EDUCATIONAL PRIORITIES PANEL

CAPITAL PROMISES:
WHY NYC CHILDREN DON'T HAVE THE SCHOOL BUILDINGS THEY NEED

July 2007

This report was made possible by grants to the Educational Priorities Panel from The New York Community Trust and The Scherman Foundation and additional funding from the Schott Foundation for Public Education. Printing assistance for review copies of this report was provided by the office of NYC Councilmember Robert Jackson.

Author: Noreen Connell

SUMMARY AND INTRODUCTION

The objective of this report is to answer the big questions about whether in the foreseeable future most school overcrowding in New York City will be eliminated and all city children will have class sizes and access to school libraries, science labs, art/music rooms, and physical fitness activities that are the norm for students in the rest of the state. The short answer is maybe, but not within the next few years.

The Educational Priorities Panel (EPP) tackled these questions in the wake of a state budget agreement in the spring of 2006 to provide more school facilities funding to New York City. Instead of adopting a more ambitious BRICKS facilities plan fashioned by plaintiffs in a 14-year Campaign for Fiscal Equity (CFE) lawsuit, the NYS Legislature and the Governor created an EXCEL plan. This plan essentially met the Mayor's demand that the financing of the city's $13.1 billion *Children First* 2005-09 capital plan be restructured to ensure that at least half the funding be provided by the state. If the BRICKS plan had prevailed, the state would have provided the city school system with an additional $9.2 billion above the state's $6.5 billion commitment for half of the city's capital plan funding. In November 2006, the state's highest court set aside a lower court ruling that would have provided the extra $9.2 billion for facilities.

The 2006 Court of Appeals decision not only reduced funding for facilities, but also set aside BRICKS' focus on student needs and better benchmarks for upgrading school facilities. The ruling also lowered estimates for the cost of bringing instruction up to the level of adequacy for the rest of the state. This has implications for how facilities are used even when rooms are available for extra classes and activities. Two thirds of community school districts currently do not have a school overcrowding problem, yet their school budgets are so low that class sizes remain large and there are not enough personnel needed to staff specialized spaces, such as librarians.

Despite assertions by city officials before the courts that the *Children First* 2005-09 capital plan addressed the deficiencies identified by the court, EPP's review of the capital plan at midpoint finds that while some progress will be made, not enough will be accomplished by 2009 to even minimally approach the standards for school buildings that are the norm in the rest of the state. Troubling patterns from previous capital plans have reemerged along with new unanticipated developments:

- **Stop-and-go design and contracting for schools that are to be built (rather than leased) will result in only 17,826 new seats by June 2009, the end of the capital plan period, instead of an anticipated 39,125 seats.** Since 1989, all the capital plans have failed to produce even half of the additional capacity that was promised, due to budget cuts and cost escalations. So far, the Mayor has not cut *Children First*, but repeated postponements of low-cost design work has pushed 54 percent of seats to be created by new construction beyond the five-year period and beyond his term as Mayor. On the positive side, 67 percent of additional capacity created by lower-cost leased space, 11,632 new seats, will come on line before June 2009 and only 5,732 leased seats will fall outside the current five-year plan. (These seat estimates exclude "schools" under 200 seats.) **Overall, the *Children First* 2005-09 plan will only meet 52 percent of its new capacity goal of 56,489 new seats if no further design and contracting delays occur.**

- **An unanticipated and unmeasured development is that the restructuring of larger schools into smaller ones and the hosting of charter schools has resulted in the reduction of capacity in these buildings, especially at the high school level.** Every year, due to an amendment process required by the NYC Council, the Department of Education has made it a point to painstakingly recalibrate the need for additional seats to end overcrowding based on new demographic projections, as though these were the only factors to be used in calculating new capacity estimates. EPP analyzed 21 high schools

that were converted into more than a hundred small schools. Despite a supposed 32 percent increase in seat capacity in these 21 buildings over a three-year period, in actuality the total number of students enrolled in these 21 buildings decreased from 48,455 to 45,213. Essentially there is now a statistical slight of hand in calculating overcrowding at the high school level. In the past, the NYC Board of Education would reduce a building's capacity by 10 percent when a larger school was restructured into smaller schools to reflect the need for more specialized spaces and the creation of new administrative offices. By eliminating this adjustment and presuming that new smaller classrooms with 25 or fewer students had the seat capacity for 32 students, restructured schools appear statistically to have more seat capacity. This has kept the projections of total additional seats required to end overcrowding in high schools lower than the actual need. **Restructuring of larger schools into smaller ones, especially at the high school level, has reduced building capacity. This reduction should be reflected in estimates of new seats needed to end overcrowding, but it is not.**

- **As usual with past capital plans, the restoration and upgrading of specialized spaces for students (gyms, libraries, auditoriums, and science labs) has proceeded at a slow pace. In contrast, spending to meet standards for building repair has proceeded as planned.** The BRICKS plan would have restored specialized spaces lost because of overcrowding and would have created libraries in 125 schools, science labs in 241 schools, created auditoriums/gyms in 38 schools, and would have provided gym equipment to 325 schools. With the exception of science labs, the initial goals of *Children First* capital plan only promised, at best, to upgrade a quarter of these specialized spaces. Now even these modest goals have been abandoned. Allocations for physical fitness and auditorium upgrades have been reduced and contracting in these areas has lagged behind. Playground upgrades and the creation or restoration of school libraries have been relegated to slow-moving, public-private partnerships. While the creation and renovation of science labs has proceeded at a faster pace, of the 40 projects listed in the February 2007 amendment to the capital plan, half consisted of mobile science carts to be wheeled into regular classrooms. **An unanticipated development is that extensive school restructuring has resulted in further loss of specialized spaces.** For example, EPP members visited a large middle school in the Bronx that was restructured into four smaller schools. Only the students of one of these new schools had use of the science lab. None of the students in any of the schools had access to the old library that was turned into a meeting space for special education conferences. There is no public document available that lists the schools where specialized spaces need to be restored because of overcrowding or restructuring other than the partial list of projects in the capital plan. **There is no way in which to measure progress in recreating or upgrading specialized spaces other than to conclude that, with the exception of science labs, less than a quarter of this type of renovation work will be completed during this capital plan.**

- **Projections of costs in *Children First* were erroneous, even before adoption of the plan in 2004.** A Governor's investigative commission concluded that city capital plans for schools always began with ridiculously low cost factors, so much of the cost "increases" that develop merely reflect reality. This plan began with serious strategies to keep costs lower, so $60,000 per seat (almost $3,000 less than the last year of the previous plan) seemed realistic. Yet according to the Construction Cost Index of the *Engineering News-Record*, there was a record-breaking jump of 12.3 percent in construction costs in 2004, and in the next two years costs jumped between four and seven percent over the previous year. But the city kept using a standard two-and-a-half percent annual inflation factor. At mid-point in the plan, finally, the city began using a five-percent inflation factor. The proportion of capital funding devoted to restructuring and school upgrades has been shifted to new construction and repairs, but even so, it is certain — as usual — that many of the projects listed in the plan will be not be undertaken because of increased costs.

These findings are described in greater detail in Part Three of this report. Parts One and Two of the report provide the reader with background information on similarities among big-city capital plans and the recent New York State history of facilities initiatives and judicial rulings. These sections are helpful to understanding why EPP's recommendations are geared to better reporting, meaningful measurements, and changes in entire capital planning process. An indication of how poorly the process works now is that this report's Appendix begins with a note that many of our coalition members dispute the accuracy of lists provided by the School Construction Authority.

