

 The **Campaign** for **Educational Equity**

**TEACHERS COLLEGE** COLUMBIA UNIVERSITY

**THE EFFECTS OF CO-LOCATION ON NEW YORK CITY'S  
ABILITY TO PROVIDE ALL STUDENTS A  
SOUND BASIC EDUCATION**

**June 2014**

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# THE EFFECTS OF CO-LOCATION ON NEW YORK CITY SCHOOLS’ ABILITY TO PROVIDE ALL STUDENTS A SOUND BASIC EDUCATION

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## Introduction

A primary reform strategy during the Bloomberg administration was closing or scaling down large schools and increasing the number of small schools; usually, a number of small schools were “co-located” within large school buildings. Co-located schools have their own administrative and classroom spaces, but they share spaces such as the cafeterias, gymnasiums, and auditoriums.

The New York City Department of Education’s implementation of co-locations has been extremely controversial. Critics, including then public advocate Bill de Blasio, charged that the required analyses of the educational impact of co-location have been perfunctory and are based on unreliable information about building utilization, that the city had not sufficiently engaged affected communities in its decision-making process for co-location, and that co-location has created inequitable and substandard learning environments for affected students (see, e.g., De Blasio & the Alliance for Quality Education, 2010; New York Coalition for Educational Justice, 2010; Solomon, 2013).

In this brief, we draw attention to an additional, related dimension of the impact of this policy: how the implementation of this strategy has affected the provision of students’ New York State constitutional right to “the opportunity for sound basic education.” New York’s highest court, the Court of Appeals, has held that the “sound basic education” to which all students are entitled under Art XI, §1 of the New York State Constitution, includes, among other things, a suitable curriculum, sufficient qualified personnel, reasonable class sizes, up-to-date books and technology, extra services for “at-risk” students, and adequate facilities including reasonable access to “specialized spaces” such as “libraries, laboratories, auditoriums and the like” (*CFE v.*

*State of New York*, 2003). Based on research in a sample of high-need NYC schools, we argue that, in a large city like New York, with substantial facility capacity issues and ongoing funding constraints, co-location often exacerbates resource inadequacies and further limits already-under-resourced schools' ability to provide a sound basic education.

Examining this city policy from a constitutional perspective raises some difficult questions that must be addressed by the de Blasio administration in determining what to do about key elements of the school system Mayor Bloomberg built. We do not claim that all small and co-located schools have these deficiencies, but the deficiencies that we have found in the high-need schools we studied are substantial, and evidence that students' educational rights are being violated in any school must be taken seriously.

The purpose of this brief is to set forth a series of concerns that need to be investigated to see how extensive these problems are throughout the system, what can be done to rectify them where they exist, and what steps need to be taken in the process for creating new co-location arrangements to ensure future constitutional compliance. We are encouraged that Schools Chancellor Carmen Fariña has convened a task force to study co-location and another to discuss the utilization report upon which school-building utilization decisions are made. We hope that this brief will be useful to these task forces, Chancellor Fariña, and the public at large in determining whether and how to change this policy.

## **Methodology**

During the tough economic times that followed the 2008 recession, New York State dramatically cut funding to the public schools. While revenues have rebounded, funding has increased only slightly in recent years. State school aid is still more than \$5 billion below the

statutory formula that the legislature enacted in 2007 to provide all schools with basic educational resources in response to the court orders in the *CFE* case (Mauro, 2014).

The state has not assessed the impact on students' educational rights and opportunities of state cuts to school aid and its failure to raise funding levels to meet the 2007 commitment. Nor has the state or the New York City Department of Education (NYC DOE) undertaken a study of the effects of new policies and mandates on resource availability and use at the school level to determine whether all schools can effectively implement these new mandates and simultaneously ensure that students' rights to the basic elements of a sound basic education are upheld.

Absent any action in this regard by the state or the city, the Campaign for Educational Equity at Teachers College, Columbia University, during the 2011-12 and 2012-13 school years, conducted a study of the availability of basic educational resources in high-need schools in New York City, Rochester, and six other urban, suburban, and rural districts around the state. In the course of our study, we interviewed principals, teachers, and other school personnel from 38 different New York City schools and 25 schools from seven other districts. We studied 33 of those schools in great depth (including 12 schools in NYC) over the course of more than 200 school visits. We published extensive findings about unconstitutional resource deficiencies based on this research (Rebell, Wolff, & Rogers, 2012).

