

Comments on NYC Department of Education

Proposed Contract for Excellence for 2015-2016 plan

July 15, 2015

The definition of insanity is doing the same thing over and over again and expecting a different result. The DOE proposed Contract for Excellence plan for 2015-2016 is almost exactly the same as the previous year’s proposed plan, with no real plan to reduce class size despite the clear mandate in the state law. The (C4E) law was passed in 2007 as a result of the Court of Appeals decision in the Campaign for Fiscal Equity (CFE) case, in which the state’s highest court found that New York City schoolchildren were deprived of their constitutional right to receive a “sound basic education,” in large part because of excessive class sizes.

1. The Contracts for Excellence law promised additional state funding to struggling districts in return for a pledge that they would spend them on five evidence-based reforms, later expanded to six. For NYC, they added one crucial requirement: that the city would submit a plan with annual targets to reduce class size in all grades to be achieved over five years. Here are the [regulations](http://www.p12.nysed.gov/part100/pages/10013.html):

1. *In the city school district of the City of New York, include a plan that meets the requirements of clause (c)(2)(i)(a) of this section, to reduce average class sizes within five years for the following grade ranges:* 
   1. *prekindergarten through grade three;*
   2. *grades four through eight; and*
   3. *grades nine through twelve.*

*Such plan shall be aligned with the capital plan of the city school district of the City of New York and include continuous class size reduction for low performing and overcrowded schools beginning in the 2007-2008 school year and thereafter.*

Yet to this day, the DOE has not allocated a single penny specifically towards reducing class size in its “targeted” or “district-wide” initiatives. Instead, every year the DOE “allows” schools to use part of their “discretionary” funds toward class size reduction, if they so choose, whileproviding no oversight to ensure that this occurs.

The result is predictable: class sizes continue to increase, even in the schools that “choose” to reduce class size. The only difference is that this year, thediscretionary allocations provided to schools apart from the targeted or district-wide initiatives are only 56% of the total C4E funds, compared to 61% of last year’s preliminary June 2014 plan – a cut of $18 million. [[1]](#footnote-1)

To this day, the DOE has not released its state- approved class size reduction plan for last year – the 2014-2015 school year -- so we do not know what it involved. According to the NYSED calendar, the deadline for submitting a final plan was July 25, 2014. [[2]](#footnote-2)  Yet as of March 2015, according to the NY State Education Department, the DOE had still not submitted its final Contracts for Excellence plan. [[3]](#footnote-3)

In any case, we know that last year citywide, class size averages increased for seventh year in a row, by 0.1 student per class. According to the DOE, elementary grade class sizes remained flat; middle school class sizes decreased by 0.1 student per class, and high school class sizes increased by 0.4 student per class. [[4]](#footnote-4)

Though the city’s original C4E plan, approved in Nov. 2007,called for the city to lower class size in all grades to an average of 20 students per class in K-3, an average of 23 students per class in grades 4-8 and 25 students in high school,[[5]](#footnote-5) class sizes have increased each year, and remain at a fifteen year high in grades K-3. During the 2013-2014 school year, [more than 330,000 students](http://www.nytimes.com/2014/07/02/nyregion/new-york-citys-public-schools-are-poorer-and-more-crowded-report-says.html?_r=0) attended classes of 30 or larger last year.[[6]](#footnote-6)  Last year, more than 350,000 students attended classes of 30 or larger.[[7]](#footnote-7)

2. The Contract for Excellence regulations require that the class size reduction plan and the city’s capital plan for school construction be aligned, so that there is the space to reduce class size. [[8]](#footnote-8) Yet this has not yet occurred. Reports by [Class Size Matters](http://www.classsizematters.org/wp-content/uploads/2014/06/SPACE-CRUNCH-Report-Final-OL.pdf), the [Independent Budget Office](http://www.ibo.nyc.ny.us/iboreports/2014edindicatorsreport.pdf) and the [City Comptroller’s office](http://comptroller.nyc.gov/wp-content/uploads/documents/7E13_123A.pdf) show that school overcrowding has worsened since 2007.

Indeed, the class size standards in school utilization formula in the DOE document known as the Blue Book are larger in every grade (28 in grades 4-8 and 30 in high school) than current class size averages except in K-3, and thus will tend to force class sizes even higher. There are no class size standards in the Instructional Footprint that the DOE used to help decide where to co-locate schools, as any class size standards were eliminated in 2010. In February 2014, the DOE formed a Blue Book Working Group to improve the school utilization formula.[[9]](#footnote-9) This Working Group made recommendations in December 2014 that have still not been released.

The DOE also has made policy decisions that have undermined the efforts of school principals to reduce class size, including cutting school budgets by about 14% since 2007; eliminating the early grade class size funds in 2010 (despite the fact that they had promised to retain this program in their 2007 class size plan), and eliminating class size limits of 28 in grades 1-3 in 2011, which had existed for at least 15 years.