Too often, efforts at reform demand more meaningless details and more unattainable goals for new schools, renovations, and very high standards for school repair. Without a significant change in budget policies at the state and city levels or some future judicial ruling on adequate funding, there will be not enough money to build, renovate and repair all schools in New York City up to acceptable standards in the near future. Given the reality of inadequate facilities funding, it is critically important to create more authentic, transparent capital plans so that students' instructional needs do not continue to have the lowest priority. Taxpayers as well as community leaders and legislators deserve to see reports of real progress and real outcomes, rather than to be subjected to misleading terms and lists. Without these reforms, every new city capital plan for schools will begin with bogus claims and end with the usual musical-chairs competition to get a fraction of projects completed.

RECOMMENDATIONS:

√ **Report Results** The School Construction Authority web site should feature an accurate list of projects that have been completed.

√ **Report Capital Expenditures and Commitments by Functional Area** Because the NYC schools capital plan is so large, the NYC Comptroller should use the broad functional categories of repair, new capacity, upgrades, and "other" in capital budget reports to track contracts commitments and expenditures.

√ **Annually Survey the Need for Specialized Spaces and Adjust Building Capacity to Reflect this Need** Appropriate consultants should be hired by the SCA to survey whether building capacity figures are accurate and whether all students in a building have access to specialized spaces, such as gyms, science labs, performance space, and libraries, and whether these spaces need upgrading. These consultant should also offer low-cost solutions for better use of space.

√ **Include the Impact of Educational Policy Changes in Projections of Extra Seats Needed to Reduce Overcrowding** Grade retention, course or test failure rates at the high school level, pre-k programs, the hosting of charter schools, and school restructuring can reduce building capacity. Their impact should be measured and combined with demographic projections in estimating the need for new schools.

√ **Clarify Terms and Make Measurements Meaningful "**New" seats should be differentiated from "upgraded" seats that have no impact on the reduction of overcrowding. Create a "meeting state standards" building capacity measurement for elementary, middle and high schools if all specialized spaces were to be recaptured and class sizes reduced.

√ **Frontload Educational Upgrades and Added Capacity in the Next Capital Plan** Creation of specialized spaces and reduction of school and classroom overcrowding should be made priorities in the next capital plan. Contract commitments to finish these projects should come first, not last. Recognize that the NYC school system, at this time, may not be able to afford an ambitious preventive maintenance program when students' most basic instructional needs have not been met.

√ **Manage Overcrowding** Require district "walk throughs" to verify building capacity figures. Rezone school catchment areas and grades to redistribute enrollment. Develop targeted programs for high schools with large numbers of over-age ninth and tenth graders. Extend the school day and year for overcrowded schools and districts.

MAJOR RECOMMENDATIONS

Reform the City and School Capital Budget Reporting and Planning Process The Mayor, the NYC Comptroller, or the NYC Council should appoint a commission of government officials and academic experts to propose ways in which the city could increase the transparency and predictability of capital budgeting.

Create a More Intelligent, Localized, and Participatory Process for Prioritizing the Sequence of Educational Upgrades, Repairs, and Capacity Projects for the Next Capital Plan Since the school system will be embarking on school-site management and has created a budget for every school, this approach should be extended to capital planning. Capital allocation budget formulas for each school (based on building size) should be created on an objective basis that reflect the need for repairs, the need to create or upgrade specialized spaces, and the need, if any, to create more capacity to reduce class sizes. The massive lists contained within the capital plan would revert from being largely fantasy projects to being "allowable projects." Principals and their school planning committees could prioritize projects much like boards of cooperative apartment buildings. Part of the funding for the capital plan should include sufficient funding for an engineer or architect for each school district to work with principals and school planning committees to help them evaluate priorities generated by the Building Condition Assessment surveys and Specialized Space surveys. SCA should remains in charge of contracting. As repair and renovation costs escalate, as they inevitably do, principals and school planning committees will have to make the difficult decisions about what projects need to get done and what projects they must postpone or abandon — rather than having decisions made by a distant bureaucracy.

TABLE OF CONTENTS

1. THE LARGER CONTEXT:

WHY CITY CAPITAL PLANS FOR SCHOOLS KEEP FAILING CHILDREN

School overcrowding and disrepair have always been potent visual symbols of the effect on children of class and racial politics in America. No matter the reigning theory in every era of the supposed "social deficits" that low-income, minority children bring to the classroom, the condition of school buildings reveal the extent to which government is willing or unwilling to provide them with a good education.

The photographic collection of the midtown branch of the New York Public Library contains some of the exhibitions submitted as evidence in the *Brown v. Board of Education* trial, mostly of decrepit tarpaper-roof shacks without electricity or running water where rural African-American children were educated for only two to four months of the year. More than fifty years later, the photographs still have the power to shock. Unheralded progress has been made since the *Brown v. Board of Education* lawsuit was settled, but inequities in education still exist and school buildings still remain the most obvious symbol of them.

Across the country, large numbers of low-income children are educated from kindergarten through high school in trailers, not traditional school buildings. City school systems not only have many trailers, but also older buildings that remain overcrowded and in deteriorating condition for decades. While there are inequities in funding for teachers and supplies, investments in facilities reveal the starkest differences: on average, the most affluent districts spend $9,361 in capital dollars per student, while the least affluent spend $4,800. The disparities grow even deeper when it comes to where these investments are made. Capital improvements for schools serving middle-class students are more likely geared to instructional enhancements, such as science labs, while those for schools serving low-income students are mostly geared to repairs.[1] This lack of a primary focus on instruction is particularly prevalent in large cities where the capital planning process is dominated by distant bureaucracies of engineers, facilities managers, and budget officials facing tough choices. Building emergencies have been the priorities, but instruction emergencies of equal or more importance have been allowed to grow more severe.

Since the mid-1980's the nation's three largest city school systems, New York, Chicago, and Los Angeles, have been overwhelmed with a growth of enrollment that resulted in a majority of students being educated in overcrowded classrooms and buildings. City students also lost access to libraries, science labs, gyms, auditoriums, and playgrounds when these spaces were converted into extra classrooms. These instruction emergencies were ignored and allowed to grow worse. For all the public hand wringing about improving high school graduation rates, most new schools were elementary schools. There was very little effort to build high schools where overcrowding was intense and extreme. Until the 2004 *Williams v. California* settlement, the Los Angeles Unified School District response to overcrowding was spectacularly dismal. Despite an acute need, not one new comprehensive high school was built in 20 years.[2] New York City has built 12.[3] Chicago is somewhere in the middle, having built four, two of them in affluent areas with selective admissions.[4]

While all three cities are plagued by insufficient funding for education and, especially, insufficient funding for facilities, their slow response to overcrowding has meant that in all three cities a majority of public school students have been educated in overcrowded buildings

for two decades even though overcrowding affected less than half of the school buildings in all three cities. The public is often numbed by discussion of "seats" that are needed, as though overcrowding affects only "excess" students. When a building is functioning at 120 percent or 160 percent of capacity, all the students in the building are in overcrowded classrooms and hallways, not just the "excess" 20 percent or 60 percent of the students. Conversely, the construction of just one school for 600 students can eliminate overcrowded conditions for 1,600 students or 3,600 students and restore all lost libraries, science labs, gyms, and playground spaces. While there are many barriers to improved instruction, the detrimental impact of overcrowding on instruction is one problem that is easily solvable. Once enough buildings are built, overcrowding ends.

