



# COMMUNITY EDUCATION COUNCIL - DISTRICT 17

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## Community Education Council District 17 Resolution to Oppose Increasing New York State Charter School Cap and City Charter School Cap; Demand Moratorium on Charter School Placement in the Borough of Brooklyn; and Request to Pursue Changes to Charter School Oversight

The Community Education Council for District 17 (hereafter referred to as CEC17) is a group of parents and community members who have been elected or appointed to serve Crown Heights, Prospect Heights, Prospect Lefferts Gardens, and beyond, representing thousands of public school students and their families. This resolution joins together the data presented by Community School District 15 and the Education Council Consortium with our own to address the matter of aggressive charter school oversaturation combined with a disconcerting lack of oversight.

WHEREAS, New York State embarked on an experiment to allow 100 publicly funded Charter schools pursuant to the New York State Charter Schools Act of 1998;

WHEREAS, amendments to §2852(9) of the Law in 2010 expanded the statewide Charter Cap to 460 Charters;

WHEREAS, amendments to §2852(9) of the Law in 2010 also limited additional Charters in New York City to 114; 57 to be issued by the NYSED Board of Regents (BOR) and 57 to be issued by SUNY;

WHEREAS, further amendments to §2852(9) of the Law in 2015 recognized that New York City was becoming oversubscribed by Charter schools and 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;

WHEREAS, according to the [NYSED Charter School Directory](#)<sup>2</sup>, 365 Charter schools have been approved to operate in New York State. As of January 4, 2019, 99 Charters remain available for issue in New York State outside of New York City;

WHEREAS, according to the [NYSED Office of School Charters](#)<sup>3</sup>, no Charters remain under the Charter Subcap and only seven Charters remain available of the 22 Charters revived in 2015;

**WHEREAS, New York City, with only 39% of the state's students but 71% 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 Law 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, the NYSED Charter School Directory lists 260 Charter schools in New York City. This constitutes at least 71% of Charter schools statewide and does not include at least 22 new Charter schools approved since October 4, 2018, of which 20 will reside in New York City (as compiled from SUNY press releases and BOR minutes);

WHEREAS, New York City is oversaturated with Charter schools. The [NYSED](#)<sup>4</sup> currently lists 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 at least 71% 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, Brooklyn's CECs are uniquely positioned to address the Cap as Brooklyn is the borough with the greatest number of New York City Charter schools (37% of all New York City Charter schools), with District 17 currently containing the largest number of charter schools in the borough at seventeen (17) schools, and with more expected in the coming year. By extension, Kings County has more Charter schools than any other county in the state;

WHEREAS, for further perspective, neighboring District 15 has four (4) charter schools; 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 (0) 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;

WHEREAS, upon examination of the NYSED's Charter school data, county by county, reveals that the location chosen for Charter schools is not correlated to academic need. This is exemplified by persistently low performing rural counties with few or no Charter schools;

WHEREAS, in New York City, Charter Management Organizations (CMOs) run multiple Charter schools and effectively act as parallel independent school districts that operate free from public oversight, including some in District 17, such as Achievement First, Explore, and Success Academy;

WHEREAS, Charter school advocates, such as the [New York City Charter School Center](#), encourage this structure through controversial interpretations of the Law (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 district<sup>5</sup>;*

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

WHEREAS, New York City spent approximately [\\$44 million](#)<sup>5</sup> 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 Law 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 place even more public funds under private CMO management through this Charter district structure;

**WHEREAS, there has been no independent system-wide evaluation of Charter schools and their impact. Such an evaluation should occur before considering any further Cap or Subcap increases;**

WHEREAS, an independent evaluation should assess the actual programmatic and fiscal impact of Charter schools on other local public and nonpublic schools before considering any further Cap or Subcap increase. According to §2851(2)(g) of the Law, Charter applicants shall provide *an assessment of the projected programmatic and fiscal impact of the school on other public and nonpublic schools in the area*. This projection should be compared to the actual impact;

WHEREAS, an independent evaluation should also analyze the actual academic impact of Charter schools over entire regions (districts, counties, and cities) before considering any further Cap or Subcap increase;

