

August 6, 2007

Commissioner Richard P. Mills  
New York State Education Department  
Albany, NY 12234

Comments on New York City's  
Proposed Contract for Excellence

Dear Commissioner Mills:

The Educational Priorities Panel is a coalition of 22 civic organizations that work together to drive more resources to the classroom and to school children with the highest needs. We urge you to reject this initial draft plan and to work with the NYC Department of Education on a revised plan that would:

- Improve targeting of funds to highest-need schools and students; and
- Reduce general education class sizes.

**The Educational Priorities Panel believes that the NYS Education Department needs to seriously consider the overwhelmingly negative feedback about this plan by stakeholders.** NYC school officials released their proposed Contract for Excellence plan to the public through the NYC DoE web site as an assortment of discrete web pages with links to other web pages and attachments. Portions of the plan, most notably information on budget, were coded to preclude web visitors from printing content or copying text. Following the release of this confusing amalgam of memoranda on July 5, 2007, hearings in five boroughs were scheduled to begin on July 9<sup>th</sup>.

Despite the absence of a coherent document and with as little as five days' notice, close to 900 individuals testified before NYC Department of Education officials, predominantly PTA presidents and other parent leaders. A smaller proportion of those giving oral testimony, but still significant in number, were classroom teachers. Education advocates, elected officials, and civic and union representatives were the balance of participants. With the exception of testimony about extraneous subjects and about the purposefully confusing way in which the plan was released, all substantive public testimony expressed disappointment or anger about the plan's objectives. Such widespread public rejection calls for the NYS Department of Education to work with city school officials to develop a more acceptable plan.

**Of equal concern to EPP is that the proposed Contract for Excellence plan varies dramatically from public statements made by the Chancellor and other NYC school officials since 2003 that CFE funds will be used to reduce class sizes in the early grades.** An example of such a statement is the following from *Memorandum Concerning the Sound Basic Education Compliance Proposals*, the legal brief submitted by NYC Corporation Counsel to the Special Masters appointed by NYS Supreme Court Justice DeGrasse on September 1, 2004:

“Research clearly indicates that targeted class size reduction in the early grades allows for increased teacher attention, differentiated instruction, and improved academic performance, including in later grades. These funds will reduce class size to 20 students in grades K-3.” (page 13)

Similarly, when the *Children First Capital Plan* was introduced in 2003, it stated unambiguously that the new capacity program would “implement class-size reduction in 100% of Kindergarten-Grade 3 classes.” (page 9). Since that time, “target capacity,” using a standard of 20 students per class for these early grades, has been the primary measurement for elementary school building utilization. In 2006 when the NYS Legislature adopted the *Excel* budget agreement to restructure funding for New York City’s school capital program, one of the clearly articulated objectives of the plan was that it would allow the reduction of class sizes in these grades to 20 students systemwide.

Inexplicably, the resulting proposed Contract for Excellence plan submitted by the city only offers fractional reductions in class size, and these reductions are actually lower for the elementary grades than for the higher grades. It also seeks to transform an option for overcrowded schools (assigning two teachers to one class) into a program to encourage the inclusion of special education students in the general classroom. Close to 50 percent of “class size reduction” in the city’s plan represents new inclusion classrooms. In district 5 in Harlem, with abundant excess building capacity, new CTT classes make up 70 percent of “class size reduction.” While EPP strongly supports this initiative, CTT classes represent an increase in class size for special education children and not necessarily a decrease in general education class sizes. Further, while EPP strongly supports guidelines that preclude the selection of low-achieving general education students for CTT classes in an effort to prevent such classes from becoming a “bridge class” or “the bottom class,” the end result of this policy is that only higher-achieving general education students will benefit from having two teachers in the classroom. The attempt to meld the two reforms together is untenable from EPP’s perspective.