Along with our findings of resource deficiencies, we also discovered that certain city policy mandates imposed over the last decade by the Bloomberg administration, as well as some state and federal policy mandates, hampered some schools' ability to use their available resources effectively on behalf of their students. We conducted a small-scale follow-up inquiry in New York City in the fall of the 2013-14 school year to learn more about whether and how these mandates affected schools' capacity to provide their students the basic elements of a sound

basic education.

This additional research consisted of open-ended, confidential interviews with 19 teachers, administrators, and student support personnel from schools throughout the city. Our interviewees included one or more people in the following positions: principal, assistant principal, dean, guidance counselor, social worker, ESL teacher, special-education teacher, K-6 classroom teacher, middle-school subject-area teacher, high-school subject-area teacher, and school librarian. While the names of the interviewees and their schools are confidential, interviewees represented 18 different elementary, middle, and high schools, which included both large and small schools in four of the five boroughs. Thirteen of the schools were not part of our prior study. Though this is a small sample, we believe it is representative of a subset of the city's public schools that serve large numbers of high-needs students.

These interviews provided further evidence to suggest that, particularly in schools that serve large numbers of students who are struggling academically or are below grade level, students who are English language learners, and students with disabilities, inadequately funded city, state, and federal policy mandates pose an additional barrier to the provision of sound basic education services.

In this brief, we summarize our findings related to the NYC DOE's co-location policy as it was implemented from 2011-2013.

## Findings on the Provision of a Sound Basic Education in Small, Co-located Schools

Under Mayor Bloomberg, the New York City Department of Education's policies dramatically increased the number of schools sharing space as the DOE promoted the creation of small schools; closed schools viewed as failing and opened new schools to replace them; and expanded the number of charter schools. In 2013, 1,150 (63%) of the city's 1,818 schools were co-located. Charter schools made up 10% of co-located schools (115); the other 90% were traditional public schools (Winters, 2013).

The city assesses capacity within NYC DOE buildings and the availability for space for co-locating new or existing schools based on the *Enrollment-Capacity-Utilization Report* (the "Blue Book"; see New York School Construction Authority, 2013). The NYC DOE allocates instructional spaces within buildings according to parameters outlined in a tool called the *Instructional Footprint* (NYC DOE, 2011). Staffing levels are determined based on enrollment by a weighted student-funding formula (though staffing specifics are determined by principals' respective priorities). By these means, new and existing small schools are allocated minimal space and budgets.

According to the Independent Budget Office (2013), the DOE opened an average of nearly 30 schools in each of the last three school years. Usually starting with a single grade and expanding thereafter, first-year schools commonly opened with just over 100 students. New schools received \$100,000 in start-up monies and had very high administrative-overhead costs.

Optimal school size has been the subject of much research; on a per-pupil basis, small schools generally are more expensive, though some data indicate that students in smaller schools have better academic outcomes, including graduation rates (see e.g., Hemphill & Nauer, 2009;

Schwarz, Stiefel, & Wiswall, 2011). Some of our interviewees recognized the benefits for students of properly resourced, reasonably sized schools. However, our research suggests that the NYC DOE policy for allocating resources to co-located schools in the years of our study did not provide these schools sufficient space or staffing to afford students the full range of resources to which they are entitled and that they need in order to succeed.

### ***Violations of Students' Right to a Sound Basic Education***

Our school-level research suggests that many small, co-located NYC public schools suffer from inadequate facilities, oversized classes and instructional groupings, inadequate course offerings, insufficient student supports, and inadequate extracurricular activities that, in many cases, violate state statutory, regulatory, and constitutional requirements. (See Rebell, 2012, for a detailed compendium of these requirements.) Some of these problems stemmed from the inadequacy of current funding for schools throughout New York City and New York State, but this overall resource inadequacy was exacerbated by the fact that small schools in general, and co-located schools in particular, require additional resources as well as attention to the strains on already limited resources that are created when basic school facilities need to be shared among different entities.

We describe the specific violations of students' New York State constitutional right to a sound basic education in the pages that follow.



## Violations in Access to Facilities

In some co-located schools, students lacked adequate and appropriate access to shared facilities.

