

Memorandum

To: District 6 Parents and Community Education Council
CC: Council Member Robert Jackson, Sarah Morgridge
From: Leonie Haimson, Class Size Matters
Date: 10/16/2012
Re: Proposal to eliminate school attendance zones

After reading the materials presented by the CEC 6 zoning committee and news clips about this issue, I believe there is an important point that has been left out of the public discussion about the pros and cons of eliminating school zones from your district.

If your CEC does approve the proposal to eliminate school zones, this would allow the DOE to close any elementary or middle school in the district and replace it with a charter school.

The sole legal authority of the CECs that the DOE currently respects is to approve or disapprove changes in attendance zones. See: *Article 52-A - § 2590-E Powers and Duties of Community District Education Council* http://law.onecle.com/new-york/education/EDN02590-E_2590-E.html

In February 2009, Joel Klein announced he would close three zoned elementary schools: PS 194 and PS 241 in Harlem and PS 150 in the Ocean Hill-Brownsville, and put charters in their place. (According to emails FOI'ed by Juan Gonzalez of the Daily News, Eva Moskowitz had asked Klein the year before for the buildings of two of these schools as locations for her Harlem Success charters: "Those schools are ps194 and ps241," she wrote to Klein. "It would be extremely helpful to move quickly on." <http://bit.ly/R3pDw9>)

On March 24, 2009, the NYCLU/UFT sued DOE in the NYS Supreme Court, pointing out that the decision to close a zoned school must first be put to a vote of the CEC, as this would involve eliminating an attendance zone, which clearly entails changing of attendance lines. Plaintiffs included parents at the closing schools and CEC members from Districts 3 and 23:

"Plaintiffs asked in the lawsuit that the court rule that the DOE's policy in these cases is a violation of state education law, order the DOE to stop it and reserve such zone alterations to Community Education Councils."

An article about this lawsuit is here: <http://shar.es/c1dNF> and the legal complaint posted here: http://www.nyclu.org/files/CEC_Suit_03.24.09.PDF

Less than two weeks later, the DOE had dropped its plans to close these schools: <http://bit.ly/R3odlj>

Presumably, DOE officials realized that the CECs in District 3 and 27 would never approve their plan to eliminate the zones for these schools, knowing full well that they intended to replace them with charters. Here is the announcement from the NYCLU:

April 2, 2009 — The New York City Department of Education has apparently decided to keep three schools open after public school parents, guardians and community leaders filed a lawsuit last week. That lawsuit charged the DOE with violating state education law by making zoning changes that affect neighborhood schools without approval from Community Education Councils, effectively denying parents and children access to neighborhood schools without a voice in the process.

The DOE did not respond to the lawsuit in court, but today told the media that the three schools would remain open.

“It shouldn’t take a lawsuit to make the DOE follow the law,” said New York Civil Liberties Union Executive Director Donna Lieberman. “Zoning laws are the one small area of oversight that parents were allowed to keep under mayoral control. The state legislature should take note of the fact that we had to take the DOE to court to get the public’s voice heard as prescribed by law.”

The vast majority of schools that DOE has closed up to now are unzoned Middle and High Schools. In a few cases, they have closed a zoned public school, but have been forced to open up another zoned public school in the same building.

In conclusion, you should be very cautious before eliminating your school attendance zones, unless you support allowing DOE to unilaterally close any of your neighborhood schools and replace them with charter schools.

Feel free to follow up if you have any questions.

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