Top officials of these three school districts have unleashed a continual series of expensive educational initiatives to improve student test outcomes, yet have set a slow pace in eliminating physical barriers to improvements in learning. And the drag on student achievement from overcrowding has proven to be measurable. Columbia University Teachers College researchers conducted a statistical analysis for the Citizens' Commission on Planning for Enrollment Growth created by Chancellor Cortines. The study excluded schools from their analysis that were overcrowded because they had good reputations, and then compared the test results of low-income students in overcrowded school buildings to low-income students with similar characteristics (such as recent immigration) who were in schools that were not overcrowded. Among sixth graders, students in overcrowded schools had reading scores that were, on average, between four to nine percentage points below those in schools that were not overcrowded. Their scores on mathematics tests ranged from two to six percentage points below those similar students. The study also included a survey of over 200 teachers in overcrowded schools, 87 percent who ranked overcrowding as very important issue for their school, in contrast to maintenance (43 percent) or physical fights between students (30 percent). In response to another question, over 70 percent of these teachers believed that overcrowding affected student achievement, staff burnout, and classroom activities and techniques.[5]

Yet overcrowding is not treated as an emergency. It is, ironically, always called a "crisis" in the three-to-five-pound capital plans that are released periodically by city and school officials. This report, and this section in particular, is an attempt to explain why these capital plans in New York and other large cities, filled with endless details and lists, have not solved this "crisis." Part of the problem is that, unlike the stark photographs of school buildings, these voluminous tomes tend to hide more than they reveal. For example, the projects, the statistics, and the time lines, seemingly so concrete and factual when first presented, tend to disappear, shift, or change their meaning. The most important thing these plans obscure, however, is how little will be done for the direct benefit of students. Varying progress is made by most city capital plans for schools, but never enough. Inevitably, a majority of students continue to be educated in overcrowded schools decade after decade in Chicago, Los Angeles or New York City, largely the lowest-income students, among them many immigrants.

In contrast, the planning process of affluent suburban school districts is rooted in reality, unlike the inauthenticity of the capital plans of large cities. Their "capital plans" come down to the construction of one new school, a new performance center, or one major capital repair that may be the subject of heated, multi-year meetings of the local school board and taxpayer revolts, but the plan has some chance of being completed. Overcrowding and repairs may be problems for a few years, but they are ultimately solved. The simple explanation for these different outcomes is that more resources are available to affluent school districts. The more complex answer is that the huge scale and multiple lists of city capital plans tend to obfuscate objectives that relate more to repairing buildings than improving the learning environment.

There are three main characteristics that make large school district capital plans largely symbolic exercises rather than genuine reports about real objectives and real progress framed by instructional goals:

A. Disclosure of Plans But No Disclosure of Outcomes;

B. Measurements of "Seats" and "Overcrowding" with Many Meanings;

C. More Ambitious Objectives for Repairs than for Instruction.

A. DETAILED PLANS, BUT FEW DETAILS ON PROGRESS AND OUTCOMES Both for this report and EPP's 2002 *Castles in the Sand* report, a large part of the research effort was devoted to extracting from the School Construction Authority information about how many school buildings were actually built or leased under each capital plan since 1989 in New York City. This was a task not of weeks, but many months. Advocacy groups in Chicago and Los Angeles experience similar problems. The disclosure of this information is treated as potentially embarrassing to the agency and school system, but the crux of the problem is that large city capital plans exaggerate the number of buildings that will be built or leased within a given period of years. This initial exaggeration then requires a continual effort to mask the much lower numbers of buildings that are actually being constructed or leased. Even at the end of each capital plan the poor results remain largely hidden.

OVERLOADING AND UNDERESTIMATING Whether in Chicago, Los Angeles or New York City, more projects to reduce overcrowding are listed than will ever be completed, because by overloading projects, officials mollify parents and community demands and reduce pressure for more capital funding. A few years after the capital plan has been adopted, neighborhoods and legislators find themselves in a musical-chairs dance to keep their project in the plan. The gap between what is promised and what is delivered, always large when it comes to city government, is a huge chasm when it comes to capital budgets for schools. But this failure to deliver starts with a calculated effort to contain the costs of the capital plan by assuring all neighborhoods with overcrowding that their projects are "on the list."

The cost overruns on new school construction projects that tend to capture newspaper headlines stem, in part, not from runaway cost increases but from artificially low estimates of costs so that all the new school projects can be listed. A July 2001 report by Governor Pataki's Moreland Act Commission on New York City Schools found that the estimates in the 2000-04 capital plan for building new schools were so low that they were 59 percent below the contracts awarded to construction firms to build the schools.[6] In other words, no school could be built as cheaply as stated in the initial capital plan.

NO PROGRESS REPORTS AND NO OUTCOMES To some extent, some difficulties may be unavoidable when it comes to facilities. Large-scale capital planning and budgeting, by their very nature, are "lumpy." Unlike the fairly predictable pace of yearly operating budget expenditures, the planning process for new school construction may mean low expenditures for the first few years for site selection, architectural services, and land clearance followed by an explosion of costs when actual construction is underway. Or alternately, the capital plan could begin with high expenditures to finish the construction projects from the last capital plan and then decrease as planning cycle begins for new projects. The efficiency or inefficiency of contracting and project management can also affect the pace of expenditures. Rule number one of successful facilities professionals seems to be to set a furious pace of planning and contracting before they are fired.

The Mayor's *Management Report*, the School Construction Authority's web site, and every amendment to the capital plan should routinely report how many schools were built or

leased under past capital plans and the progress of capacity projects under the current capital plan. When EPP contacted the Independent Budget Office, the City Council, and the NYC Comptroller's office to find out how many new school buildings were created under the last capital plan and under the current capital plans, none of the staff could answer this question and responded that they would have to ask the School Construction Authority for the answer. The reason they don't know the answer to this question is that "results" are reported by the School Construction Authority as "seats created," a statistic that is open to many meanings, as will be discussed in the next section.

B. MEASUREMENTS WITH MANY MEANINGS Capital plans appear to be very factual because they are filled with quantitative statistics as to how many "seats" have to be created to end "overcrowding." Each term, however, turns out to be a complicated construct with measurements that vary.

SEATS — NOT EVERY "NEW" SEAT REDUCES OVERCROWDING Recent city capital plans tend to quantify goals for reducing overcrowding by measuring "seats" to be created along with a list of school buildings that will be built or leased. There are several reasons for this: First, the numbers of seats always is in the tens of thousands, always impressive, and much bigger than the number of proposed new schools, which pale in comparison to previous municipal accomplishments when hundreds of schools were built within a decade. Seat statistics are also helpful in masking the fact that they might be secured through purchasing or renting more trailers or reconfiguring spaces within an existing building. One of the findings of the Educational Priorities Panel's most recent report on facilities, *Castles in the Sand,* is that more than one fourth of the seats created from 1989 to 2001 were in trailers.[7] Los Angeles' current capital plan also depends on trailers to meet its target for reducing overcrowding, though they are called "modular" schools. It is open to interpretation as to whether the provision of a trailer is a symptom of overcrowding or a solution to overcrowding. By adding seats created through trailers to a tally of "seats created" each capital plan tends to mask the slow pace of new school construction and the extent to which trailers are the primary method of creating new classrooms in high-immigrant communities.

Statistics on seats can also be misleading in another way. Mayor Bloomberg and Chancellor Klein triumphantly announced in 2003 that 5,000 "seats" had been created by closing down community school district offices. Most of these "seats" were not in overcrowded school districts. EPP calculated that, at best, school district overcrowding had been reduced by only 1,764 seats.[8] Three years later, the tally of "seats created" since mayoral control grew to 47,000, which included not only these seats from closed community school district offices, but also 1) seats "created" through the hosting of smaller schools and charter schools in larger schools; 2) school renovation projects that replaced existing seats, called "replacement projects"; and 3) seats created through building additions.[9] While this running tally is an accurate representation of the work done by the School Construction Authority, it is not a statistic that accurately represents a reduction in overcrowding.

