

Testimony from the New York City Charter School Center on the Executive Budget Proposal Fiscal Year 2020-2021

NYS Legislature Joint Budget Hearing Of the Senate Committee on Finance And The Assembly Committee for Ways and Means

The New York City Charter School Center (Charter Center) respectfully submits the following testimony regarding the FY 2020-2021 New York State Proposed Executive Budget. The Charter Center, which provides technical support and advocacy on behalf of New York City charter schools, thanks the Senate Finance Committee and the Assembly Ways and Means Committee for providing the opportunity to comment.

The New York State Charter Schools Act was passed by the Legislature over 20 years ago and today there are 260 public charter schools operating in the five boroughs of New York City. These public schools employ an estimated 10,500 public school teachers and educate around 129,000 students, of which almost 117,000 are African American or Latinx. New York's public charter schools are serving primarily low-income New York City families (78.54% are economically disadvantaged) and charter students represent 11% of public school students in New York City.¹

More and more New York City families continue to choose New York City charter schools (NYC charter schools) as the right public school for their children. Enrollment growth over the last three years has averaged 7.5%, all because families are choosing charter schools (no child is ever assigned to a charter school). Unfortunately, exercising the right to enroll your children in a public school that is a good fit for them comes with a severe price if that family's choice happens to be a NYC charter school. That price is less funding, much less, per pupil. The Proposed Executive Budget will not erase the large disparities that make NYC charter schools the least well-funded public schools in New York City by thousands of dollars on a per pupil basis. However, it rightly recognizes the disparity and seeks to ameliorate it, albeit modestly. The proposal is equitable; it deserves your support.

¹ For more information about New York City's charter school sector, please see Appendix A.

- 1. Charter school students in New York City receive far less funding and less overall public support than students enrolled in New York City Department of Education traditional district schools and are the least well-funded public schools in New York City.**

Historically, charter schools have been underfunded compared to district schools. The only variable has been the size of that differential. The differences vary depending on the year in question, the particulars of the facilities (and facilities funding) the charter school has access to, and the methodology employed to measure the differential.

The Independent Budget Office of the City of New York (IBO), an arm of New York City's government, has calculated the total amount of public support per student for charter schools in New York City and compared that to total public support provided to students in traditional district schools.² This methodology has the advantage of capturing average spending by New York City Department Of Education (NYC DOE) and also, importantly, computes and attributes various in-kind contributions that charter schools receive from NYC DOE including transportation, co-location benefits and services. Such benefits are not captured in a direct comparison of charter school spending to all in spending by NYC DOE.

Using data from fiscal year 2016-17 (the last time the IBO conducted this review), the IBO has found that NYC charter schools were underfunded between more than a thousand dollars to up to \$4,863.³ The amounts vary due to the fact that some charter schools are co-located at no cost, others are in private space and receiving rental assistance and some schools are neither co-located or eligible for rental assistance.⁴

² See IBO's *Charter Schools Versus Traditional Public Schools: Comparing the Level of Public Support in School Year 2014-2015* for a full explanation of the IBOs methodology, available at https://ibo.nyc.ny.us/iboreports/charter_schools_versus_traditional_public_schools_comparing_the_level_of_public_support_in_school_year_2014_2015_july_23_2015.pdf.

³ See *With State Formula for Charter School Funding Likely to Change, City Costs to Grow More Than Budgeted*, available at <http://www.ibo.nyc.ny.us/iboreports/with-state-formula-for-charter-school-funding-likely-to-change-city-costs-to-grow-more-than-budgeted-march-2017.pdf>.

⁴ Charter Schools first providing instruction after June 2014 are eligible for rental assistance as are grades that a charter school first provided after that date.

Charter school's building status	Amount underfunded per pupil in comparison to district schools
Co-located in city owned school building	\$1,145
Privately owned building, school receives some rental assistance	\$2,057
Privately owned building, school does not receive rental assistance	\$4,863

As a percentage of public support for district schools, these per pupil differentials equate to receiving 5.7%, 10.2% and 24.2% less than district schools. In an average sized school of 500 students, the differential in 2016-17 could be as much as \$2.4 million a year less in funding. Notably, this amount is more than the underfunding experienced by almost every one of 1,700 NYC DOE schools (as measured by the difference between what the Fair Student Funding formula calls for and what the school actually receives).⁵

While the IBO methodology provides a true “apples-to-apples” comparison of district and charter per pupil public support, the all-in spending numbers for NYC DOE and charter schools in New York City are worth reviewing. For the 2019-20 school year, NYC DOE will expend an estimated \$30,469 per pupil.⁶ In comparison, charter per pupil funding for FY 2019-20 comes in at \$16,343 per pupil. Of course, the all-in figure for NYC DOE includes federal funding as well as expense aid items such as transportation and debt service, items which many charter schools receive as in-kind contributions. Thus, there is no doubt that this methodology overstates, to some degree, the differential. But it is equally true that it illustrates the same pattern of disparities that the IBO has reported using its “public support” methodology and that such disparities are large and likely growing over time. What is not in doubt is that charter schools are the least well funded public schools in New York City.

