



COMMUNITY EDUCATION COUNCIL DISTRICT 3

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Resolution to Oppose an Increase in the State Charter School Cap and City Charter School Subcap

Approved as amended at the April 17, 2019 CEC3 Business and Calendar Meeting by a Roll Call Vote of the CEC3 members present at the time of the vote (10 in favor / 0 Opposed / 0 abstain)

WHEREAS, the Educational Council Consortium (ECC) unanimously passed a resolution opposing an increase of the New York State cap on charter schools and subcap on New York City Charter Schools, as well as calling for an independent audit of current charter schools on February 9, 2019 (the “ECC Resolution”);

WHEREAS, CEC3 hereby approves the content of the ECC Resolution and opposes any amendment to the New York State Charter Schools Act of 1998 (the “Charter Act”) that would increase the “Cap” on the total number of Charter schools authorized in New York State or the existing “Subcap” limiting the number of Charters granted in New York City;

WHEREAS, New York State embarked on an experiment to allow 100 publicly funded Charter schools pursuant to the [Charter Act](#)¹;

WHEREAS, amendments to §2852(9) of the Charter Act in 2010 expanded the statewide Cap to 460 Charters; it also limited the Subcap in New York City to 114; 57 to be issued by the New York State Education Department Board of Regents (the “BOR”) and 57 to be issued by the State University of New York (“SUNY”);

WHEREAS, further amendments to §2852(9) of the Charter Act in 2015 recognized that New York City was becoming oversubscribed by Charter schools and created a subcap which limited the number of Charters granted in New York City after July 1, 2015, to an additional 50 Charters and *no more*. Also in 2015, 22 previously surrendered Charters were made available for reissue by SUNY or BOR;

¹ https://www.nyccharterschools.org/sites/default/files/resources/NYSCharterSchoolsActof1998_with2014amendments_0.pdf

WHEREAS, according to the [NYSED Charter School Directory](#)², 385 Charter schools have been authorized to operate in New York State. As of March, 2019, 99 Charters remain available for issue in New York State outside of New York City;

WHEREAS, according to the [NYSED Charter School Office](#)³, no Charters remain under the Subcap, and as of [March 4, 2019](#)⁴, no Charters remain available of the 22 Charters revived in 2015;

WHEREAS, New York City, with only 39% of the state's students but 80% of the state's Charter schools, houses more than its fair share of Charter schools and faces an outsized impact from the Charter experiment;

WHEREAS, §2852 (9-a)(b) of the Charter Act clearly states the intent of the Charter experiment is to permit Charter schools *in a region or regions where there may be a lack of alternatives, and access to charter schools would provide new alternatives within the local public education system that would offer the greatest educational benefit to students*;

WHEREAS, New York City is oversaturated with Charter schools. The [NYSED Charter School Directory](#)⁵ currently lists 260 Charter schools in New York City: 97 Charter schools in Brooklyn, 77 Charter schools in the Bronx, 53 Charter schools in Manhattan, 27 Charter schools in Queens, 6 Charter schools in Staten Island, and more to open in all boroughs;

WHEREAS, New York City, with 80% of the state's Charter schools on top of a bounty of public and private options, is demonstrably not a region with a lack of alternatives as originally contemplated by §2852 (9-a)(b);

WHEREAS, for perspective, nearby Suffolk County has only 1 Charter school and rural counties, such as Schoharie County, Tioga County, Yates County, Herkimer County, and Orleans County have no Charter schools;

WHEREAS, there is no need to increase the statewide Cap to serve these counties because there is ample room under the current Cap to provide Charter school options to rural and suburban communities;

WHEREAS, Charter schools are an unproven experiment that continues to grow, predominantly in New York City, while other parts of the state with far fewer local alternatives go ignored;

² <http://www.p12.nysed.gov/psc/csdirectory/CSLaunchPage.html>

³ <http://www.p12.nysed.gov/psc/facts/nyscsfactsheet1042019.pdf>

⁴ <http://www.newyorkcharters.org/wp-content/uploads/March-4-Press-Release-Final.pdf>

⁵ <http://www.p12.nysed.gov/psc/csdirectory/county/map.html>

WHEREAS, Charters schools siphon substantial public funds and resources away from public schools through co-locations offered to Charter schools rent-free or rental assistance on costly private facilities;