Statistics about seats seem very concrete because they are visualized as school chairs. They are, in reality, only an estimate of the student capacity of school buildings, trailers, and annexes, and these estimates can change. There are many ways to come up with different estimates of current or projected capacity. The Department of Education, to its credit, has presented several estimates for elementary and middle school building seat capacity, among them: 1) seat capacity based on current usage, which may include classes held in an auditorium or former library or art room; 2) "target" capacity based on extra rooms needed to adhere to UFT contract requirements for cluster rooms, such as an art room; and 3) "target" capacity based on reduced class size from kindergarten to third grade. These different measurements for capacity, however, are not used for high schools. Building utilization at this level is "unadjusted." This means, for example, that if a high school gym has been transformed into six

classrooms, on paper the capacity of the school has been increased by, say, 192 "seats" with no mention of the fact that a gym has been lost. The 192 "new seats" are related to union class size maximums, not actual numbers of students in the classroom,

SEATS — BASED ON EDUCATIONAL POLICIES AND PRACTICES Seats needed to reduce overcrowding are even more complex to calculate. The public and even some government officials assume that these estimates are based on current and future birth rates. This is only half the picture, because they are also based on judgments about educational policies and trends. An effort to create science labs or libraries in all middle schools will result in lowering building capacity in schools without these specialized spaces, so more seats will be needed in schools even if they are not currently overcrowded. If more students pass their courses or tests in the ninth grade, high school capacity will grow and overcrowding will be reduced. In some low-achieving high schools that EPP has visited, half the students in the school are in ninth grade. Conversely, if fewer students drop out of high school, these schools will become more crowded again. Grade retention policies can result in more students being held back in elementary and middle schools. Another example of how educational practices affect building capacity is if more special education students are educated in general education classrooms. Capacity will expand systemwide, because fewer classrooms will be dedicated to smaller, segregated classes of special education students. But if there is a new policy that more of these children should be educated in their neighborhoods rather than bused to underutilized schools in another district, some neighborhood schools will become overcrowded for the first time.

SEATS — DO NOT REFLECT UNKNOWABLES SUCH AS IMMIGRATION POLICIES, REAL ESTATE TRENDS, OR THE POSSIBILITY THAT THE SCHOOL SYSTEM WILL IMPROVE The great unknowns in projections of "seats needed" that can have greater impact than even current and projected birth rates are future rates of immigration and the impact of the residential real estate market. Future federal immigration policies and practices are as unpredictable as political and economic crises in other countries. Real estate trends are also difficult to predict with any accuracy. Neighborhood gentrification tends to empty out school districts, but its pace varies. Over the last decade, more African-American and Latino families have been moving to the suburbs. If suburban home prices and property taxes become unaffordable for middle income families, as predicted by the Regional Plan Association for many years, middle schools in New York City might become overcrowded for the first time in half a century. In the continued absence of reasonably good middle schools, however, parents will make rational choices even when suburban homes have become "unaffordable." Another unknown, but so far not yet experienced in New York City, is the creation of enough good schools to keep working class and middle class young families from moving out of the city for better schools. An improvement in schools, not just test outcomes, would result in more overcrowding.

SEATS — MIX OF CURRENT AND PROJECTED OVERCROWDING MASKS BIAS TOWARDS BETTER-OFF NEIGHBORHOODS Statistics on "seats needed" in capital plans also involve an important sleight of hand in their presentation. Current school overcrowding, largely in low-income, immigrant neighborhoods, is given the same weight as projections of future growth in enrollment in better-off neighborhoods. Commentators have noted that new schools tend to be created at a faster pace in Manhattan below 96th Street and Staten Island than in other parts of the city. The absence of a priority in ending current overcrowding and lumping it together with possible overcrowding smoothes over differences in how neighborhoods are treated in the schools' capital plan.

OVERCROWDING — ANOTHER MEASUREMENT WITH MANY MEANINGS "Overcrowding" measurements are as complex as "seats." In all large cities, building capacity is measured against student enrollment in the school. But the statistical profile

on paper is often at odds with visual impressions at the school level. There are various reasons for this. Parents, in particular, are prone to assume that there is much more overcrowding at their children's schools than the various capacity figures would indicate. The primary reason for this is that they equate classroom overcrowding to school overcrowding and assume that their children's classes are large because there are not enough classrooms in the school. Class size, however, is most often determined by tax-levy funding for teachers and principals' decisions on how to plug gaps in inadequate tax-levy funding for out-of-classroom staff positions. Principals often increase average class sizes in their schools so that they can use teacher funding to pay the salaries of an extra school secretary, librarian, or assistant principal. On many occasions, EPP representatives have visited schools with very large classes that are not "overcrowded," that is, the school's student enrollment is below — and sometimes way below — the student capacity of the building using any calculation. Though parents, advocates, and the public assume that overcrowded classrooms result from overcrowded schools, budget policies for funding school staff are a very large contributing factor to large class sizes, not lack of space.

On the other hand, site visits to low-performing schools that are "at capacity" or "overcrowded" can be also be disconcerting, because the hallways are passable and the classrooms are roomy and filled with many vacant seats. This disconnect is due to the fact that building capacity is measured against student enrollment without accounting for school attendance rates. In high schools where average daily attendance rates fall below 90 percent and where there are many long-term absentees who will ultimately be determined to be "dropouts," capacity calculations based on enrollment overstate actual building use.

Even more misleading, statistics on "overcrowding" can result from staff policies that are not disclosed publicly. A finding in EPP's 2002 report, *Castles in the Sand,* was that, because every trailer's room size was below the Board of Education's standard for square feet needed for classrooms, every trailer was deemed at "overcapacity" even though class sizes in trailers were smaller, on average, than union-enforced class size maximums. The addition of trailers to schools resulted in an illogical increase in "overcrowding" on paper because all of the trailer classrooms were designated as "overcapacity."[10] The more trailers a school had, the more "overcrowded" it was.

OVERCROWDING — CAN MEASURE PERFORMANCE Another problem with statistics on overcrowding is that some schools are overcrowded because they are popular and many parents want their children enrolled in these schools. Careful analysts who want to measure the true impact of overcrowding on student achievement must factor out "successful" schools, because test performance is high in these overcrowded schools. This type of overcrowding is really a measurement of the uneven quality of public schools in the New York City and the scarcity of good schools, especially at the middle school level. A related aspect of this type of overcrowding is that principals are rumored to seek adjustments to reduce their school's capacity in order to be declared "at capacity" so that they can pick and choose from among students seeking enrollment. In two thirds of the community school districts, even in districts functioning at close to full building utilization rates, an overcrowded school tends to reflect success. A school functioning at undercapacity tends to reflect a poor reputation. Unfortunately, in high-immigrant neighborhoods with more severe overcrowding there is little parental choice and children are forced to attend poorly-run schools. Part of the measurable negative impact of overcrowding on student performance may be due to the inability of students in these districts to transfer out of failing schools.

OVERCROWDING — WILL NOT BE REDUCED BY ADDITIONAL CAPACITY Unknown to the general public and even some elected officials is that "capacity improvement projects" (the term used for new school construction, leasing, building additions, annexes, and trailers) has a very narrow meaning when used by the School Construction Authority and the NYC Department of Education. "Extra" capacity means that more students

can attend the school, not that the school will be kept at current enrollment levels and that students will have smaller classes and or that gyms, libraries, and science labs will be recaptured for their intended uses. EPP learned this lesson by trying to understand the resistance by high school principals to an initiative to transform their one-story trailer complexes into multi-story buildings. Creating more "capacity" for these principals meant that they would have to accept more students to their school. The only way "additional capacity" can reduce overcrowding is if the school's enrollment is "capped." In capital plans and public testimony, however, school officials tend to equate capacity projects with the reduction of overcrowding. At the school level, however, additional capacity tends to mean that more students will be crammed into the school and overcrowding will continue.