The NYS Education Department must help guide NYC school officials towards a plan for class size reduction that accomplishes, at a minimum, the goals that they have articulated for the last five years and that reflects the clear directives in this year’s state budget agreement. The following comments represent specific recommendations for a revised plan:

### **Targeting of Funds to Highest-Need Schools and Students**

**EPP’s first recommendation in this area is that the NYS Department of Education should revisit the issue of the funding available to execute New York City’s Contract for Excellence.** We question the NYC Department of Education’s assertion in a Contract for Excellence web page that it “received a total of \$700 million in new State aid and \$300 million in new City aid.” There is \$341 million missing from a true accounting of all available funds. The accurate statement would be that the city school system received \$700 million in new state aid (excluding Excel debt financing) and \$641 million in new city funds. **We believe the amount available for NYC’s Contract for Excellence should be adjusted upwards by \$232 million or, at a minimum, \$143.9 million based on these calculations:**

**\$232 million** A January 31 press release from Governor Spitzer’s press office stated, “When combined with \$2.2 billion in increased spending on education New York City has committed to providing in their four-year financial plan, the total amount of increased spending on New York City schools over the next four years will be \$5.4 billion.” This same estimate of New York City’s contribution appears in the adopted budget on page 50, Section 13-a of A.4307/S.2107, part of enacted legislation. EPP looked at the *New York City January Financial Plan* page 49 of the *Summary* and found that the city’s contribution towards CFE for FY 07-08 was stated to be \$532 million. When the city

budget was actually adopted in June, the total adopted-budget to adopted-budget increase in city funds was \$640.7 million (*Expense, Revenue, Contract* page 55E). The *New York City January Financial Plan* city contribution level should be counted as New York City's "share" of CFE funding this year.

**\$143.9 million** When the city's funding increase is adjusted for a three percent growth in operating expenses, the city's CFE contribution could be said to total \$443.9 million for this coming school year.

This discrepancy in establishing available funding for the Contract for Excellence in New York City needs to be resolved. EPP notes that the language of A.4307/S.2107 only holds New York City responsible for the \$2.2 billion total local contribution at the end of the four years. Are we to believe that the next New York City mayor is to be held responsible for this amount, with no oversight by state education officials of annual CFE contributions by the current mayor? Why has the NYC Department of Education failed to account for the full \$640.7 million increase in city funds from FY 07 to FY 08?

**EPP's second recommendation is that the NYS Education Department must ensure that Contract for Excellence funds are targeted to high-need students.** EPP utilized a DoE chart that totaled Contract for Excellence funds by district to ascertain per-pupil amounts. Our comparison of these per-capita amounts of the seven highest-poverty districts and the seven lowest-poverty districts found that, on average, high-poverty districts received \$270 per student, about \$110 more per pupil than lowest-poverty districts (\$160). The surprise was the differences in per-pupil funding within each group. For example, in the low-poverty group, District 2 received \$215 per pupil while District 29 only received only \$111 — a \$100 difference. In the high-poverty group, District 12 received \$403 per pupil, twice as much as District 19 (\$199).

It is unfortunate that, in this first year of CFE funding, the NYC Department of Education officials have chosen to change the system for allocating funds to schools from one that funds teachers (based on salary schedules determined by seniority) to one that funds students on a per-capita basis with very modest weights for need. Supposedly, the Fair Student Funding system was geared to driving funding to high-need schools, but the intellectual author of this per-pupil funding system, Dr. Margarita Rosa of Washington State University, readily states in *Frozen Assets* that another objective is to reduce the number of senior teachers in any school system that adopts this allocation system. Her assertions have been borne out by the first-year experience with Fair Student Funding. The student-need weights for poverty and English Language Learners are so far below the state's weights for high-need students that the major shift of funding was not towards higher-need schools but simply schools and districts with lower average teacher seniority. Contrary to expectations, many Title 1 schools and low-performing schools are now being funded on a "save harmless" basis for one year because their funding level in the previous year was higher than the FSF level. These are, for the most part, schools with more senior teachers. These schools will not be getting Contract for Excellence funds. The result is poor targeting of Contract for Excellence funds.

**The pertinent issue is how to correct the fact that the city's Contract for Excellence plan does not target funds according to this year's state budget agreement.** One possibility is to require that NYC Department of Education increase its student-need weights and thus provide Contract for Excellence funding to more schools. Another possibility, outlined in the next section, is to provide an additional teaching position (based on a systemwide average teacher salary) to all Title 1 schools.

