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## Testimony on Mayoral control before the Joint Assembly and Senate Education Committees

March 4, 2022

Thank you for the opportunity to testify today. My name is Leonie Haimson, and I am the Executive Director of Class Size Matters. Every poll on Mayoral control where the question has been asked of NYC voters has shown that the majority oppose the current system and would like the Mayor to share power with other elected officials.<sup>1</sup> Moreover, across the country and here in NYC, the realization of the profound problems with Mayoral control has only increased over time.

### Why Mayoral control needs to be amended

The vast majority of school boards across the nation are directly elected by voters, and in recent years, of the handful of school districts that were formerly under Mayoral or state control have returned to elected school boards in recent year, including Detroit and Newark.<sup>2</sup> Last summer, the Illinois state legislature voted and the Governor signed a bill that will eliminate mayoral control in Chicago and return to an elected school board.<sup>3</sup> In Boston, the question of reinstating an elected school board won overwhelmingly in an advisory referendum in November 2021.<sup>4</sup> As Pauline Lipman, a Professor at the University of Illinois has said, “There is a new sort of wave of fresh air in the city that’s calling for much more public accountability and democracy.”<sup>5</sup>

Here in NYC, what was originally claimed to be a more efficient system has shown to be false, given the chronic delays in decision-making by Mayor de Blasio during the pandemic, which caused chaos and further disruption to the education of NYC students.<sup>6</sup> Thomas Frieden, former head of CDC and the City’s

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<sup>1</sup> See for example <https://poll.qu.edu/new-york-city/release-detail?ReleaseID=2469>

<sup>2</sup> <https://www.freep.com/story/news/education/2016/11/08/detroit-school-board-election/93486614/>; and <https://newark.chalkbeat.org/2020/7/1/21310475/newark-schools-return-local-control>

<sup>3</sup> <https://news.wttw.com/2021/07/29/elected-school-board-officially-coming-chicago-after-pritzker-signs-bill>

<sup>4</sup> <https://www.bostonglobe.com/2021/11/03/metro/boston-voters-supported-an-elected-school-committee-now-what/>

<sup>5</sup> <https://www.chicagotribune.com/news/ct-met-chicago-elected-school-board-debate-20190418-story.html>

<sup>6</sup> On March 12, 2020, three dozen infectious disease experts signed a letter calling on the Mayor to close all schools <https://www.nytimes.com/2020/03/13/nyregion/coronavirus-nyc-schools.html> That same day, San Francisco closed their schools, when that city had 18 confirmed cases; Los Angeles school board closed their schools the following day, after 40 cases. <https://www.nytimes.com/2020/04/08/nyregion/new-york-coronavirus-response-delays.htm> Instead, he waited three more days, until March 15, when there were 329 cases, after massive pressure from public health officials, the business community, and the UFT, with many teachers

Health Department has said that if New York State and City had adopted widespread safety measures a week or two earlier, including closing schools, the estimated death rate might have been reduced by 50 to 80 percent.<sup>7</sup>

The lack of planning for school reopening in the fall of 2020 was just as problematic and caused additional chaos and delays. And whether or not you agree with the Mayor's last-minute push to revamp the gifted and talented program, which he first promised to do in 2013, it came so late in his administration that its fate will be unclear.<sup>8</sup> When all important policy decisions rely upon the quirks of one individual who is dealing with many other issues at the same time, this too often leads to delay, poor planning and mismanagement.

The claim that accountability for our schools improves when the Mayor makes all the decisions is just as wrongheaded, given that the voters only have the chance to approve or disapprove his performance only once and after four years. Moreover, most people base their votes on many issues outside educational arena, which further dilutes his record on education. As Mayor Bloomberg said when asked what people could do if they disagreed with his education policies, "they can boo me at parades."<sup>9</sup>

