

November 13, 2014

Mayor Bill de Blasio
City Hall
New York, NY 10007

Chancellor Carmen Fariña
New York City Department of Education
Tweed Courthouse
52 Chambers Street
New York, NY 10007

Dear Mayor de Blasio and Chancellor Fariña:

The recently released report of the School Space Working Group contains many important recommendations; most critical perhaps are those emphasizing ensuring adequate space in all schools to provide students with disabilities all of the resources, services, and supports to which they are entitled. The group's recommendations do not, the report acknowledges, address other critical issues of the impact of some co-locations on students' basic educational rights, issues that disparately affect students with extra educational needs and challenges.

For this reason, we write today to urge you to place a moratorium on proposing any new co-locations until the student rights' violations in existing co-located schools have been substantially remedied. Many students in New York City are currently constrained by space limitations from receiving the resources necessary for a sound basic education, including smaller classes, the full complement of cluster, specialty, and resource rooms necessary for the full Regents-required curriculum and required academic intervention services, and dedicated spaces for English language learners and students with disabilities to receive their mandated services. Students must also have access to the cafeteria, the library, and the gymnasium at appropriate times and for at least the state-mandated minimum periods.

This moratorium is not intended to interfere with placing District 75 programs in schools as needed in order to improve inclusion opportunities for students with disabilities and ensure that their needs are addressed. We also support the planned co-location of a D75 school in a newly constructed building. However, even such co-locations must in the future be implemented with true community engagement and a comprehensive plan for ensuring that D75 and other students receive at least the full complement of basic educational resources to which they are entitled.

Through site visits and interviews with dozens of staff in a sample of high-need schools, the Campaign for Educational Equity (CEE) has documented how, in some schools, co-locations exacerbated resource constraints and deprived students of critical programs and services, and that some principals have had to spend 20-80% of their professional time negotiating over access to space and addressing building-wide safety matters, depriving their educators and students of valuable instructional leadership and support.¹ The CEE study further revealed how some co-locations have undermined NYC students' right to a

¹ www.tc.columbia.edu/i/a/document/31783_Co-location_and_SBE_6.3.pdf

sound basic education by subjecting students to inadequate facilities, oversized classes, inadequate course offerings, and insufficient support that in many cases violate state statutory, regulatory, and constitutional requirements.

Other reports from Class Size Matters and the City Comptroller have delineated the worsening overcrowding crisis in our schools.² Co-locations, whether in the case of district public schools or charter schools, have exacerbated overcrowding by subtracting classrooms in the process of replicating administrative and specialty rooms and restricting access to shared spaces. In addition, the current building-utilization formula is widely recognized as underestimating the actual level of overcrowding in our schools by not properly accounting for the need for class sizes consistent with constitutional parameters and other factors necessary for an adequate opportunity to learn.

As immediate next steps during the moratorium, the New York City Department of Education should:

- Assess the prevalence and extent of the violations of students' rights in schools in which co-location is currently taking place or in which new co-locations are being considered.
- Broadly disseminate information about the resources, services, and supports to which all students in all schools are entitled under state statute, regulations and constitutional law. (Parents, students, educators, policymakers, and the community at large must understand that all sound basic education requirements apply, whatever the school size or configuration.)
- Review and revise the Instructional Footprint to ensure sufficient classrooms, gymnasiums, laboratories, libraries, and other instructional spaces, cafeterias, offices, and storage for all schools to meet all sound-basic-education requirements, including appropriate class sizes and suitable curricula.
- Amend the educational impact statement (EIS) to include a review of the impact of any proposed co-location on students' sound-basic-education rights.
- Quantify the number of personnel, including administrators and safety personnel that must be added in order to administer building issues resulting from co-location.

Finally, the current rights-related problems with co-locations extend beyond charter schools and can be found in buildings housing only co-located district schools. However, to the extent that the procedures and reforms that we recommend may obligate the city, in accordance with recently enacted state statutes regarding siting for charter schools, to make additional rental payments for charter operators who will need to find space in private facilities, the city should pay those amounts, rather than deprive district-school or charter-school students of their constitutional right to an adequate opportunity to learn. We also believe that the city should assiduously urge our legislators to amend the law to require the state to cover the full cost of charter-school rentals, as it was the state that imposed this financial burden on the city.

² www.classsizematters.org/wp-content/uploads/2014/06/SPACE-CRUNCH-Report-Final-OL.pdf; http://comptroller.nyc.gov/wp-content/uploads/documents/7E13_123A.pdf

Yours sincerely,

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