⁵ Notably, the eight NYC DOE schools who had a bigger funding gap are all comprehensive, large high schools that enroll four or five times as many students, e.g., Brooklyn Tech and Frances Lewis High. In other words, the funding gap on a per pupil basis for these most underfunded district schools (the gap between what Fair Student Funding promises and what they actually get) is four or five times less than the gap in funding experienced by a non colocated charter school that does not receive rental assistance and an average NYC DOE school. See <https://ibo.nyc.ny.us/iboreports/fair-student-funding-btn-ocotber-2018.pdf>.

⁶ Estimated based on the average increase in DOE's per pupil over the last 5 years based. See <https://ibo.nyc.ny.us/iboreports/education-spending-since-1990.html>.

2. The increase in per pupil funding that NYC charter schools are slated to receive in the 2020-21 school year is proportionate to increases that NYC DOE schools and students have received and will receive and is, therefore, equitable in every respect.

Increases in charter school funding are calculated, pursuant to a statutory provision agreed to as part of the budget negotiations in 2017. The statutory formula provides that for purposes of calculating the increase from the 2019-20 to 2020-21 school year, the charter school per pupil shall be increased by the average of the annual increase in district expenditures for the prior three years starting with the year two years prior to the current school.⁷ This means for the 2020-21 school year, the increase for New York City students is based on average increases in NYC DOE expenditures for the 2016-17, 2017-18, and 2018-19 school years. Spending at NYC DOE has increased an average 5.6% over these three years. This results in a statutory increase in charter funding of \$899 (5.6%) from \$16,150 to \$17,049 in the 2020-21 school year.

Year	Approved Operating Expenditures for NYC DOE ⁸	% Increase
2016-17	\$ 21,695,189,525.00	5.3831170%
2017-18	\$ 22,954,639,990.00	5.8052061%
2018-19	\$ 24,218,916,961.00	5.5077186%

While this increase of \$899 dollars is sizeable, it should be noted that even if state aid increases at a lower rate (the governor has proposed a 2.6% increase), NYC DOE students will almost certainly see no less an increase in per pupil expenditure in the 2020-21 school year. This is the result of two factors: First, as noted above, NYC DOE per pupil expenditure is already thousands more than charter schools in New York City receive. Second, New York City has been increasing its local contribution to NYC DOE's budget at a percentage increase that is much greater than the percentage increase in state aid.⁹ If this trend continues, and there is no reason to believe it will not, NYC DOE students will once again benefit from an equivalent and very generous increase in per pupil expenditure in the 2020-21 school year. This increase will be in line with what students in charter schools will experience, which is equitable.

As explained above, increases in per pupil funding to NYC DOE district school students and charter school students will be more or less equivalent for the 2020-21 school year. However, anti-charter

⁷ See Education Law Section 2856(1)(a)(viii).

⁸ See Approved Operating Expenditures (AOE), available at SAMS Public Reports at: <https://stateaid.nysed.gov/sams/>.

⁹ See <https://ibo.nyc.ny.us/iboreports/education-spending-tables-january-2020.pdf>

advocates have deceptively claimed that the charter school funding increase for the 2020-21 school year is unfair. These claims rely on comparing the (not finalized) increase in state aid to the increase that state law dictates charter schools will receive. Comparisons between increases in one stream of aid (state aid) and total aid are, of course inapposite and inappropriate especially when local aid in New York City is close to 50% of total aid upon which NYC DOE relies. These comparisons are meant to confuse, not enlighten. They also ignore the larger point that charter schools are underfunded no matter what increase charter schools receive and NYC charter schools remain the most underfunded district schools on a per pupil basis in New York City. Neither the UFT nor any other entity has made a claim to the contrary.

3. The Governor has proposed an additional grant of \$24.9 million to charter schools in New York City (distributed on a per pupil basis). This grant should be approved.

The governor has proposed a one-time grant of \$24.9 million to charter schools in New York City to be distributed based on enrollment as of February 1, 2021. While the amount per pupil depends on the precise number of students enrolled, the amount of additional per pupil is estimated to be in the range of \$175 to \$190. Given that charter funding is documented to be, on a per pupil basis, already thousands of dollars less than per pupil expenditure for NYC DOE's own students, the grant should be supported. It is necessary, though not even close to sufficient, to overcome this disparity and is equitable in the context of overall trends and patterns in charter school and NYC DOE funding.