And the results have not been encouraging. According to the most reliable assessments, the national exams called the NAEPs that are given every two years in 4<sup>th</sup> and 8<sup>th</sup> grade reading and math, NYC students made less progress between 2003-2013 during the Bloomberg years than students in any other large city except for Cleveland, when student scores are disaggregated by race, ethnicity, and economic status.<sup>10</sup> Between 2013 and 2019, since Mayor de Blasio took office, NAEP scores have been flat or declining, with an average five-point drop in fourth-grade math scores.<sup>11</sup> The declines have been particularly sharp in for Black students, who have suffered significant declines in all four areas.<sup>12</sup>

But the largest problem with Mayoral control is that there are no effective local checks and balances in NYC when it comes to our schools, unlike any other level of government, which is not only inherently undemocratic but also further contributes to defective decisionmaking and political gamesmanship. No one argues that the NYC Police Department or the Department of Correction is not under the control of the Mayor, though the City Council can make law when it comes to the police force or jails. So why should our schools remain solely under the authority of a single, highly fallible individual?

### **Our proposals to amend Mayoral control.**

If NYC is not to have an elected school board, second best would be the list of reforms put forward by the Education Council Consortium, with some tweaks, as detailed in the attached chart.

We believe that the most important changes would be to provide checks and balances by adding two more representatives on the Panel for Educational Policy selected by parents; and two appointed by the

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threatening a wildcat strike. <https://www.governor.ny.gov/news/governor-cuomo-calls-president-trump-take-comprehensive-federal-action-combat-novel-coronavirus>

<sup>7</sup> <https://twitter.com/DrTomFrieden/status/1247184873615433729>

<sup>8</sup> <https://secureservercdn.net/198.71.233.31/jg0.893.myftpupload.com/wp-content/uploads/2013/06/NYC-Kids-PAC-Questionnaire-Bill-de-Blasio.pdf>

<sup>9</sup> <https://www.city-journal.org/html/city%E2%80%99s-pupils-get-more-hype-hope-12911.html>

<sup>10</sup> <http://www.classsizematters.org/wp-content/uploads/2015/05/NAEP-powerpoint-08-2014-final.pptx>.<sup>6</sup>

<sup>11</sup> <https://chalkbeat.org/posts/ny/2019/10/30/nyc-scores-are-flat-on-national-reading-and-math-test/>

<sup>12</sup> <https://www.nagb.gov/>

City Council, while limiting the Mayoral appointees to five.

The other most important change would be to make the NYC Department of Education subject to city law, as are all other city agencies. There is no justification why the DOE should be treated unlike any other city agency, especially as it expands its jurisdiction across more areas, including childcare and early education.

One aspect of the current regime that is especially in need of reform is the nearly unlimited potential for waste and fraud through the DOE contracting process. Very few eyes are on these contract proposals before they are approved by the PEP, which has only voted down one contract in its entire history.<sup>13</sup> Indeed, one PEP member who voted against a \$1.1 billion contract to a vendor who had been implicated in a kickback scheme just a few years before was forced to resign.<sup>14</sup>

Class Size Matters is one of very few organizations that provide any oversight for these contracts and we our advocacy and oversight in this area has led to hundreds of millions of dollars of savings in the areas of computer wiring and school busing.<sup>15</sup> Yet we are a small organization with no special expertise in this area. That is why we propose adding a non-voting member to the PEP to be appointed by the NYC Comptroller, to give expert input to the Panel on contracts before they vote, rather than afterwards, when it is too late.

We also recommend that the NYC Comptroller provide the training to Panel members in financial oversight as required by law. According to Education Law Chapter 16, Title 2, Article 43, Part 1, passed in 2005, all school board members must receive at least six hours of training in financial oversight, accountability, and fiduciary responsibilities. There is an exception in NYC, as long as the chancellor **annually certifies to the commissioner** in writing that the training they provide “meets or exceeds the requirements of this section.”<sup>16</sup>

Yet Panel members have told me and been quoted in the media to say publicly that they have received only minimal and insufficient training in financial oversight.<sup>17</sup> I recently filed a Freedom of Information request to the State Education Department for a copy of the annual written certification required by law from the NYC Chancellor to attest that the training provided PEP members was compliant with the law, for the years 2019, 2020 and 2021. I received a response from NYSED that they had received no such certification.<sup>18</sup> This is why I strongly recommend that the City Comptroller’s office take over this important responsibility.

