space, including re-activating the Educational Construction Fund, incorporating schools in affordable housing proposals as part of the City of Yes, merging co-located schools to create more classroom space, and ensuring that any changes in school utilization put forward by District Planning do not prevent existing schools from meeting their class size goals.

The Working Group report also pointed out how the SCA has hired only four real estate firms to search for available sites for schools and pays them on retainer; instead, they should be paid based on their actual performance in locating appropriate sites. The Working Group proposed that the School Siting Task Force should be revived. This Task Force, created by Local Law 168 of 2018, met only twice, failed to elicit any feedback from its City Council or parent members, and then released a two-page report along with a spreadsheet that excluded hundreds of publicly owned lots. The Task Force also never analyzed more than 22,000 privately owned sites as well as city-owned buildings, contrary to the instructions in the law.<sup>8</sup>

None of the CSWG suggestions mentioned above have been adopted by DOE. Moreover, since the report came out, District Planning has put forward more proposals for school closings, grade expansions and co-locations, without reference to their potential impact on class size. When asked why, District Planning staff reported that DOE Central had told them not to consider this issue in their proposals.

In December 2024, the Education Law Center and Class Size Matters wrote to Commissioner Rosa, pointing out the many ways in which the DOE has failed to comply with the class size law, most glaringly in their failure to submit an actual multi-year plan, as the law requires. Our letter also pointed out how the DOE’s Implementation Report from November 15, 2024 omitted much of the information demanded by the law, including a list of existing schools that have not made adequate progress in reducing class size, along with specific measures to be taken to ensure they eventually will meet the caps.<sup>9</sup>

We also have ongoing concerns with the School Construction Authority’s lax governance. As reported in the NY Post, the SCA Board has been comprised of only two members since August 2023, though three members are required at all times by the state law that established its creation in 1998:

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<sup>6</sup> <https://www.nysenate.gov/legislation/laws/EDN/211-D>

<sup>7</sup> <https://legistar.council.nyc.gov/View.ashx?M=F&ID=6714467&GUID=ED9C486B-ACA7-4D5B-8D56-F2EA0A950976>

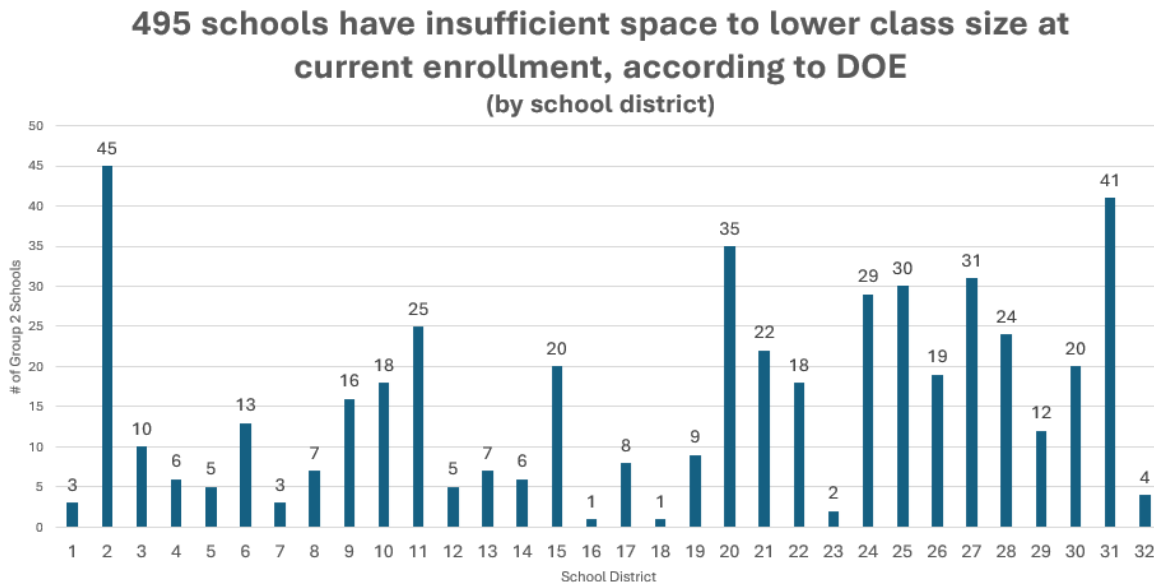
<sup>8</sup> Class Size Working Group Report, p. 30

<sup>9</sup> <https://classsizematters.org/class-size-matters-education-law-center-letter-to-commissioner-asking-that-she-require-nyc-to-abide-by-class-size-law/>

“The authority shall be governed by and its powers shall be exercised by a board of trustees consisting of three members....Each appointed member shall continue in office until a successor has been appointed and qualifies.”<sup>10</sup>

According to the NY State Authorities Budget Office, the SCA Board also lacks a Governance Committee, a Finance Committee, as well as official policies for salary and compensation, time and attendance. Nor does it have a Whistleblower Protection policy. According to this Office, all of these are required by the NYS Public Authorities Law.<sup>11</sup>

The failure of the DOE and the SCA to fulfill their duties under state and local law and their moral responsibilities to the students of this city need to be addressed. Thank you for the opportunity to testify to you today.



Data Sources: DOE Class Size Space Analysis 2024-2025  
Table B: 2024-2025 Unaudited\* Register Snapshot as of 10/31/2024

<sup>10</sup> See the New York City School Construction Authority Act Public Authorities (PBA) CHAPTER 43-A, ARTICLE 8, § 1727. 3. <https://www.nysenate.gov/legislation/laws/PBA/1727> See also: <https://nypost.com/2024/08/31/us-news/eric-adams-fails-to-name-nyc-trustee-to-oversee-billions-of-dollars-in-school-construction/> and <https://nycpublicschoolparents.blogspot.com/2024/09/revelation-that-nycs-school.html>

<sup>11</sup> <https://abo.ny.gov/annualreports/PARISAnnualReports/FYE2024/Local/ARNewYorkCitySchoolConstructionAuthority2024.pdf> According to this report, the SCA also lacks a code of ethics and a compensation policy for employees, which are apparently recommended but not mandated by law.