- Students in a number of schools had little or no access to a shared library.
- Students in some schools had limited access to a shared auditorium. One school building used its stage for storage because of a lack of adequate storage space elsewhere. In several buildings, auditorium seats and lighting and audio equipment were in disrepair because none of the co-located schools in the building were able to contribute to auditorium maintenance. Other schools were required to use the building's shared gymnasium as their auditorium, though it was only available when none of the schools in the building were providing physical education.
- Many co-located schools lacked adequate access to the shared gymnasium (which they needed in order to provide the required instructional time in physical education) and/or used gymnasium facilities that were inappropriate for their students' age and size; some schools had no gymnasium at all. In addition, for lack of adequate and appropriate space, some schools provided adaptive physical education and physical and occupational therapy to students with disabilities in hallways and other public spaces. In some schools, as a result of co-location, specialized physical-education spaces—such as swimming pools, dance studios, and weight rooms—were off limits to students in their own school buildings. Some schools lacked adequate access to their building's shared yard.
- For lack of appropriate space, some schools turned closets and storage spaces into classrooms for English as a Second Language (ESL), special education, and academic intervention services (AIS). Schools also lacked adequate and appropriate space for student-support services like counseling, speech therapy, and health services to meet

sound-basic-education requirements. In one school, the guidance counselor met with students in the stairwell landing.

- As a result of the complex scheduling to allow multiple schools to share the cafeteria, some students ate lunch as early as 10:30 a.m. Schools also had to abbreviate lunch and recess periods.

## **Oversized Classes and Instructional Groupings**

Nearly all of the schools were severely constrained by their physical plant and instructional footprint. As a result, many classes serving large numbers of students struggling academically were often at or above the contractual maximum class size.

In addition, due to staffing and space constraints, some schools were unable to meet small-group size requirements for supplemental instructional support, serving students in large groups of 10-15, though state regulations called for a maximum of 5-8.

## **Violations in Access to Curriculum and Supports for Struggling Students**

Some small, co-located schools lacked a sufficient number of teachers and classrooms to teach even the basic required curriculum, curtailing access to social studies, science, and physical education, among other state-required subjects. Many schools were unable to provide the full Regents-required curriculum.

- Small, co-located elementary schools were almost universally unable to provide sufficient instructional time in physical education, arts, and science.
- No school was able to provide all of its students eligible for academic intervention services all of the support to which they were entitled.
- In middle and high schools, as a result of a lack of space and personnel, some schools

were unable to provide even the minimum required instructional time and course offerings in math, social studies, and science.

- Many middle and high schools could not provide required arts classes, much less a sequence of classes in the arts, band, or orchestra.
- Some high schools lacked the staff and space to provide basic chemistry and physics classes, sufficient foreign language classes to meet state minimum requirements or to allow students to earn an advanced Regents diploma, course offerings in career and technical education, and/or honors and AP classes.
- Some small, co-located schools were able to provide basic programming only by sharing staff members with other schools. In practice, this made these offerings precarious, as changing finances, priorities, staffing, etc., in any of the participating schools would undermine the coalition conditions necessary to sustain these offerings.
- Many small, co-located schools lacked a sufficient number of student-support staff, such as reading and math specialists, guidance counselors, social workers, and school psychologists to provide the support services required for students struggling academically, students with disabilities, and English language learners. For lack of a sufficient number of staff in these positions, students' rights to Response to Intervention supports, academic intervention services, bilingual supports, and special education services were being violated.
- Small schools often had a single teacher responsible for an entire subject area – e.g., only one art teacher, one health education teacher, one Spanish teacher; when the teacher in a specific subject area was absent, the school had no back up.

## Violations in the Provision of Special Education Services

The combination of skeletal staffing and space and budget constraints in small, co-located schools often resulted in schools resorting to inappropriate or illegal practices in an effort to save money. While some of these practices were seen in larger schools, they were more common in small ones.

- Most egregiously, for lack of adequate staff, space, and other resources, schools adjusted the individualized education programs (IEPs) of some students with special needs in order to fit the available resources in the school, rather than the needs of children. As a result, students were deprived of appropriate settings and services.
- Schools routinely took special-education teachers out of team-taught inclusion classes in order to cover for teachers absent from other classes. This practice would save money set aside for substitutes to fill other budget holes, but it deprived students of mandated special-education instruction.
- Special-education teachers were given extensive new administrative and data-entry responsibilities, reducing the time that they otherwise would have spent supporting students.

## Diversion of Scarce Resources

Our research also suggests that the policy of co-location, as currently implemented, results in numerous inefficiencies, forcing schools to allocate scarce resources in ways that do not contribute to student growth and achievement.

- The creation of small schools requires that the system hire more principals and other administrative staff, each of whom is responsible for smaller numbers of students. (One building housing a number of small, co-located schools had 28 administrators making

six-figure salaries.) Office space for principals and other administrative staff reduces the number of available classrooms and spaces for student-support services.