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<sup>13</sup> <https://www.nydailynews.com/new-york/education/ny-pep-gifted-testing-contract-vote-20210128-d2izups4yfbfzgo7aqxwv2izy-story.html>

<sup>14</sup> <https://nypost.com/2018/03/10/education-panel-member-pushed-to-quit-after-voting-against-de-blasio/>

<sup>15</sup> In 2015, after learning that the DOE intended to award a \$1.1B to Custom Computer Specialists, we alerted the media about how that company been implicated in a DOE kickback scheme just a few years before. City Hall cancelled the contract, which was later rebid to multiple vendors at a savings of between \$400M- \$600M. see <https://www.nydailynews.com/new-york/education/gonzalez-nyc-backs-huge-school-contract-saves-163m-article-1.2474357> In 2020, we reached out to NYC Comptroller & reporters to alert them to fact that DOE was about to renew busing contracts at full cost of \$400M for March & April while schools were shut down. DOE subsequently DOE renegotiated their agreements, leading to savings of more than \$150 million.

<https://nypost.com/2020/05/16/nyc-halts-hundreds-of-millions-in-payments-for-idle-school-buses/>

<sup>16</sup> <https://www.nysenate.gov/legislation/laws/EDN/2102-A>

<sup>17</sup> <https://nypost.com/2016/05/08/school-spending-panel-doe-bullies-us-to-side-with-de-blasio/>

<sup>18</sup> Email to Leonie Haimson, from [FOIL@nysed.gov](mailto:FOIL@nysed.gov), dated February 7, 2022.

In addition, more input and authority should be driven to the local level, by empowering Community Education Councils to approve school co-locations, mergers, and closures, and that School Leadership Teams should regain the authority to develop school-based budgets, as they had during the leadership of Chancellor Rudy Crew.

I strongly believe if these recommendations were adopted by the State Legislature, this would ensure substantial improvements in our public schools, to the benefit of students and communities they serve. Thank you for the ability to testify today, and I would be happy to answer any questions you might have.

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**Class Size Matters Proposed Amendments to Mayoral Control  
(based on proposals by the Education Council Consortium)  
March 2022**

**Section 2590-b. Continuation of city board and establishment of community districts; establishment of the city-wide councils on special education, [DISTRICT 75], English language learners, and high schools.**

Overview of proposed amendments

- Allow all CCEC members to elect three members to the City Board
- Add a non-voting member appointed by the NYC Comptroller
- Change the City Board members terms to be fixed and not removed except with evidence of malfeasance or corruption
- Make the NYC Department of Education a city agency like all others, and subject to both city and state laws

Paragraph	Proposed amendments
2590-b.1 (1)	17 members, 2 non-voting 5 appointed by Mayor 5 appointed by each of the five Borough Presidents 2 appointed by the New York City Council 1 non-voting Student member appointed by the Chancellor 3 elected by Citywide and Community Education Council Members 1 non-voting member appointed by the NYC Comptroller
2590-b.1(1)(B)	<i>"... <del>one</del> [THREE] member[S] to be elected by [MEMBERS OF CITYWIDE AND] community district education council[S]"</i>
2590-b.1 (4)	<i>All appointed members shall serve [A FIXED TERM AND MAY NOT BE REMOVED BY THE APPOINTING AUTHORITY EXCEPT FOR MALFEASANCE OR CRIMINAL CONDUCT.] for terms coterminous with the terms of their appointing authority, provided that any member may be removed at the pleasure of the appointing authority, who shall provide written notice to the public explaining the reasons therefor at least</i>