3. This year as last year, the city’s openly supplants its own funding with state C4E funds in its proposed plan. DOE claims that this is being done with the approval of the State Education Department:

*C4E funds must* *“supplement, not supplant” funding provided by the school district. According to guidance from the State Education Department (SED), certain expenditures may be paid for with C4E funds even though these programs or expenditures were originally or have been typically paid for by the district or by other grants.”[[10]](#footnote-10)*

Yet [the C4E law](http://law.onecle.com/new-york/education/EDN0211-D_211-D.html) forbids “supplanting” – i.e. allowing state funds to substitute for city fund: “*the increases in total foundation aid and supplemental educational improvement plan grants [will be] used to supplement, and not supplant funds allocated by the district in the base year for such purposes*.” [[11]](#footnote-11)

We have no way of knowing if the State Education Department has given the city the permission to supplant, but if so, this would appear to contradict state law. Indeed, as noted above, the DOE cut school staffing budgets starting in 2007,

4. What also appears to violate state law is the fact that principals are being allowed to use these funds to minimize class size increases, rather than reduce class size. Here is the language from the new DOE School Allocation Memo that allocates C4E funds to schools:

*“Minimize growth of class size in FY 2015 [sic] - fund a teacher to minimize the growth in class size that the school would have otherwise experienced given budget cuts. Note: School must demonstrate that these positions would have been cut in FY2015... Teachers must be supplemental to the number required by contract.”[[12]](#footnote-12)*

The C4E law clearly requires the city to lower class size, NOT use these funds to minimize class size increases.

5. The only mention of a DOE class size reduction plan in the city’s 2015-2016 C4E proposal says the following:

*For the 2015-16 School Year, NYCDOE will focus Class Size Reduction planning efforts on the School Renewal Program. The criteria for selecting Renewal Schools is [sic] aligned with C4E goals to target schools with the greatest needs. Further information about the School Renewal Program can be found* [*here*](http://schools.nyc.gov/AboutUs/schools/RenewalSchool).[[13]](#footnote-13)

Yet there is nothing at this link or anywhere else that mentions that DOE officials intend to lower class size in these struggling schools. In her testimony in May to the City Council, the Chancellor suggested otherwise.  [[14]](#footnote-14) Our analysis showed that 60 percent of the Renewal schools this past year had at least some classes of thirty or more.[[15]](#footnote-15)

Even if the 94 renewal schools did reduce class size, this would not fulfill the language in the law that requires the city to reduce average class size system-wide, since they represent a small percentage of the more than 1800 or more public schools in NYC.

Smaller classes have been the [number one priority of parents](http://www.huffingtonpost.com/2012/07/23/doe-survey-smaller-class-_n_1696029.html) in DOE surveys every year – that is until this year, when DOE stopped asking the question in their Learning Environment Survey. [[16]](#footnote-16) In [responding to an independent survey](http://www.classsizematters.org/wp-content/uploads/2011/04/principal_survey_report_10.08_final1.pdf) given in 2011, NYC principals said in order to be able to provide a quality education, classes should be no larger than 20 in grades K-3, no larger than 23 in grades 4-5, and no larger than 24 in all other grades – nearly identical to the city’s original C4E goals. [[17]](#footnote-17)

While campaigning for Mayor, Bill de Blasio pledged that he would [comply with the original Contracts for Excellence plan](http://nyckidspac.org/wp-content/uploads/2013/06/NYC-Kids-PAC-Questionnaire-Bill-de-Blasio.pdf) the city submitted in 2007.[[18]](#footnote-18)  He also campaigned on a promise that he would [commit to achieving specific class size reduction goals](http://www.classsizematters.org/wp-content/uploads/2013/06/Bill-deBlasio.pdf) by the end of first term and if necessary, raise revenue to do this.  [[19]](#footnote-19)

We urge the DOE to allocate a substantial share of the more than $600 million in C4E funds specifically towards reducing class size as a citywide initiative, and to hire additional teachers to reduce class size, especially in struggling schools. We urge the city to expand the capital plan and create sufficient space, by doubling the seats in the plan, as a recent letter from the Public Advocate urged, that was co- signed by 22 NYC Council Members, Michael Mulgrew, the President of the UFT, and 16 Presidents of Community Education Councils or Citywide Councils. [[20]](#footnote-20) Finally, we urge the DOE to immediately re-institute the early grade class size program in grades K-3 that was eliminated in 2010, despite a promise to the state to retain it.

