



Campaign for Fiscal Equity, Inc.

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July 24, 2007

Ms. Johanna Duncan-Poitier
Senior Deputy Commissioner of Education
State Education Department
Education Building
Albany, NY 12234

Re: Campaign For Fiscal Equity Comments on NYC Department of Education Contract for Excellence Proposal of July 16, 2007

Dear Deputy Commissioner Duncan-Poitier:

The Campaign For Fiscal Equity (CFE) is writing to share our views on the New York City Department of Education Contract for Excellence proposal of July 16, 2007

The constitutional right to a sound basic education established by CFE means: The neediest students in low performing schools can make academic progress, graduate high school and become civic participants who can compete in the global economy. That is our goal.

In order to accomplish this goal, we need adequate resources, distributed to the highest needs and lowest performing students, with strategic investments, strong accountability, and public engagement. This framework was established with the enactment of the Education Budget and Reform Act on April 1, 2007. The Contracts for Excellence are the key strategic investment and accountability vehicle provided by the law to ensure that money is well spent predominately on the neediest students.

There are two key criteria for evaluating this plan: Does it serve the neediest students in the lowest performing schools?; Does it provide adequate baseline information, targets and school level plans to allow us to measure progress? So far both appear to be lacking. The NYCDoe plan continues to raise more questions than it answers.

We are providing you with our comments to assist in the State's review of the plan. NYCDoe has committed to providing additional school level plans with specific target and program information on August 15. **CFE requests that approval be held until that information is made public with adequate opportunity to review and evaluate.** After 14 years of litigation and legislation, we must ensure that we demonstrate that money does matter, and that, when spent well, we can achieve results. The national spotlight is on New York to deliver results from this landmark investment.

We look forward to working with you and your staff to reach this critical and achievable goal. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Geri D. Palast". The signature is written in a cursive, flowing style.

Geri D. Palast
Executive Director, Campaign For Fiscal Equity



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Campaign for Fiscal Equity Comments On NYC Department of Education Contract for Excellence Proposal July 16, 2007

Overview

The Campaign For Fiscal Equity (CFE) leads a coalition of parents, students, education advocates and the public working to ensure the constitutional right of the opportunity for a “sound basic education” for every public school student in New York. This right was established by the New York State Court of Appeals in *CFE v. State* after 13 years of litigation. CFE worked closely with the Governor and the legislature to enact the 2007-2008 Education Budget and Reform Act that provides over \$700 million to New York City schools in 2007-2008, with a total commitment of \$3.2 billion over four years. New York City is required to add an additional \$2.2 billion over four years, providing \$5.4 billion in new money to ensure this right becomes reality. **In keeping with the constitutional mandate, all of this new money is intended to raise the overall school budget so that the neediest students in low performing schools can make academic progress, graduate high school, and become civic participants who can compete in the global economy. As part of the ongoing dialog with the New York City Department of Education (NYCDoE), CFE will work to ensure that all of the new funding and accountability measures are implemented so as to make this right a reality.**

Contracts for Excellence

The new law places additional accountability on Foundation Aid, funds distributed by the State expressly on the basis of need. New York City is required to develop both a citywide Contract for Excellence (Contract) and 32 Community School District (CSDs) Contracts that demonstrate that the new resources are predominately targeted to the neediest students, and invested in five specified strategies that work, along with a five-year class size reduction plan. Further, the law requires that the Contracts provide strong accountability, transparency and meaningful public participation. In 2007-2008, NYCDoE Contracts for Excellence (citywide and for 32 CSDs) must provide specific plans for \$258 million to be spent in the five specified areas: class size reduction; full day pre-k; teacher and principal quality initiatives; middle and high school restructuring; and more time on task. Of these funds, \$228 million must go to new or expanded programs, and, in this first year only, \$30 million may go to maintain existing contract programs.

It is critical that NYCDoE work in partnership with CFE and the coalition that brought these needed funds to the City, to ensure that the policies, programs and accountability measures anticipated throughout the litigation, legislative and regulatory processes are fully integrated into the City’s planning and

implementation. We have come too far to accept anything less. For the 2007-2008 Contracts, while we understand the time constraints in this first year of planning, and appreciate that public hearings were held in every borough, the public was given neither time nor adequate details to provide meaningful comment. The Contract plan provided on the NYCDoE website raises more questions than it answers. The following comments present CFE's major concerns and questions based on the information we have received thus far, and our preliminary analyses based on limited information. We look forward to working with NYCDoE on the further development of these Contracts, as well as working closely with the State Education Department (SED) in its review process.

Comments

NYCDoE proposed citywide Contract provides primarily broad-brush policy proposals, and lacks the specificity and transparency necessary to enable the public to understand where and how the money will be spent. Further, there are no CSD plans. In response to public hearings, NYCDoE supplemented the proposed contract with additional school based summary information organized by strategic investments or "buckets" by CSD on the full \$258 million, adding \$30 million for "maintenance of effort" to the original proposal for \$228 million. While we appreciate the additional information, it is still summary data. To hold the system accountable, both the law and the regulations pursuant to Education Law Sections as added by Chapter 57 of the Laws of 2007, specifically Section 100.13 regarding contract requirements directs that NYCDoE must provide baseline data and specificity in describing the targets, schools, programs and students served in all five program areas.