C. AMBITIOUS OBJECTIVES FOR REPAIRS AND MUCH MORE LIMITED OBJECTIVES FOR INSTRUCTION OR STUDENTS Large-city capital plans tend to have higher standards for what constitutes a need for repairs and for a "repair emergency" than they have for instruction-related renovations or critical overcrowding, which are never designated as emergencies. Capital plans tend to be "building friendly," not "student friendly." For example, high schools have functioned at 140 percent of capacity for decades without the designation of "emergency." Similarly, small high schools have functioned without access to a gym for decades with only a one-in-ten chance of securing this needed upgrade in the capital plan. Major repair projects, on the other hand, tend to have a far better chance of getting into the capital plan and, more importantly, being completed.

HIGHER STANDARDS FOR "REPAIRS" New York City pioneered the practice of hiring outside consultants to evaluate building conditions. In the past, the school system relied on measurements of backlogs in repair orders that was open to manipulation and did not provide an estimate of the repair and replacement needs for all of the buildings' systems. The lumping together of repairs and replacements, however, tends to hide the capital plans' biases. The general public may assume that a project to replace roofs means that every roof that is to be replaced is, in fact, leaking. Many are simply old. This is true for other system replacements and upgrades. The plumbing, the wiring, or the heating system is judged to be past its "useful life," no matter how well it is functioning. On one level, this is good government planning, geared to replacing systems before they break down. So all building systems are on a "replacement" schedule based on the expected life of each system. In the private sector, systems are replaced on schedule only when there are sufficient funds. Absent large surpluses for a facilities maintenance program, building systems that are functioning will be replaced by landlords only when it is obvious that they will soon break down. Government repair programs are more ambitious and therefore more costly. While the student overcrowding problem represents an existing emergency that directly impacts learning, the school "repair" program is devoted in a large measure to proactive strategies that go beyond an emergency repair program.

The reigning strategy of the most recent and current capital plans in New York City is to make buildings "watertight" by replacing masonry, windows, and roofs. This strategy is a good one. But these capital plan objectives stand in stark contrast to the lack of any efforts to prevent the deterioration of the instructional program because of student overcrowding. A better balance between building systems and instructional programs is needed. The question that never gets asked is whether an ambitious building system replacement program is affordable in an underfinanced system.

INSTRUCTIONAL INITIATIVES IN CAPITAL PLANS TEND TO DELIVER LESS THAN PROMISED Magical thinking tends to be more prevalent in K-to-12 education than in most other sectors of society. There is often good, objective research on whether a given instructional practice improves student outcomes, but it tends to be ignored because research often fails to bolster preconceived and strongly held ideas about "what works." A primary example of this is the use of computer-assisted instruction. Astoundingly, no objective study, so

far, has found any learning gains through the use of computers.[11] As a matter of equity, it is important that low-income students learn how to use computers and have as much access to them as possible, especially since they are less likely than more affluent students to have computers in their home. They have become a primary method of personal communication and have improved the efficiency of the workplace. But, oddly enough, they have not proved to improve learning in school settings even with thoughtful implementation. Despite these findings, hundreds of millions of dollars of city capital plans are devoted to the purchase of new computers and software systems with the promise that this will result in improved instruction. In New York City, the federal QZAB bond program has been used exclusively to wire schools for computers though it is permissible to use these bond proceeds for the reduction of overcrowding. At the school level, however, this constant infusion of computers has resulted in library spaces filled with older, sometimes broken computers. It is not unusual during EPP visits to schools to see dusty, rarely used computers parked at the corners of classrooms. Insufficient funding for training of teachers, for printers, or for tech support has meant that even when computers are present in the school buildings, students are not given full access to them. This is also the conclusion of a spring 2004 NYC Council *Education Capital Budget Response,* "Before dumping computers into unprepared schools, we must first provide the necessary infrastructure, develop 24/7 Internet portals for parents, teachers and schoolchildren, and teach them to use their computers to communicate, teach, learn, and form classroom communities."

In a series of EPP visits to middle schools, the lack of additional investments in science lab assistants has meant that even when labs are created or renovated, students are not exposed to the full range of experiments that are the norm in middle schools in the rest of the state. In some schools, the absence of a lab assistant meant that equipment, including microscopes, was kept locked up throughout the year. We also found that "renovated" science labs at the middle school level often meant that all the sinks were removed except one sink for the teacher. The expectation was that students would cluster around and watch the teacher perform the experiment. In science labs where student sinks were not removed, most tended to be filled with a heavy layer of dust and a few gum wrappers. The one exception was a selective middle school with a lab assistant on staff.

Yet another example where capital investments in instruction tend to overstate promises is the "good start" that will be given young children through the creation of classes for pre-kindergarten. This "good start" may be experienced by four-year olds in pre-k classes of no more than 18 students with a teacher and a paraprofessional. Unfortunately, these four-year olds must go on to kindergarten where classes can range from 20 students to over 30 students and one teacher. This staff-to-child ratio is a violation of NYC Department of Health codes for kindergarten programs in publicly-financed day care centers or privately-run programs, but Mayor Giuliani succeeded in exempting public schools from these standards that have been in place since World War II. The result of inadequate staffing is that many kindergarten classrooms are eerily lethargic and filled with sad and fidgeting five-year olds and others are chaotic with one overworked adult trying to cope with two dozen or more five-year olds. A good pre-K program does not make up for the sad state of kindergarten programs in the New York City public school system.

THE CREATION OF NEW SCHOOLS IN NEW YORK CITY BY DECADE

1901-1910	**97**
1911-1920	**57**
1921-1930	**211**
1931-1940	**96**
1941-1950	**26**
1951-1960	**169**
1961-1970	**174**
1971-1980	**90**
1981-1990	**12**
1991-2000	**47**
2001-2006	**26**

"New Schools" as defined as a new school building (not an addition, annex or trailer) with at least 300 seats and includes some early childhood centers with 300 seats or more. Does not include leased space. See Appendix for SCA's listing of schools.

2. NEW YORK CITY CONTEXT:

THE PERFECT STORM

By the year 2009, the end of the current capital plan period, the school overcrowding crisis will be twenty years old. The two-decades delay in solving this problem can only be understood by looking back at its origins in the 1980's, or more specifically, the year 1984. This was the year that Mayor Koch triumphantly announced that the city was at long last able to re-enter the bond market for the first time since the Fiscal Crisis of 1975-77 when New York City almost was declared bankrupt. Much to the unwelcome surprise of top city officials and various municipal policy makers, who had championed an elite vision of a "smaller city" catering to the financial sector, this was also the year that student enrollment stopped shrinking and started growing.

School officials were not only unprepared for this enrollment growth, they were in the worst possible position to respond to it effectively. There were three ingredients that made the overcrowding crisis not only a "perfect storm" but a continuing one:

- Since the city's fiscal crisis, routine maintenance of schools had virtually stopped and even serious repair emergencies, such as deteriorating facades and broken plumbing, were given patch-up treatments. By 1984, the backlog of repairs was huge and most of the city's 1000 school buildings were in a state of disrepair. The need to build new schools, on top of the need to make repairs, strained an already impossible situation.

- In 1982, the state's highest court made un unexpected final ruling in the *Levittown* lawsuit challenging grossly unfair state funding for low-wealth suburban and urban school districts. The majority on the court ruled that the state constitution did not require a fair distribution of education funding. While other school districts in the state were receiving 30 percent to 50 percent reimbursement for their capital repair and construction projects, New York City received a lump sum amount of $60 million a year no matter how many schools were built or repaired.