- Principals of co-located schools reported spending 20-80% of their time in any given week managing building-related issues—such as the sharing of space, staff, security, and maintenance issues with other principals—and other co-location challenges, like tensions between students from different schools in the building. For example, co-located high schools fought over which school could access the gymnasium to offer physical education first period and last period; because many students come late and leave early, schools that had core classes during these periods were at a disadvantage. The huge time drain of managing co-location-related responsibilities dramatically reduced the amount of time principals could devote to supporting students and providing instructional leadership.
- When schools are closed or opened, leadership turnover within buildings requires co-location issues to be reopened and renegotiated. Managing the learning curve for principals of new schools is time consuming for stable principals.
- Principals struggle with shared expenses, especially when co-located schools lack the same values and needs. Shared staff members, such as athletic coaches and librarians, have to be paid, but there is no official mechanism, no fiscal policy, for pooling and distributing funds for these expenses. Personnel appear on some schools' budget lines but provide services to a number of other schools (e.g., UFT district representative).
- The methods schools use to share the space in a school building changes frequently, and co-located schools are often reconfigured—adding, losing or exchanging classrooms and other space. This space shuffling requires staff time for reorganizing within schools, as

well as for moving furniture and equipment. One school used per-session funds, normally dedicated to extra instructional time or professional development, to pay school personnel to move furniture with each co-location rearrangement.

- Schools may make investments in classroom upgrades—for example, buying and installing air conditioning units for all of their classrooms—only to have some of those classrooms given to another school the next year.
- Bathrooms are not equitably distributed and not easily accessible to adults and students of all the schools in the building.
- Co-location exacerbates facilities problems present in many other NYC schools. For example, in one school that had to close staircases each time it rained because of leaks, administrators not only had to deal with overcrowding in the remaining staircases but also with turf issues among the different schools that were now sharing the stairs. Schools housed on upper floors were disproportionately affected by leaks; schools housed on lower floors were disproportionately affected by noise from students attending other schools.
- In many co-located schools, the staff that serve the students with the greatest needs—students struggling academically, students with disabilities, and English language learners—are shared among several schools, creating inefficiencies and a lack of accountability. For example, on one campus that served multiple schools, all English language learners were served by the staff from a single school. The ESL staff did not collaborate with or report to the administrators in the other schools, though the many of their students were struggling academically and the teachers and principals of all of the schools were accountable for their performance.

- Co-location creates more “hotspots”—places where student conflicts and violence erupt—while schools have fewer adults to prevent and handle such incidents.

## Conclusion and Recommendations

While we do not claim that these violations can be found in *all* small and co-located schools, we nevertheless believe that these findings of educational-rights violations merit further investigation. It is incumbent upon city and state education officials to assess the extent to which all students in small and co-located schools are being afforded the educational rights and opportunities to which they are entitled. If the de Blasio administration plans to continue the practice of co-location and the proliferation of small schools, it must ensure that every school has the staffing, space, and other essential resources necessary to meet all sound basic education requirements.

The mayor and the chancellor must align funding, policy, and practice to ensure that New York City’s already-under-resourced schools, particularly those serving large numbers of high-need students, are not forced to sacrifice or take short cuts in the provision of the basic resources, services, and supports to which students are constitutionally entitled and that they need to succeed.

As immediate next steps, we recommend that the NYC DOE:

- Assess the prevalence and extent of the violations of students’ rights in co-located schools.
- Broadly disseminate information about the resources, services, and supports to which all students in all schools are entitled under state statute, regulations and constitutional law.

(Parents, students, educators, policymakers, and the community at large must understand

that all sound basic education requirements apply whatever the school size or configuration.)

- Review and revise the Instructional Footprint to ensure sufficient classrooms, gymnasiums, laboratories, libraries, and other instructional spaces, cafeterias, offices, and storage for *all* schools to meet all sound-basic-education requirements, including appropriate class sizes and suitable curricula.
- Amend the educational impact statement (EIS) to include a review of the impact of any proposed co-location on students' sound-basic-education rights.
- Quantify the number of personnel, including administrators and safety personnel that must be added in order to administer building issues resulting from co-location.
- Impose a moratorium on all new co-locations until the rights' violations in all existing schools are remedied.