1. <http://schools.nyc.gov/NR/rdonlyres/26881653-C4C8-4ACC-AD13-537D6B93B486/184451/2016C4EBoroughPresentationFINAL.pdf> for this year’s proposed plan, dated July 2015; last year’s plan, dated June 2014 plan is posted here:; [↑](#footnote-ref-1)
2. See <http://www.p12.nysed.gov/mgtserv/C4E/14-15_C4E/doc/C4E_Calendar_for_2014-15.html> [↑](#footnote-ref-2)
3. Email from Elizabeth Berlin, Acting NYS Education Commissioner to Leonie Haimson, dated March 4, 2015. [↑](#footnote-ref-3)
4. <http://schools.nyc.gov/NR/rdonlyres/6D0072D0-55DF-4F13-AD0F-A3A5E49C1E6A/0/20142015PreliminaryClassSizeReport_20141114.pdf> [↑](#footnote-ref-4)
5. <http://www.p12.nysed.gov/mgtserv/C4E/doc/nyc_class_size_reduction_plan/2008_2009/FY09_C4E_School_List_Class_Size_projections_090121_Ex5_SED.pdf> [↑](#footnote-ref-5)
6. <http://www.nytimes.com/2014/07/02/nyregion/new-york-citys-public-schools-are-poorer-and-more-crowded-report-says.html?_r=2> [↑](#footnote-ref-6)
7. See Citywide distribution class size data, Nov. 2014, at <http://schools.nyc.gov/NR/rdonlyres/CE82DFC4-D399-47D1-A061-3364FC2DA841/0/CityLevelDistributionSummaryPreliminary2015.xlsx> [↑](#footnote-ref-7)
8. See <http://www.p12.nysed.gov/mgtserv/C4E/htm/C4e_class_size_reduction_NYC_2.htm> . [↑](#footnote-ref-8)
9. <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2013-2014/City+Announces+Changes+to+The+2013-2014+Blue+Book.htm> [↑](#footnote-ref-9)
10. <http://schools.nyc.gov/NR/rdonlyres/26881653-C4C8-4ACC-AD13-537D6B93B486/184451/2016C4EBoroughPresentationFINAL.pdf> [↑](#footnote-ref-10)
11. <http://law.onecle.com/new-york/education/EDN0211-D_211-D.html> [↑](#footnote-ref-11)
12. Appendix A; clearly the DOE meant FY 2016, but the repeat of this phrase shows how little the “plan” has changed from year to year. <http://schools.nyc.gov/offices/d_chanc_oper/budget/dbor/allocationmemo/fy15_16/FY16_PDF/sam05.pdf> [↑](#footnote-ref-12)
13. <http://schools.nyc.gov/AboutUs/funding/c4e/ClassSizeReduction2013-14> [↑](#footnote-ref-13)
14. See the transcript of the hearings of NYC Council Committee on Finance with the Committee on Education, May 28, 2015 at:

    <http://legistar.council.nyc.gov/View.ashx?M=F&ID=3820568&GUID=C17A693A-0040-4164-910D-FE55BC0DAA78>

    *CHAIRPERSON FERRERAS-COPELAND: …. Can we talk about class size in these [renewal] schools. Because it seems that you know while we are implementing a lot of resources and support and, and from the dollars perspective what is the average class size?*

    *CHANCELLOR FARINA: I would say in most of the renewal schools it’s certainly in the early grades around 22 23 it is not large. I think the most important thing is that we need teachers who have specialties. For example more speech teachers, reading specialists we are doing a lot of training on reading recovery, reading rescue, reading reform, very strategic ways of teaching students in the early grades phonics using foundations, using other very strategic programs that may… in the past to ensure that students by second grade are reading on grade level. I would say in middle school one of the most important additional assets other than reduced class size is to make sure we have adequate guidance counsellors and social workers to help students because in the middle school it’s really more social and emotional growth that runs into problems. And in the high schools, the renewal schools, we’re really looking at how do we get more credit accumulation in ways that also make sense so that they’re workforce ready as well as college ready. So we’re working on each of the grade levels on many different issues, not just one.*

    *CHAIRPERSON FERRERAS-COPELAND: So what’s the class size on middle schools and high schools?*

    *CHANCELLOR FARINA: The middle schools overall I would have to say is about 29 and in the high schools it depends on the subject areas.*

    *CHAIRPERSON FERRERAS-COPELAND: Are they, do you have an on average on subject let’s say math?*

    *CHANCELLOR FARINA: I don’t. It varies from school to school but I would say most of these schools unfortunately because they are renewal schools do not have large class sizes because their enrollment hasn’t been as high as, as, as it should be.*  [↑](#footnote-ref-14)
15. <http://nycpublicschoolparents.blogspot.com/2015/05/why-renewal-program-will-likely-fail.html> [↑](#footnote-ref-15)
16. <http://nyckidspac.org/2015/04/education-report-card-for-mayor-de-blasio/> [↑](#footnote-ref-16)
17. <http://www.classsizematters.org/wp-content/uploads/2011/04/principal_survey_report_10.08_final1.pdf> [↑](#footnote-ref-17)
18. <http://nyckidspac.org/wp-content/uploads/2013/06/NYC-Kids-PAC-Questionnaire-Bill-de-Blasio.pdf> [↑](#footnote-ref-18)
19. <http://www.classsizematters.org/wp-content/uploads/2013/06/Bill-deBlasio.pdf> [↑](#footnote-ref-19)
20. <https://www.scribd.com/doc/267690438/060215-PA-Ltr-to-Chancellor-Farina-Re-Capital-Plan-3> [↑](#footnote-ref-20)