	<del>ten days in advance of the removal.</del>
2590-b.1 (8)	Deletion/addition: <i>Each mayoral appointee shall be a resident of the city and <del>two</del> [THREE] shall be parents of a child attending a public school within the city district.</i>
NEW PARAGRAPH 2590-b.1 (12)	Designate the NYC Comptroller as the agency that will provide at least six hours of training on financial oversight, accountability and fiduciary responsibilities to members of the City Board of Education, as required by Section 2102-a of the Education Law
NEW PARAGRAPH 2590-b.1(13)	Clearly designate the NYC Department of Education as a city agency subject to all local laws.
NEW PARAGRAPH 2590-b.1(14)	Standards, policies, and objectives proposed by the mayor of the City of New York directly related to educational achievement and student performance or as specifically authorized or required by state or federal law or regulation shall be presented by the chancellor to the city board and citywide and community district education councils pursuant to section 2590-e and 2590-g of this article.
2590-b. 5(a)(i)	(i) nine voting members who shall be parents of students who are in a bilingual or English as a second language program conducted pursuant to section thirty-two hundred four of this chapter, some of whom may be parents of [CURRENT] students who [ARE OR] have been [AT ANY TIME] in such a program <del>within the preceding</del> <del>two years</del> , to be selected by parents of students who receive such services pursuant to a representative process developed by the chancellor. Such members shall serve a two-year term;
§ 2590-b.	Continuation of city board and establishment of community districts; establishment of the city-wide councils on special education, [CITY-WIDE COUNCIL FOR DISTRICT 75,] English language learners, and high schools.

**Section 2590-g. Powers and duties of the city board**

Overview of proposed amendments

- Clarify the authority of the City Board
- Add a tiered decision-making structure requiring both CCECs and the City Board to approve various proposals

Paragraph	Proposed amendments
2590-g.	Addition: <i>The city board shall advise the chancellor on [AND APPROVE OR REJECT] matters of policy affecting the welfare of the city school district and its pupils.</i>

<p>NEW PARAGRAPH 2590-g.1</p>	<p>Add a new paragraph before 2590-g.1(a)</p> <p>Standards, policies and objectives proposed by the chancellor directly related to educational achievement and student performance; standards, policies and objectives as specifically authorized or required by state or federal law or regulation; regulations by the chancellor or the city board and any amendments made thereto; the educational facilities capital plan and any amendments; annual estimates of the total sum of money; proposed budget for administrative and operational expenditures of the city board and the chancellor must first be presented to citywide and community district education councils for advisory votes.</p> <p>If a supermajority (24 out of 36) of the citywide and community district education councils rejects a particular proposal by official resolutions, the city board must request the chancellor to amend the proposal based on objections expressed in the resolutions. The chancellor shall present an amended proposal to the city board for approval UNLESS the following occurs:</p> <p>If the city board approves matters that were rejected by a supermajority of citywide and community district education councils without the amendment by the chancellor, the city board must submit to all citywide and community district education councils in writing the rationale for its decision within 10 calendar days.</p>
<p>NEW PARAGRAPH 2590-g.1</p>	<p>Add a new paragraph.</p> <p>All proposals for school closures or significant changes to school utilization including the phase-out, grade reconfiguration, re-siting, or co-location of schools, must first be approved by citywide and community education councils with jurisdiction over the school(s) in the proposal.</p> <p>If the citywide and community district education councils reject the proposal by a resolution, the chancellor must amend the proposal in accordance with input from the citywide and community district education councils or rescind the proposal.</p> <p>If the city board approves a proposal rejected by citywide and community district education councils, without subsequent amendment by the chancellor, the city board must submit to affected citywide and community district education councils in writing the rationale for its decision within 10 calendar days.</p>

**Section 2590-e. Powers and duties of community district education council**

Overview of proposed amendments

- Clarify the authority of CECs in zoning
- Strengthen the CECs role in selection of superintendents
- Give the CECs approval authority in changes to school utilization

- Give the CECs approval authority in other policies and initiatives in a tiered decision-making structure