It is also notable that, if passed, this would bring the increase in charter funding for NYC charter schools from 2019-20 to 2020-21 to about 5.3%, still less than the average increase NYC DOE has experienced on average over the last three years.

Finally, the Charter Center is also strongly supportive of the Governor's proposal to allow the re-issuance of already closed charters. New York City has had not had charters available since March 2019 and there are currently 11 quality teams (6 have been formally approved by an authorizer) ready to open new charter schools. This does not account for the numerous teams that are interested or the parents that were not able to get a seat in a charter school. Last year the Charter Center estimates that there were 81,300 unique applicants for 33,000 available seats. The Governor's proposal, if passed, would make 18 to 20 charters immediately available and a small number of charters available each year following. While we appreciate and support the proposal, this is not a sustainable and sufficient pipeline for the charter sector and we still need an elimination of the cap or a lifting of the geographical restrictions, which would make 96 charters available to New York City.

APPENDIX A

Additional Information about New York City's Charter Sector

Charters are Open to all Students¹⁰

Charter schools are open to all students and must accept all students that apply if they are New York state residents. Charter are permitted to provide preferences for English Language Learners, students receiving special education services and students from low income families or who at-risk (e.g. homeless, living in public housing). A random lottery is used only when there are more applicants to a school than there are available seats. All enrollment procedures are regulated by and overseen by the charter's authorizer, either the Board of Regents, the State University of New York, or the New York City Department of Education (which is not able to issue new charters).

Charters are Subject to Rigorous Accountability and Transparency Standards

Charters are only authorized after submitting a detailed application that outlines, among other things, the applicant team and Board's expertise, research supporting the proposed curriculum and plans for financial sustainability. Schools must also demonstrate that their school fills a need in the neighborhood by surveying parents with age-appropriate students, meeting with, and securing endorsements from community-based organizations and local elected officials. Most applicants who apply for a charter do not receive them, for example between 2016 and 2019 only 27% of applicants were authorized.

The authorizers approve the systems and educational practices of the school both prior to its opening and whenever the school wishes to make material changes to its practices. In addition, each charter must apply to its authorizer to be renewed every five years. As with all nonprofit organizations in New York, the State Attorney General's office may investigate a public charter *school's* operations when criminal activity is suspected. The New York City Comptroller has the authority to audit financial operations, and the provision of special education services is overseen by the New York City Department of Education's Committees on Special Education (itself regulated by NYSED). Additionally, when a public charter school is in a publicly owned school building in New York City, the NYC DOE's Panel for Education Policy must approve its use of the space. All state laws regarding the health and safety and civil rights of public school students must be followed by public charter schools and the teachers who educate charter school students must be certified or qualify for an exemption within the framework set under state law. Nonprofit boards of trustees form the schools' governance structure and they are charged with hiring school staff capable of ensuring the school lives up to the accountability structure set out in its charter. When a charter school fails, the authorizers revoke the charter, and the school is closed.

¹⁰ See Education Law Section 2854(2).

New York State's governmental agencies have overseen this governance and accountability system for charter schools, providing an effective system of checks and balances to a sector of public schools. New York State is generally viewed as having an exemplary charter school sector and oversight structure, resulting in a set of schools that are both well-regulated and well-performing.¹¹

NYC Charter Students are Outperforming their District and State Peers

The city's charter schools are outperforming the district and the state in proficiency rates under the state's Grades 3-8 assessment program. Last year, 63.2% of charter school students were proficient in math, compared to 45.6% in New York City traditional district schools, and 46.7% in the state. In ELA, 57.3% of students tested proficient compared to 47.4% in the district and 45.4% in the state. Numerous gold standard research projects, which take account of demographic differences and measure performance longitudinally, have also shown a highly positive charter effect. Not surprisingly, parent demand is high, and there are not enough seats for families who want their child in a charter school. Last year the NYC Charter School Center estimates that there were 81,300 unique applicants for 33,000 available seats.

NYC Charters and NYC DOE Collaboration

In recent years, and in recognition that there is much to learn, charter schools and the district have begun working in partnership. The district has opened up its considerable expertise to charter schools, inviting them to professional development seminars and other opportunities, and charter school leaders and teachers are grateful to the district. In turn, charter schools have been providing development to district educators in such areas as math instruction, providing effective teacher feedback and preparing students to succeed to and through college. This work is maturing and growing at a rapid rate and superintendents are taking advantage of these new opportunities to work collaboratively. This work is highly promising and beneficial for both charter and district schools alike.

¹¹ For more information and citations see: "Charter School Accountability and Oversight," available <https://www.nyccharterschools.org/sites/default/files/resources/Charter-School-Accountability-Oversight.pdf>.