- In 1974, governance changes reduced mayoral control of the Board of Education and created a disincentive for mayors to provide adequate financing to the school system in both the yearly operating budget and the multi-year capital budget. Finger-pointing at the Board of Education's poor performance served as a pretext for harsh cost containment policies for the public education system. To the dismay of city policy makers, public education was a costly municipal service that was expanding.

While the governance system reverted to mayoral control in 2003, the continuing lack of resources from the state and the challenge of making headway on repairs after a fifteen-year period of total neglect have continued to cripple efforts to end overcrowding for two decades. But there was also another complex set of reasons why overcrowding emerged in the 1980's and why, irrespective of funding issues, it has been allow to continue. Little known, and rarely disclosed, is that previous decades had experienced even higher levels of student enrollment with less overcrowding. Why did schools become "overcrowded" so quickly?

THE INSTANT OVERCROWDING CRISIS In 1971 there were 1,149,068 students enrolled in the New York City public school system. In the next ten years, student enrollment fell by almost 230,000 students. By 1985, the New York City Board of Education had closed 114 of its

schools. Among these, 12 schools were demolished, 29 sold, and 40 leased or transferred to non-profit organizations and city agencies.[12] Starting in 1984, however, enrollment increased for the first time in over a decade but still was way below the million-student mark of 1971. At first, school officials and newspapers assumed that there was a "baby boomlet," but a retrospective analysis by a commission appointed by Chancellor Ramon Cortines concluded that immigration accounted for all the enrollment growth in the recent past and projected for the near future.[13] Had there been a "baby boomlet," enrollment would have climbed more evenly around the city, and there would have been no need for a large number of new schools.

For three straight years student enrollment grew. By 1988 there was a full-fledged "overcrowding crisis." At first blush, this seems inexplicable. By that year there were only 17,615 more students in the system than there were at the low-point for enrollment, 1982. At the time that the alarms went off about the "overcrowding crisis," 1988, there were actually over 54,000 more elementary school seats systemwide than there were students. Yet the estimates were that there was a need to create an additional 26,000 seats to reduce elementary school overcrowding and almost 48,000 seats to reduce current and future overcrowding in the high schools. How could this be? There were three primary reasons:

NEW IMMIGRANT DESTINATIONS There was a misalignment between the location of schools and the location of new students. The primary source of the problem was that the new wave of immigrants had not settled in traditional immigrant neighborhoods, such as the Lower East Side and the South Bronx. Instead they went to northern Manhattan, central and northern Bronx, Queens, and Brooklyn. The traditional immigrant neighborhoods still had empty seats. The Board of Education had leased 4 elementary schools to non-profits in District 1 in the Lower East Side, but the district still had 2,473 more seats than students. District 7 in the South Bronx had also lost 4 elementary schools, but it still had an excess of 3,421 seats in 1988.[14] The same pattern held true for middle schools. In contrast to the building undercapacity in most traditional immigrant neighborhoods, there was severe overcrowding in some 11 community school districts that had become the new nexus for arrivals from abroad. Queens, in particular, did not have enough schools because it had never before served as a destination point for new immigrants. Within a few short years, new arrivals from Asia, the Middle East, the Caribbean, and Latin America were flooding into areas that did not have enough schools to accommodate them.

SCHOOLS WITH LESS CAPACITY Building capacity is an estimate of how many students can be educated in a school building. The expansion of special education programs and services for English Language Learners (ELL), both of which were the subject of extensive litigation, had shrunk the capacity of nearly all schools. During the decade of a decline in enrollment, special education programs grew at the neighborhood school level. Special education classes had far fewer students in them. For example, 24 to 32 special education students would need two classrooms, while the same number of general education students would need just one. While many special education students spent most of their day in a general education classroom, their need for a Resource Room also required another classroom. In addition, classrooms were also converted into offices for special education staff.

Since enrollment growth came from the new wave of immigration, classes were created for ELL instruction that also had fewer students in them. When kindergarten classes moved from being half-day to full day during the phase-in period from 1984 to 1987, the number of classrooms needed for five-year olds literally doubled. There was also an increase in the number of classrooms needed by students from first to third grades, because the Board of Education had also reduced average class sizes for these grades from 32 students to 25 students. At the high school level, capacity was changed with the creation of specialized "educational option" programs with limits on enrollment (called "capped enrollment").

MORE RIGOROUS GRADUATION REQUIREMENTS Basic tests required for high school students were imposed by the NYS Board of Regents, which were followed in a few years by more academic course requirements adopted by the NYC Board of Education. Vocational schools, in particular, were impacted by these initiatives. In the past, students had spent most of their school day taking vocational courses, but within a short period of years they had to spend more of their time in newly required English and math courses, and there were not enough classrooms at vocational schools for these academic subjects.[15] Neighborhood high schools (called "zoned") were also affected by these new requirements, because whenever a student failed a test, the student was required to take the course over again for another year. It was taking longer for the same cohort of students entering ninth grade to get a diploma. While a third of them would never graduate, a quarter of them would take five or more years to get their diploma.[16] When the new immigrant wave hit, high schools had less excess capacity (just 15,000 seats) then either elementary or middle schools. There was a need to create an additional 27,800 seats to eliminate high school overcrowding in 1988 and a projected need for an additional 20,000 seats by the year 2000.[17] These projections proved accurate.

While the mystery of "instant" overcrowding can be explained, the delay in the city's response to this phenomena is less easy to explain and subject to debate. Eight of the eleven community school districts that were severely overcrowded by 1987 are the same districts that are overcrowded in 2007 and will remain overcrowded in 2009. High school overcrowding throughout the whole system has remained a crisis for 20 years. Was it merely because the schools that were overcrowded were in immigrant neighborhoods? While bias to new arrivals may have contributed to the longevity of this recent overcrowding crisis, this bias existed in past decades. The relatively new phenomenon worsening the impact of overcrowding on learning is the prevalence of rigid government cost containment policies and practices at the city level.

INADEQUATE MANAGEMENT OF OVERCROWDING An EPP analysis of 1999-2000 school expenditures found that there was an inverse relationship between overcrowding and per-student costs. Elementary schools that operated at 130 percent of capacity had an average per-pupil expenditure of $7,704, while those at 88 percent of capacity had an average per-pupil expenditure of $9,951, almost a $2,250 differential.[18] Extrapolating from this estimate, medium-sized to large overcrowded elementary schools easily cost one million less to operate. Part of the reason that per-pupil expenditures are so much lower in overcrowded schools is that, unlike past episodes of student overcrowding in New York City, schools and districts have not "managed" overcrowding.

In the 1960's and 1970's, even with highly unfair state school aid formulas, New York City's per-pupil expenditures were higher than the state's average for school districts in the rest of the state. When schools became overcrowded, a second "shift" of classes was created, which sometimes lengthened the school day from 7 in the morning until 5 at night. Educators and parents did not welcome staggered arrival and departure times for students, the diminishment of after-school activities, and the lack of communication that could develop among teachers on different shifts. Nevertheless, these management strategies and others were imposed during the city's past cycles of school overcrowding to ensure that students were not in overcrowded classrooms and that they got the required range of classes. This is what most school districts do when there is student overcrowding. This was no longer New York City's response, though there is still a widespread belief by the public that many schools are on a double shift.