## Reduction of General Education Class Sizes

This is a propitious time to require a five-year plan for class size reduction. Over this time period demographic trends will dramatically increase school building capacity in all but four community school districts. The Grier Partnership demographic projections released in January 2007 found that:

- There was an enrollment decrease of **49,044** students from 2000 to 2005;
- From 2005 to 2010, enrollment will further decrease by **64,826** students;
- By 2015, only **four** community school districts will gain student enrollment at the elementary and middle school level;
- By 2015 enrollment in high schools will drop significantly by **70,876** students.

These demographic changes, coupled with the capacity building projects of the NYC capital plan targeted to districts with school overcrowding, should result in the elimination of any barriers to class size reduction.

In reality, these barriers only existed in a third of the city's 32 community school districts. Ever since EPP has been monitoring school building capacity, systemwide there have always been more seats than students in the elementary and middle schools. As of 2005, elementary schools have excess capacity of **49,008** seats, according to data from the NYC Department of Education, using the "target" capacity measurement that assumes class sizes of 20 students in the early grades. Only eight community school districts have no excess capacity in elementary schools. Over the years, there has been middle school excess capacity of between **35,000 to 39,000** seats systemwide. Middle school overcrowding has existed in only eleven community school districts. While high schools have remained overcrowded, the addition of extra instructional periods has always remained a viable option for reducing class sizes at these grade levels.

While demographic trends explain, in part, why suburban and rural school districts have been able to reduce their class sizes over the last three decades, the city's more recent enrollment decreases have not resulted in class size reduction, despite more than \$160 million annually in federal and state funds to support this effort. One of the reasons for this is that since 2003, when the NYC school district developed school-based budgets, the administration has adhered to a strict policy of reducing tax-levy instructional funding (on average, \$2,500 per student) whenever there has been a drop in enrollment even by one student. In the 2006-07 school year, budget deductions because of enrollment declines resulted in a total decrease of \$40 million in teacher funding to schools. There are other policies, such as insufficient funding for out-of-classroom staff and favoritism towards current initiatives, that have resulted in widespread reports by parents that their children are in large classes of 28 to 32 students. In short, because of these New York City budget policies, class sizes will remain constant and show no reduction systemwide without a concerted plan to do so.

It should be noted that NYC Department of Education statistics, purporting to show modest declines in class size, are viewed with great skepticism in New York City. Even the Mayor's Management Report used different statistics. EPP still finds the parameters for the data to be highly questionable (classes from six students to ninety nine students). In all our school visits, none of our representatives have ever seen a general education class size of six students. School budgets are so inflexible that principals have been known to resist creating classes for English Language Learners for fifteen students when required by regulations to do so. We continue to suspect that classes for ELL students and remediation sessions are thrown into the mix and that general education students in CTT classrooms are counted as one "class" and special education students in the same classroom are counted as another "class."

In the past, the NYC school district successfully implemented a large-scale class size reduction program. General education classes averaging 32 students from first to third grade were reduced to below 25 students in a four-year period of time during the administrations of Chancellors Macchiarola and Quiñones in the early 1980's. Part of the success of this initiative is that after an uneven implementation in the first year, with many elementary schools out of compliance, Chancellor Quiñones required that classes be capped at 25 students. This clear guidance ensured that smaller classes were adopted systemwide and that extra funds were not used to close the ever-present shortfalls in funding for out-of-classroom staff. Systemwide capping also reduced average class sizes in the target grades by one or two students below the class size limit. Another successful aspect of this initiative was that class size reduction was sequentially introduced, so that entry grades were reduced first. This implementation strategy was sound. Subsequent research findings of the Tennessee STAR program and Wisconsin SAGE program found that a one-year immersion in a smaller class at second or third grades had negligible impact on student achievement.

EPP believes that New York City's prior success with class size reduction can be duplicated. Kindergarten classrooms are an urgent matter. With \$232.2 million invested annually for universal pre-K programs in New York City, all the benefits from this program are dissipated by overly large class sizes in public school kindergarten classrooms. Almost all public school kindergarten class sizes do not meet the New York City's Department of Health standards for child-to-adult staff ratios required for day care centers and private pre-K programs. While EPP's concerns are debatable as to whether or not there is a risk that pre-K programs, especially those in public schools, are developmentally inappropriate for four-year olds, there is no debate about the need to have pre-K graduates move on to good kindergarten programs. A "good start" will remain largely a slogan unless all kindergarten class sizes fall below 20 students.