WHEREAS, an independent evaluation should analyze the extent to which a Charter school's performance arises from the school's unique curriculum or management versus performance increases that arise from educating self-selecting populations, rather than the entire student population;

WHEREAS, an independent evaluation should also analyze the academic and social impact of Charter schools on their students;

WHEREAS, an independent evaluation should examine and develop a system to monitor Charter school enrollment and retention practices;

WHEREAS, an independent evaluation should identify and analyze any educational innovation(s) employed by high performing Charter schools;

WHEREAS, any educational innovation(s) deemed successful and appropriate should be integrated into public schools system-wide; and

WHEREAS, after such an independent evaluation, underperforming Charter schools should be closed, and those Charters revived before requesting any further Cap or Subcap increase;

Community Education Council District 17, therefore, joins its neighboring Districts 15 and 17, and

**RESOLVES, to propose a five-year moratorium on issuing new Charters in New York City and complete a system-wide impact evaluation.**

We respectfully ask the Governor, Mayor, Members of the New York State Senate and Assembly, the Schools Chancellor, the New York State Board of Regents, the New York City Board of Education, the Board of Trustees of the State University of New York, and our local Community Education Councils to support a Five-Year New York City Charter Moratorium and join us in opposing any proposed amendment to the New York State Charter Schools Act that would increase the Charter School Cap or the New York City Charter School Subcap.

Over the last decade, several factors have allowed for tremendous Charter school growth in New York City, two of which are addressed in this Resolution. First, increases to the New York City Charter School Subcap have led to 260 NYC Charter schools with more on the way.

Second, Charter schools have interpreted the New York State Charter Schools Act in such a way that enabled the creation of Charter school districts. These parallel independent school districts flooded our city as networks run by Charter Management Organizations (CMOs) that prioritize their own growth disconnected from actual district need and mostly free from public fiscal oversight.

Prioritizing oversight and need, CEC17 has concluded that any increase in the Charter School Cap or New York City Charter School Subcap would weaken public accountability by diverting more **public** resources to vast arrays of parallel independent school districts not subject to public oversight or FOIL. The lack of transparency inherent in CMOs can make it impossible even for a Charter school's own board to know how much per-pupil funding actually goes to the student or is diverted to enriching the CMO. Although New York State's Charter schools are subject to audit either by the state or the city, to date we are only aware of **four** audits of Charter schools performed by the NYC Comptroller, **ever**. This is clearly inadequate with 260 Charter schools in operation in New York City. Moreover, it is unclear whether Charter schools have complied with the recommendations of those audits. When the NYC 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](#)<sup>6</sup>. A further Cap increase under these circumstances would represent a betrayal of the public trust and privatization of public resources by CMOs.

An increased Charter School Cap also undermines the ability of public schools to thrive and co-exist with Charter schools. By enabling CMO networks to continue expanding in already-saturated markets, public school resources are shifted from the public system into parallel private CMO-run school districts. Our city schools are still waiting on over \$1.4 billion in [Foundation Aid](#)<sup>7</sup> while per-pupil state funding for Charter schools continues to grow. Attempts to fix public education through privatization are misplaced when the end result is siphoning per-pupil resources from public schools into unchecked CMOs.

When Charter schools ask Albany for a Cap increase they will likely cite 52,700 students on waitlists. These numbers are not reliable. For example, is there any yearly effort to purge the names of students who secure seats elsewhere? Is there an independent body that oversees and audits these lists? These waitlists do not demonstrate actual intent to attend. Waitlists also do not explain that citywide elementary enrollment is already beginning a projected decline. Waitlists are neither an accurate assessment of district need nor an adequate reflection of available local alternatives.

New York City has 39% of the state's students and houses 71% of the state's Charter schools. Given this fact, the prospect of a Charter School Subcap

increase, requires us to ask—What is the vision for New York City public schools? Any amendment to the Law that enables further Charter growth without an evaluation of impact, is an unmistakable signal that Charter schools are not merely a vehicle for educational alternatives and threaten to put New York City public schools out of business. We ask Albany to impose a **Five-Year New York City Charter Moratorium and perform an evaluation of our existing dual education system** because education policy should create systems that work together to make progress for all New York children—not systems designed to undermine each other.