1. **CFE funds must serve the neediest students – especially those students who are not receiving a "sound basic education".** NYCDoE has proposed spending \$258 million of the Contract dollars on 857 schools. While a large portion of the funds are going to needy students and low performing schools, there are a substantial number of students and schools receiving funds that do not fit this profile. We have conducted a rudimentary analysis with limited information. Thus far, we found that almost 40% of the 619 schools with available 2007 ELA data receiving Contract dollars were performing at or above the city's overall ELA performance level of 56%; and 42.6% of the 101 high schools receiving Contract dollars with available four year graduation rates met or exceeded the New York State Graduation Rate of 55%. These findings raise serious concerns given that Contract dollars are intended to specifically ameliorate the conditions preventing the neediest students in low performing schools from attaining a sound basic education. **(See Addendum—Analysis of \$258 M Contract for Excellence Dollars)**

There are also needy students and low performing schools not included in this list. The information provided regarding the funding of underperforming schools is confusing, and raises concerns about prioritizing the neediest. For example, we are told in the DOE's initial Contract that 41% of the funds are going to underperforming SINI/SRAP and SURR schools. We are then told that 60 underperforming schools are to be closed. We are also told that 20 SINI/SRAP schools are to be closed, and there is a plan to develop 40 new schools to replace these and other failing schools. It is not clear how all these figures relate. We need a clear explanation on how the neediest are served with simple school based accounting.

Further, the NYCDoE is also required to provide a specific narrative on how the proposed contract addresses the needs of English Language Learners (ELL) that has not as yet been included in the proposed plan. As such, we do not know how many program dollars in each of the 5 areas will serve these students whether it is to hire or train new English-as-a-Second Language Teachers, provide extended instructional opportunities and materials, or implement other relevant programs.

2. **A Meaningful 5-year Class Size Reduction Plan.** NYCDoE states it will spend \$141 million on class size reduction, \$66 million as part of Fair Student Funding (FSF), \$30 million for the continuation of the current Early Grade Class Size Reduction program, \$40 million for Collaborative Team Teaching (CTT) -- a special education program, and \$5 million for Autism Spectrum Disorder Classrooms. Notwithstanding the merits of these latter two programs, we do not believe they fit the definition of class size reduction provided not only in the law but also in the regulations. Even NYCDoE's Web Page Contract entitled "Contract Program Areas" defines Class Size Reduction as: *Creation of additional teaching classrooms; Reduction of teacher-student ratio in schools that do not have sufficient space to create new classrooms.* The creation of 400 to 430 CTT classrooms (with an equivalent number of teachers) is included in the 1,300 teachers to be hired. These 1,300 teachers are being hired for a variety of purposes, not simply to reduce class size. With a minimum of 400 CTT teachers included in this total, that translates to 900 additional general education classrooms in a city of over 1,400 schools and 1.1 million students. That hardly seems adequate to make a real difference.

In the explanation of the proposed spending for new CTT Classrooms, it emphasizes that the money will be spent on SINI, SRAP and SURR schools. However, the CTT chart shows that some of the largest amounts of funding are going to some of the city's highest performing districts including CSDs 2, 26, 24 and 31. While many middle class parents may welcome the concentrated attention offered in CTT classrooms, this is not the intended purpose provided in the legislation or regulations.

The regulations specify:

Section 100.13 (c) (1) (v): in the city school district of the city of New York, include a plan that meets the requirements of clause (a) of subparagraph (i) of paragraph (2) of subdivision (d) of this section, to reduce average class sizes within five years for the following grade ranges:

- (a) pre-kindergarten through grade three;
- (b) grades four through eight; and
- (c) grades nine through twelve.

Such plan shall be aligned with the capital plan of the city school district of the city of New York and include continuous class size reduction for low performing and overcrowded schools beginning in the 2007-2008 school year and thereafter and also include the methods to be used to achieve proposed class sizes, such as the creation or construction of more classrooms and school buildings, the placement of more than one teacher in a classroom or methods to otherwise reduce the student to teacher ratio.

NYCDoE class size reduction goals are built on system-wide averages based on downward enrollment trends supported by coaching to principals on how to reduce class size. NYCDoE does not tell parents and the public how class size will actually be reduced in low performing and overcrowded schools. The proposed plan provides no specifics regarding required targets in particular schools. NYCDoE has agreed to provide this information by August 15th. **We call on the State to hold final approval until this information is made public and can be reviewed.**

It appears that the targeting of 71 low performing schools with 95% utilization or more for intensive class size reduction efforts and 5-10% reduction targets is a step in the right direction. However, we are again concerned that 12 of these schools meet or exceed the City's overall ELA performance level of 56%. Overall, consistent with the law and the regulations, we need specific school and class baseline data so that we can ensure that the lowest performing and overcrowded schools are targeted, and that we can measure real progress. We want to partner with the Department in determining how that baseline and targets should be determined.