By 1990, New York City's per-pupil expenditures had fallen from above average to the bottom third of the lowest spending school districts in the state.[19] Overcrowding, even when it was severe, was unlikely to trigger "split shifts" in schools and the hiring of more teachers. Because multiple lunch periods in many New York City schools begin at 10 in the morning for a variety of reasons, the public and even policy makers assume that the reason is that the schools are on double shifts. They are mistaken.[20] In a September 1990 report, the *Chancellor's*

Working Group on High School Overcrowding, there was a review of the schedules of the twelve most overcrowded high schools in the city, all functioning at between 130 percent to 160 percent of capacity. Unbelievably, half of these severely overcrowded schools had schedules that were no different from other high schools. Five retained a single schedule of 8-periods and one had gone to only a 9-period day. These six schools were open only from 8 a.m. to 2 or 3 p.m. Had they introduced a 10-period schedule, their buildings' capacities would have increased by anywhere from 300 to 600 students.[21] A 10-period schedule, however, would have required the hiring of more teachers. The report recommended the adoption of more "acceptable" schedules.

These 1990 plans, apparently, went nowhere. As part of the 1994 Citizens' Commission on Planning for Enrollment Growth, another review was done of how schools had accommodated to overcrowding. Once more there was a finding that no elementary or middle schools had split or double shifts and that only a few high schools had adopted this type of scheduling. Even more surprising, districts had not changed their boundaries for schools or reconfigured grades to relieve overcrowding other than to send sixth graders to middle schools. Six years later, in 2000, Board of Education member Terri Thomson convened a Year Round High School Task Force that finally succeed in getting a policy adopted so that a few new high schools would operate year round, a recommendation long advocated by the Citizens Budget Commission**.** This proposal was adopted, but faced stiff opposition from the Mayor's representatives on the Board of Education because of the increased costs of operating year-round schools. Only two high schools, not yet operating in 2007, are to have this schedule.

In hindsight, it might have been better for advocates to push for the systemwide adoption of intermediate strategies to accommodate enrollment growth, no matter how unpalatable. Class sizes would have been reduced by "split shifts" and, even more important, pupils in overcrowded schools and districts would have had essentially the same class and course schedules, though at different times, as students in the rest of the city. Worse, the absence of a systemwide policy for accommodating overcrowding coupled with large budget cuts in the early 1990's resulted in the emergence of ad hoc practices by high schools that essentially reduced the school day for large numbers of the lowest-income, lowest-achieving students. In 1994, EPP began a campaign to end the practice of some principals of providing fewer than five and a half hours of instruction to selected high school students. Students least likely to graduate because of a lack of credit accumulation were given only two to four courses with the rest of their schedules made up of "study periods" for the remainder of the school day, when actual practice was that students left the school building. Throughout EPP's campaign, we assumed that these practices were not widespread. This proved incorrect. In 1997, when the NYS Education Department finally conducted an audit, it found that 72,000 students, one out of every four high school students, were receiving less than five and a half hours of instruction, a violation of state law.

In 2001, Advocates for Children of New York began to hear reports that some high school students were being told by administrators that they "had" to leave the school and were often told to transfer to a GED program. Once again, the students most often forced to leave school had fewer course credits. In 2004, a lawsuit brought by Advocates for Children was settled in federal court. Under New York State law, students have a right to stay in public school until they earn a diploma or until the end of the year in which they turn 21 years old.[22] Despite the legal settlement, there are reports that these "push-out" practices continue to be widespread. Once students drop out of high school, it has now become difficult for them to re-enroll because high schools claim that they are so overcrowded that they cannot accept what are called "over-the-counter" students, that is, students who do not matriculate to the school from middle schools. Overwhelmingly, the students affected by these strategies are immigrants and low-income students. Overcrowding not only affected their achievement, but, in some cases,

resulted in their being offered only two to three hours of instruction or being pushed out of school.

Cost-containment practices have been allowed to remain unchallenged because double-shifts and reconfiguration do not have willing supporters. Unfortunately, the "low cost" of overcrowding to the city's operating budget also means that there is a built-in incentive not to reduce overcrowding. New schools not only mean capital costs, but the hiring of additional teachers for the new schools. But there are a multitude of other possible explanations for the duration of the current "crisis."

WHY IS THE REDUCTION OF OVERCROWDING NOT A REAL PRIORITY OF CAPITAL PLANS? How can the "crisis" of overcrowding remain unsolved for twenty years? Is this merely a manifestation of bias against immigrants and poor people? Or is urban government simply dysfunctional?

FAIR-SHARE POLITICS Post-World War II overcrowding affected all neighborhoods in the city. The end-of-the century overcrowding, in contrast, was and remains lopsided. Since only one third of the community school districts are affected by severe overcrowding, two-thirds of the school districts are not. Politically this translates into a majority of city and state legislators who have no personal stake in safeguarding funding for the construction of new schools. No new schools will be built in their neighborhoods. Ironically there has been an unintended consequence from a reform put in place when the School Construction Authority was created. Since 1989 there has been a requirement that "overcrowding" be measured objectively and that funding for new schools be targeted on a priority basis to community school districts that were or might become overcrowded. In the past, there was a broader distribution of new schools to be built, which helped to create a larger political constituency for school construction. Besides the lopsided nature of school overcrowding, another political factor is that overcrowding affects predominately immigrant communities with proportionately fewer U.S. citizens and thus fewer voters than other communities. It should be recognized, however, that even though severe school overcrowding affects only one third of the districts, a majority of the city's students are educated in overcrowded districts and high schools.

BAIT AND SWITCH The Citizens Budget Commission has often made the logical argument that it is foolhardy to build more schools when there are insufficient funds to maintain current school buildings in a state of good repair. Privately, facilities professionals have often expressed this point of view to EPP. From the fiscal crisis of 1975-76 up to 1989, there was a 15-year period of minimal repairs. Had there been enough funds in capital plans since 1989 to catch up with the backlog of repairs (that should have been done many years previously) and to build new schools, then repair needs and capacity needs would not have been pitted against each other. But there weren't enough funds — so they were pitted against each other. Given a choice, the logic of engineers, architects, and budget staff prevailed. Why expand the physical plant of the school system when the current physical plant was deteriorating? The only problem with this logic is that school overcrowding hurts student achievement, while repairs have no direct relationship to improvement in learning.[23]

Contrary to the fears of the Citizens Budget Commission, the first priority of every capital plan has been to bring schools back to a state of good repair, even though investments have been solicited with the promise that the "crisis" of overcrowding would be ended. The majority of expenditures of each capital plan has been dedicated to capital repairs and upgrades. This could have been predicted from the organization of the four capital plans before the 2005-09 plan. Each plan began with an introduction that always highlighted the urgent need to end the "crisis" of student overcrowding and the need for funds to accomplish this urgent purpose,

followed by a list of projects that always began with capital repairs. While each capital plan ended with far fewer newly constructed buildings than anticipated, repair projects kept better pace with plans and still do. When capital plans started being formally amended to reflect cuts in the capital budget, capacity projects were the ones that were sacrificed for all their "urgency."[24]

The emphasis on repairs by facilities professionals is not just a matter of ignoring student needs. They are well aware that repairs lack an emotional "hook" to secure adequate funding. Once overcrowding is solved, they will no doubt face the prospect of fewer funds for repairs. The good news about capital investments in the public school system since 1989, often overlooked, is that the School Construction Authority has made substantial progress in returning the schools to a state of good repair. Starting in the mid- 90's, the strategy was to make buildings "watertight" by repairing roofs and masonry.[25] It's a good strategy, because water damage was creating other costly repair problems in schools. The 2005-09 plan is in the process of completing this phase of repairs. Unfortunately, it has come at the cost of building new schools, reducing overcrowding, restoring specialized spaces, and improving instruction.