Paragraph	Proposed amendments
2590-e.11	<i>Approve zoning lines, as submitted by the superintendent, consistent with the regulations of the chancellor, applicable to schools under the jurisdiction of the community district. [CLOSURE, MERGER OR PHASE-OUT OF A ZONED SCHOOL SHALL BE CONSIDERED REZONING AND SHALL REQUIRE THE APPROVAL OF COMMUNITY DISTRICT EDUCATION COUNCIL.]</i>
2590-e.20	<i>Consult on the selection of a community superintendent pursuant to subdivision thirty of section twenty-five hundred ninety-h of this article. Such consultation shall include an opportunity for the community council to <del>meet with the final candidate or</del> [INTERVIEW A MINIMUM OF THREE FINAL] candidates the chancellor is considering appointing and to provide <del>feedback</del> [A RANKED LIST OF THE CANDIDATES] to the chancellor prior to the appointment being made.</i>
2590-e.21	<i>Hold a joint public hearing with the chancellor or deputy chancellor, or in the case of a proposed significant change in school utilization the chancellor or his or her designee, and the impacted school-based management team regarding any proposed school closing or significant change in school utilization, including the phase-out, grade reconfiguration, re-siting, or co-location of schools, of any public school located within the community district pursuant to subdivision two-a of section twenty-five hundred ninety-h of this article. Following such hearing, the community council <del>may</del> [SHALL] pass a resolution [APPROVING OR REJECTING THE PROPOSAL] <del>on whether to recommend or not recommend to the city board. the proposed school closing or significant change in school utilization, and shall transmit it to the city board for its consideration at least seven days in advance of any city board vote on such item pursuant to section twenty-five hundred ninety-g of this article, provided that the receipt of such resolution from the community council shall not be a precondition for the city board to act on the matter.</del></i>
NEW PARAGRAPH 2590-e.22	Proposals related to the following shall require presentation to and advisory vote by citywide and community district education councils: standards, policies and objectives proposed by the chancellor directly related to educational achievement and student performance; standards, policies and objectives as specifically authorized or required by state or federal law or regulation; regulations by the chancellor or the city board and any amendments made thereto; the educational facilities capital plan and any amendments; annual estimates of the total sum of money; proposed budget for administrative and operational expenditures of the city board and the chancellor.

**Section 2590-h. Powers and duties of the chancellor**

Paragraph	Proposed amendments
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2590-h.2 (e)	Except as otherwise provided in paragraph (f) of this subdivision, all proposed school closings or significant changes in school utilization shall be approved by the city board pursuant to section twenty-five hundred ninety-g of this article and shall not take effect until all the provisions of this subdivision have been satisfied and the school year in which such city board approval was granted, has ended.
2590-h.3	Subject to the approval of the city board, develop a plan to provide for the establishment of comprehensive high schools within the city district so that every community district shall have available to its graduates further education and a comprehensive high school. Such plan may provide for the conversion of academic and vocational high schools and may be amended or modified from time to time.
2590-h.15(b)  SEE ALSO 2590-i AND 2590-r	<p><b>Re School Leadership Teams in NYC – return to them the power to develop school-base budgets that they had originally under Chancellor Rudy Crew but that was taken away from them by Chancellor Klein:</b></p> <p>(b-1) school-based management teams developed pursuant to paragraph (b) of this subdivision shall possess the following powers and duties:</p> <p>(i) develop an annual school comprehensive educational plan and <b>consult</b> on the school-based budget pursuant to section twenty-five hundred ninety-r of this article. Such school comprehensive educational plan shall be developed concurrently with the development of the school-based budget so that it may inform the decision-making process and result in the alignment of the comprehensive educational plan and the school-based budget for the ensuing school year. Such plan shall be submitted to the community superintendent along with the principal's written justification demonstrating that the school-based budget proposal is aligned with the school's comprehensive educational plan and the school-based management team's response to such justification pursuant to paragraph (h) of subdivision one of section twenty-five hundred ninety-f of this article. In the case of specialized, academic, vocational, and other high schools that are not under the jurisdiction of a community superintendent, such plan shall be submitted to the chancellor pursuant to subdivision e of section twenty-five hundred ninety-r of this article. The chancellor shall ensure that the comprehensive educational plan of every school within the city district is easily accessible and be made available for public inspection including via the city board's official internet website...</p>