**EPP's strong recommendations are that entry-level class sizes be reduced first in elementary, middle and high schools and that caps be used to ensure that these reductions are implemented uniformly.** An ideal class-size reduction program would have these seven characteristics:

#1 For the first year. The plan would cap entry grades in Title 1 elementary schools to 20 students (kindergarten) and Title 1 middle schools to 24 students (5<sup>th</sup>, 6<sup>th</sup> or 7<sup>th</sup> grades) and Title 1 high school English Language Arts and Math subject classes to 25 students. "Schools Requiring Academic Progress" (low-performing, non Title 1 schools) would also have these entry grades capped. In order to avoid the transfer of teachers from low-income areas to middle-class areas or better-performing schools, class size reduction should be initiated in Title 1 and SRAP schools first.

#2 In the second year, the plan would extend this entry-grade initiative to non-Title 1 schools in New York City, and require capping of first grade to 20 students in all Title 1 schools. Achievement results of capping entry-level middle schools classes (on the basis of test outcomes) and high school subject classes (on the basis of credit accumulation) should be evaluated before extending class size reduction to the sequential grade at these schools.

#3 In the last three years of the plan, continue to reduce class sizes up through the third grade through capping grades sequentially in Title 1 schools first and then subsequently in non-Title 1 schools. This schedule, unfortunately, would result in larger third grades in non-Title 1 schools, but the NYS Legislature might be willing to provide additional funding to complete this process.

#4 Allocations to schools for class size reduction would be in the form of an additional teacher position so as to avoid class size increases in higher grade levels. Because schools

are now either funded on a “save harmless” basis or a Fair Student Funding basis, this new teaching position, for the sake of simplicity, should be based on a citywide average teacher salary.

#5 The plan would employ the methodology used by the Office of the NYS Comptroller in its 2002 and 2006 audits that tracked additional classes formed at each grade level above current baseline numbers, but this methodology would have to be adjusted to account for enrollment declines at the school level. NYC DoE data on class size averages are so seriously flawed as to preclude their use for the Contract for Excellence.

#6 The expansion of the CTT program would be categorized as improvements in “Time on Task” to preserve the integrity of this reform and to ensure that higher-achieving general education students remain in these classrooms to model learning and behavior for students with disabilities.

#7 Based on alignment with the *Children First* capital plan, the option of assigning two teachers to one classroom to “reduce class size” would only be allowable in community school districts that are judged sufficiently overcrowded as to require future capacity projects. The NYC Department of Education cannot have it both ways. In the plan submitted by New York City, school districts that have been denied capacity projects because they are “not overcrowded” have been designated as requiring two teachers in the classroom, presumably because of “overcrowding.”

The NYC school district has requested that a portion of the state LADDER class size reduction funds, \$30 million, be added to the Contract for Excellence funding base. EPP recommends that \$45 million of these LADDER funds support the first-year implementation of class size reduction for all entry grades in Title 1 schools.

EPP has many other reservations about New York City’s proposed plan, but we have chosen to highlight our two major concerns. From the beginning the Contract for Excellence structure seemed primarily designed for administrative convenience of school officials. What has occurred is that this process has been interpreted by NYC school officials as an opportunity to further refine their efforts to manage instruction. The Campaign for Fiscal Equity lawsuit, on the other hand, was premised on providing adequate resources to the New York City school system. Even the Zarb Commission, using very conservative measurements, found that school districts in low-cost regions of the state have more resources for their children to succeed than city’s school system. If better management is all that it takes to close the achievement gap, then the lawsuit was entirely unnecessary. The courts made a different determination. It is absolutely essential that CFE funds be spent at the classroom level, especially for the highest-need students.

The proposed New York City Contract for Excellence plan substitutes a management plan for a resource plan. It should be remembered that measuring a cow is not the same as fattening it. Targeted investments to solve the key problems cited at trial and by judicial rulings should be the primary focus of any plan for “Excellence.”

Sincerely,

Marilyn Braveman  
Chairperson

Noreen Connell  
Executive Director