We agree that the change in policy regarding honoring overall grade-level enrollment projections as well as respecting decisions by principals regarding class size reduction in considering where to co-locate schools are also positive steps. We also want to ensure that sufficient provision is made for full day pre-K in class size planning. Finally, NYCDoE did provide new information regarding the capital plan based on CSD, but there must be a more specific detailing of where each of the new schools will be built, facilities created and who they will serve and how the new schools will impact neighboring schools as required in the law and the regulations.

3. **Middle Schools are the weakest link, and must be addressed.** Less than half of NYC's 8th graders can read, write and do math at the state standard. In East Brooklyn, Harlem and the South Bronx, fewer than one in four students can read and write on state standard. There is a 45 point achievement gap based on income. In middle schools that serve the most students in poverty, only 29% of students meet state standards in reading and writing, compared to 74% of students in schools that serve the highest-income students. More than half of the 50 lowest-performing middle grade schools are receiving no new FSF money. The 50 lowest-performing middle grade schools are receiving, on average, only \$66,000 in new FSF money. NYCDoE states that \$13 million will be used to support additional operating costs in the start-up of 40 new schools. Again, we need further information on where those schools are and how they will serve the neediest students. The \$7 million for program also needs further explanation regarding targeted schools and students. From what we can discern, it appears that the money in this "bucket" is targeted at the needy and low performing schools. Still, we cannot account for all the dollars, so more information is necessary. We acknowledge the progress made in this proposal in NYCDoE's commitment to establish the position of Director of Middle School Initiatives, and to honor the commitment to implement the recommendations of the New York City Council Middle School Task Force. We want to underscore the importance of working in at least 50 schools.
4. **More Time on Task.** The \$40 million for programs appears consistent with the legislative and regulatory intent; however, further specificity is required on how the programs will be targeted to low performing schools and high need students. Baseline data is needed here as well.

CFE is concerned that the \$17 million allocated for "periodic assessments" may be an inappropriate use of the funds on two grounds. First, the regulations do not include periodic assessments among the allowable activities. They are included only as one of four elements that make up a specifically defined "Response to Intervention Program", regulations Section 100.13(a)(7)—Definitions. Further, independent of their appropriateness in the first instance, there is, again, no specificity regarding the targeted schools and students.

5. **Full Day Pre-K.** Research leaves no doubt that full day pre-K leads to improved outcomes, and is beneficial for both students and parents. New York City has trouble filling half day slots. The Mayor and the Chancellor have repeatedly stated that full-day pre-K is a priority. We appreciate their efforts in taking steps with the new pre-K formula and other funds. We are deeply concerned that only two CSDs are spending a mere \$300,000 to expand this program. We seek a long-term strategy to fund full day pre-K for the neediest students as part of the Contract.
6. **Accountability on the Total New Investment.** The CFE decision resulted in over \$1 billion new dollars for NYCDoE from combined state and city resources this year. CFE calls on NYCDoE to account for how the total new infusion of dollars satisfies the constitutional purpose.

7. **Public Participation.** We are gratified that NYCDoE held public hearings in five boroughs. However we are concerned that the proposed plan was released at close of business on Thursday, July 5, for hearings running July 9-12, with public comments due on July 14 and the City's Contracts to be submitted on July 15, 2007. In this first year, we are operating under a short timeframe, but this process does not allow for real deliberation on issues of great import and complexity. CFE calls on NYCDoE to continue discussions to resolve these issues simultaneous with the State review process. Further, we would like to work with NYCDoE to establish a process and schedule for next year that begins early to incorporate public input at the front end of planning and provides ample time, a minimum of 30 days, for initial public review and comment and leaves ample time, a minimum of 60 days, for NYCDoE to revise the proposal and send back to the public for final review.

Conclusion

CFE and its coalition partners, along with the City of New York, spent 14 years to win these essential funds that must ensure the constitutional right of every public school child to a sound basic education. Now the responsibility is ours to ensure that the money is well spent and our goals are achieved. Other states and cities have won the legal and legislative battles, only to lose the war in poor implementation. The state of Maryland had a similar adequacy case that resulted in the legislature requiring an independent evaluation of the effect of the increased state aid to local school systems. Unlike New York, districts were given the freedom to spend the new money on their own priorities. The initial report offered a cautionary tale highlighting that 55% of all new revenue under the Act was used for across the board salary increases; less than 1% of the new funds were used for professional development, and, instead of decreasing class size it reduced by half pupil-administration ratios. CFE urges NYCDoE to respond to the call for specificity and clarification articulated throughout our comments. The New York City Council can provide needed oversight in this process. CFE dollars must prioritize the neediest students in the lowest performing schools so that they have optimal opportunities for academic success.

Their success is our only success. We look forward to forging the necessary partnership between the SED, NYCDoE and the public to make the constitutional right a reality.