**Section 2590-c. Composition of community district education councils**

2590-c. 1. (a)(2)	For councils whose terms begin in two thousand twenty-one and
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SEE ALSO 2590-c. 8.	thereafter, nine voting members shall be parents whose children are attending a school or a pre-kindergarten program offered by a school under the jurisdiction of the community district, or have attended a school under the jurisdiction of the community district within the preceding two years, and shall be elected by parents of children attending such schools and pre-kindergarten programs in accordance with a process developed by the <del>chancellor</del> [NEW YORK CITY BOARD OF ELECTIONS] pursuant to subdivision eight of this section.
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2590-c. 2(c)	One non-voting member who is a <del>high school senior</del> [STUDENT ATTENDING A HIGH SCHOOL LOCATED IN THE COMMUNITY SCHOOL DISTRICT, OR] residing in the district, SELECTED BY STUDENTS from among the elected student leadership. Such member shall serve for a one-year term.
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2590-c. 4.	Notwithstanding any provisions of law to the contrary, the community district education council may appoint a <del>secretary</del> [ADMINISTRATIVE ASSISTANT], pursuant to the policies of the city board, who shall perform the following functions: (a) prepare meeting notices, agendas and minutes; (b) record and maintain accounts of proceedings and other council meetings; and (c) prepare briefing materials and other related informational materials for such meetings. Each council shall be responsible for the appointment, supervision, evaluation and discharge of the <del>secretary</del> [ADMINISTRATIVE ASSISTANT].
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2590-C.6. (a)	In addition to the conditions enumerated in the public officers law creating a vacancy, a member of a community district education council who refuses or neglects to attend three meetings of such council of which he or she is duly notified, without rendering in writing a good and valid excuse therefore vacates his or her office by refusal to serve. [A MEMBER OF A COMMUNITY DISTRICT COUNCIL WHO IS UNABLE TO ATTEND SIX MEETINGS OF SUCH COUNCIL OF WHICH HE OR SHE IS DULY NOTIFIED, EVEN WITH VALID EXCUSE, THEREFORE VACATES HIS OR HER OFFICE BY INABILITY TO SERVE.] Each absence and any written excuse rendered shall be included within the official written minutes of such meeting. After the third unexcused absence the community council shall declare a vacancy to the chancellor.
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2590-c. 8. (c)(1)	develop selection procedures for community council members which shall attempt to ensure membership that reflects a representative cross-section of the communities within the school district and diversity of the student population including those with particular educational needs, shall include consideration of the enrollment figures within each community district and the potential disparity of such enrollment from school to school within the district, and shall ensure that, to the extent possible, a school may have no more than one parent representative on the community council. Such procedures shall ensure that at least one position on the community
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	<p>council is filled by a parent of a student who is an English language learner or who has been an English language learner within the preceding two years, <del>and</del> at least one position is filled by a parent of a student with an individualized education program, [AT LEAST ONE POSITION IS FILLED BY A PARENT OF A STUDENT ATTENDING A HIGH SCHOOL LOCATED WITHIN THE COMMUNITY SCHOOL DISTRICT, AND AT LEAST ONE POSITION IS FILLED BY A PARENT OF A STUDENT IN A DISTRICT 75 PROGRAM LOCATED WITHIN THE COMMUNITY SCHOOL] and shall allow for the <del>seven</del>[FIVE] remaining positions to be filled by parents who are otherwise eligible;</p>
<p>2590-c. 8. SEE ALSO 2590-c. 1(a)(2)</p>	<p>The <del>chancellor</del> [NEW YORK CITY BOARD OF ELECTIONS] shall: (a) develop a process to ensure a uniform election process for <del>parent associations and parent teacher Associations</del> [ELIGIBLE VOTERS]. Such process shall ensure uniformity with respect to timing of elections and the structure and size of the body.</p>
<p>NEW PARAGRAPH 2590-c. 4(b)</p>	<p>Notwithstanding any provisions of law to the contrary, the chancellor may appoint a Data Access Officer, pursuant to the policies of the city board, who shall perform the following functions: (a) fulfill data requests made by CCECs; (b) articulate what data is available; and (c) accept input on what data should be collected and disseminated over time.</p>