WHEREAS, pursuant to amendments to §2853 of the Charter Act in 2014, the city school district *must offer at no cost to the Charter school a co-location site in a public school building or offer the Charter school space in a privately owned or other publicly owned facility at the expense of the city school district and at no cost to the Charter school*;

WHEREAS, New York City spent approximately [\\$44 million](#)⁶ in fiscal year 2018 to cover the quickly growing cost of Charter schools operating in private facilities;

WHEREAS, a Cap or Subcap increase under amendments to §2853 of the Charter Act in 2014, would divert even more public funds and space resources away from public schools;

WHEREAS, Charter schools lack sufficient oversight and accountability by design;

WHEREAS, Charter schools in New York City are classified as District 84, which is not governed by a superintendent;

WHEREAS, Charter Management Organizations (“CMOs”) operate free from public oversight and FOIL;

WHEREAS, a Cap or Subcap increase would further weaken public accountability by placing even more public funds and space resources under private CMO management;

WHEREAS, Charter Management Organizations run multiple Charter schools and effectively act as parallel independent school districts that operate free from public oversight;

WHEREAS, Charter school advocates, such as the [New York City Charter School Center](#), encourage this structure through controversial interpretations of the Charter Act (as amended in 2010). The organization advised Charters to form Charter school districts in 2010,

The legal details are unclear, but by the Charter Center’s reading of the law, two or more charter schools can now choose to merge into a single school, managed by a single board - but operating multiple campuses with multiple charters. In other words: a charter district⁷;

WHEREAS, a Cap or Subcap increase would encourage CMOs to prioritize their own growth disconnected from actual district need, through this Charter district structure;

⁶ <https://www.chalkbeat.org/posts/ny/2018/03/02/new-york-city-charter-school-rent-costs-to-jump-63-percent-this-year/>

⁷ http://www.nyccharterschools.org/sites/default/files/resources/guide_to_new_charter_law_updated_092910_0.pdf

WHEREAS, the substantial use of public resources by Charter schools combined with a lack of oversight merits regular financial audits of all Charter schools and their CMOs through the state or city comptroller with enforced recommendations;

WHEREAS, according to §2854(1)(c) Charter schools shall be subject to audit either by the state or the city comptroller;

WHEREAS, to date only four audits of Charter schools have ever been performed by the New York City Comptroller. Moreover, it is unclear whether Charter schools have complied with the recommendations of those audits;

WHEREAS, when the New York City Comptroller conducted an audit of Success Academy in 2016, the Charter school objected to the conduct of the audit, disagreed with most of the findings, and did not respond to any of the [audit recommendations](#)⁸;

WHEREAS, the lack of transparency inherent in CMOs can make it difficult to know if funds intended for special education services are actually being allocated to IEP students. It can also be impossible for a Charter school's own board to know how much per-pupil funding goes to the student or to the CMO;

WHEREAS, any further Cap or Subcap increase under these circumstances would represent a betrayal of the public trust and privatization of public resources by CMOs;

WHEREAS, there has been no independent system-wide evaluation of Charter schools and their impact. According to §2851(2)(q) of the Charter Act, Charter applicants shall provide *an assessment of the projected programmatic and fiscal impact of the school on other public and non-public schools in the area.*

BE IT THEREFORE RESOLVED, that a five-year moratorium on issuing new Charters in New York City be imposed;

BE IT ALSO RESOLVED, that no law shall be passed that allows for an increase of the number of charter schools in New York City or New York State;

BE IT ALSO RESOLVED, that an outside independent evaluator be hired to begin a comprehensive, state-wide evaluation of all charter schools currently in operation. This audit would include, but would not be limited to the assessment of educational programming; academic impact over districts counties, and cities; fiscal impact of charter schools on district schools; fiscal impact of co-locations and rental reimbursement; impact of charters on segregation and integration within districts, counties and cities; performance impact from innovative curricula or manage-

⁸ <https://comptroller.nyc.gov/reports/audit-report-of-success-academy-charter-schools-nycs-oversight-of-financial-operations/>

ment paradigm, social impact of charter schools on their students; enrollment and retention practices; production and management of waitlists, and whether any charter innovations should be integrated into the larger public school system.