## References

- CFE v. State of New York*, 100 N.Y. 2d 893, 911, n.4 (2003).
- De Blasio, B., & the Alliance for Quality Education (2010). *Breaking down barriers: An evaluation of parent engagement in school closures and co-locations*. Retrieved from <http://advocate.nyc.gov/files/ParentalEngagementReport-7.21.10.pdf>
- Hemphill, C., & Nauer, K. (2009). *The new marketplace: How small-school reforms and school choice have reshaped New York City's high schools*. New York: Center for New York City Affairs.
- Mauro, F. (2014). State aid gap calculations prepared for submission to New York State Supreme Court in *NYSER v. State of New York*.
- New York City Coalition for Educational Justice. (2010). *Reality check: The impact of co-location on a sample of schools*. Retrieved from <http://www.nyccej.org/wp-content/uploads/2010/02/reality-check.pdf>
- New York City Department of Education. (2011). *Instructional footprints*. Retrieved from [http://schools.nyc.gov/NR/ronlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011\\_FINAL.pdf](http://schools.nyc.gov/NR/ronlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011_FINAL.pdf)
- New York City Independent Budget Office. (2013). *Budget options for New York City*. Retrieved from <http://www.ibo.nyc.ny.us/iboreports/options2013.pdf>
- New York City School Construction Authority. (2013, August). *Enrollment-capacity-utilization report*. Retrieved from [http://www.nycsca.org/Community/CapitalPlanManagementReportsData/Enrollment/2012-2013\\_Classic.pdf](http://www.nycsca.org/Community/CapitalPlanManagementReportsData/Enrollment/2012-2013_Classic.pdf)

- New York State Education Department. (2010, October). *Minimum requirements of a Response to Intervention program (RtI)*. Retrieved from [www.p12.nysed.gov/specialed/RTI/guidance/instruction.htm](http://www.p12.nysed.gov/specialed/RTI/guidance/instruction.htm)
- New York State Education Department. (2000, January). *Academic intervention services: questions and answers*. Retrieved from <http://www.p12.nysed.gov/part100/pages/AISQAweb.pdf>
- Rebell (M.A.) (2012). *Essential resources: The constitutional requirements for providing all students in New York State the opportunity for a sound basic education*. New York: Campaign for Educational Equity. Retrieved from [http://www.equitycampaign.org/i/a/document/25757\\_EssentialResourcesfinal2\\_6\\_13.pdf](http://www.equitycampaign.org/i/a/document/25757_EssentialResourcesfinal2_6_13.pdf)
- Rebell, M.A., Wolff, J.R., & Rogers, J.R., Jr. (2012). *Deficient resources: An analysis of the availability of basic educational resources in high needs schools in eight New York State school districts*. New York: Campaign for Educational Equity. Retrieved from [http://www.equitycampaign.org/i/a/document/25804\\_DeficientResources2-21-13.pdf](http://www.equitycampaign.org/i/a/document/25804_DeficientResources2-21-13.pdf)
- Schwarz, A., Stiefel, L., & Wiswall, M. (2011, August). *Do small schools improve performance in large, urban districts? Causal evidence from New York City*. Institute for Education and Social Policy, New York University.
- Solomon, S. (2013, December 30). Parents sue to ensure de Blasio stops all pending co-locations. *DNAInfo New York*. Retrieved from <http://www.dnainfo.com/new-york/20131230/lower-east-side/parents-sue-ensure-de-blasio-stops-all-pending-school-co-locations>
- Winters, M. A. (2014, February). *The effect of co-locations on student achievement in NYC public schools*. New York: Manhattan Institute.

## Acknowledgments

This report was prepared by Jessica R. Wolff and Joseph R. Rogers, Jr., with input from Michael A. Rebell. The authors are grateful to the Robert Sterling Clark Foundation for support of this project, as well as to the many dedicated New York City school personnel who gave us their time.

## About the Campaign for Educational Equity

The Campaign for Educational Equity (CEE) is a nonprofit research and policy center at Teachers College, Columbia University, that champions the right of all children to meaningful educational opportunity and works to define and secure the full range of resources, supports, and services necessary to provide this opportunity to all children. Founded in 2005 by educational law scholar and advocate Michael A. Rebell, who successfully litigated the landmark school funding lawsuit, *CFE v. State of New York*, the Campaign pursues systems change through a dynamic, interrelated program of research, legal analysis, policy development, coalition building, curriculum development, and advocacy dedicated to developing the evidence, policy models, curricula, leadership, and collaborations necessary to advance this agenda at the federal, state, and local levels.

To learn more about the tools and information about students' educational rights available from CEE, write to [equity@tc.columbia.edu](mailto:equity@tc.columbia.edu) and see our "Know Your Educational Rights" handout series for user-friendly information on a range of important school-resource topics: <http://bit.ly/1kxPsUg>.

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