LIMITING MUNICIPAL SERVICES Another way to interpret the reluctance of large cities to reduce overcrowding, reduce class sizes, and restore specialized spaces is simply that city officials do not want city schools to become attractive to larger numbers of working-class and middle-class parents. Of all municipal services, public education is by far the most expensive. By lowering basic standards of education, municipal policy makers may be attempting to restrict "free education" in the city to low-income children. In this paranoid scenario, no matter the public rhetoric of public officials, they are content to exhort students to "do better" and to develop a continual series of strategies to raise the test scores of elementary school children, but they do not want to provide educational facilities that would invite hundreds of thousands of more children into the school system. Continual overcrowding and large classes serve as physical barriers to the influx of more students and higher municipal expenditures. Though never stated publicly, municipal policy makers see their public school systems as primarily serving the poor and lower-income working class families. The benefit of focusing mostly on building repairs is that their cities retain the assets that these buildings represent, while reducing overcrowding could potentially expand the system's operating costs further, especially since more privileged families might make more even demands. Seen from this perspective, the continued exodus of young families to the suburbs for good public schools is a cost savings to New York City and to other large cities, such as Chicago and Los Angeles.

3. PROGRESS BUT NOT ENOUGH:

ONLY 47 SCHOOLS WERE CREATED IN THE LAST DECADE INSTEAD OF THE 159 THAT WERE NEEDED

During the mid-1980's the city's transit system had been brought back from crisis. Finally, by the end of the decade there was an effort to tackle New York City's twin problems of student overcrowding and decaying school buildings. While 90 schools had been constructed from 1971 to 1980, the Board of Education had been able to complete only 12 schools after 1980, all of them over budget and many with serious building system failures that were still in the process of litigation and correction. One scandal after another surfaced about corruption and incompetence within the Division for School Facilities. Starting in 1988, there were extensive negotiations between Mayor Koch, Governor Cuomo, and the legislative leaders of the NYS Assembly and NYS Senate to eliminate the role of the NYC Board of Education in constructing new schools and making major repairs. This was the first forward movement in rehabilitating school buildings since the fiscal crisis of 1975-77.

THE CREATION OF A NEW AGENCY SIGNALS THE END OF CAPITAL NEGLECT

The "stars were in alignment" in 1988 for a variety of reasons. Mayor Koch was running for a fourth term in 1990, and he sensed that it would be a difficult re-election campaign. Governor Cuomo's specialization as a lawyer before being elected to office had been in the area of construction. His home borough, Queens, was suffering severely from school overcrowding. The public outcome of these negotiations was the creation of a new bureaucracy, the School Construction Authority (SCA), whose three-person board would be appointed by the Governor, the Mayor, and the NYC Chancellor, and its mission was to build and repair schools without the inefficiency and corruption that had discredited the Board of Education's efforts.

Equally significant were the less public agreements that accompanied the creation of the SCA. For decades, the state had provided a nominal amount to the New York City school district through its Building Aid formula. No matter how many schools were built or underwent capital repairs, the city received the same token amount of funds year after year. The Building Aid formula only worked for school districts outside of the city. From 1989 forward, the city finally began to get reimbursements through this formula, though technical problems resulted in a five-year delay in getting actual claims honored and payments to the city were still unfairly lower than for the rest of the state.[26]

In return for getting more state Building Aid, the city was required to increase its funding for the Board of Education's capital plan.[27] Since the fiscal crisis of 1975-76, the city had essentially only funded emergency projects. "Delayed maintenance," a euphemism for a lack of repairs, had resulted in deteriorating school buildings throughout the city except for a few districts lucky enough to be represented by a powerful NYC Councilmember. In an effort to reduce this type of favoritism, additional requirements were placed on the city. There was to be reduced input and decision making by individual members of the Board of Education, the City Council, and the Board of Estimate (made up of Borough Presidents and city-wide officials and eliminated in a voter-approved NYC Charter amendment in 1990). A Ten-Year Plan assessing need and a Five-Year Capital Plan listing specific projects and funding requests were to be created by the Board of Education based on objective projections of needed repairs and additional seats. (Until the 2005-09 Capital Plan, the City Council had no approval powers

beyond ratifying the Mayor's capital budget proposal. Its oversight was reinstated as part of the state law that ushered in mayoral control of the NYC public school system. Another significant change in this law was that the mayor appointed all members of the board of the SCA. This agency now functions essentially like a division within the NYC Department of Education.)

REALISTIC GOALS, BUT INADEQUATE FINANCING AND MISLEADING COST ESTIMATES The 1989 Ten-Year Plan estimated that 159 new schools would have to be built by the year 2000 to eliminate overcrowding.[28] Of these new schools, 119 were to be elementary schools, 14 middle schools, and 26 high schools. The city's past track record in school construction made this projection seem achievable. From 1931 to 1940, 211 new schools were built. From 1951 to 1971 there were a total of 343 new buildings in twenty years. (See table on page 9.) This last great school building effort was in response to the post-war baby boom, the influx of African Americans from the South, and post-war immigration from Europe and Puerto Rico. Some of the building program satisfied the needs of the burgeoning middle class parents, who had moved out of the dense urban neighborhoods of the city and were creating suburban-like communities in Queens, the north Bronx, Staten Island, and parts of Brooklyn. Measured against this post-war achievement, the more recent school building program fell far short of even its more limited goals. Why?

Even before the ink was dry on the five-year capital plan for fiscal years 1990-94, there was a recognition that there would be insufficient funding to carry it through. It was estimated that $17 billion would be needed over the next decade to build these new schools and bring the rest of the schools up to a state of good repair, but there was a funding gap of $7.4 billion over this ten-year period. Subsequently, even Chancellor Green's and Chancellor Fernandez's $5.2 billion request for funding for the capital plan was cut twice by two different mayors. Chancellor Cortines' capital plan for 1995-99 was also cut twice. Despite this long series of budget cuts, actual capital expenditures (as opposed to budgeted amounts) for the schools increased steadily, and by 1998 the building program exceeded a billion dollars a year.[29]

Yet by the end of the decade 159 new schools were not built — only 47 schools, less than a third of the projected capacity needed to eliminate overcrowding. Only five were high schools, providing 5,802 seats out of the 46,000 seats in extra capacity that was needed for students in these grades. While the first capital plan had allocated 29 percent of the capital budget to increasing capacity, in the second plan only 21 percent was dedicated to this purpose. A larger share of the capital plan was dedicated to repairs. But there was another reason so few schools were built. The reforms ushered in through the creation of the School Construction Authority, such as objective measurements of need and objective targeting of repairs and extra seats, did not stop the practice of "overloading" (see page 3). By underestimating the costs of new school construction, each capital plan promised many more schools than could be built given the funding of the capital plan. Each capital plan gained support because most neighborhoods with school overcrowding problems saw projects for their communities, but two thirds of these proposed new schools would fade away by the end of the capital plan.

Chancellor Crew's capital plan for fiscal years 2000-04 was yet again introduced as a response to the overcrowding "crisis" and yet again was cut by the Mayor. The share of the capital budget dedicated to ending this "crisis," however, slipped to 18 percent and this goal was quantified in terms of seats, rather than schools. Possibly this plan was influenced by a 1998 report by NYC Comptroller Hevesi, *Dilemma in the Millennium,* that estimated that it would take $28 billion to restore schools to a "state of good repair." This even greater degree of emphasis on repairs, which had always been the real priority of past capital plans, could not have come at a worse time. Enrollments had increased steadily, as predicted in 1989, and there were now one million students in the public school system. Despite the rhetoric of ending overcrowding, planned capital budget allocations showed that this priority was diminishing.

The 2004-05 plan, however, contained three promising strategies. One failed, but two others have survived and have helped to shape the current capital plan.

- The strategy that failed was an effort to construct schools at a lower cost by bringing in "modular" units constructed elsewhere and assembling them on site. These schools were not like the trailers used in California, but more like schools built entirely on site. Unfortunately, they proved not to be substantially cheaper.

- One of the successful strategies (though not a success during the period of the capital plan) was the development of a new financing strategy. The plan was to have future state Building Aid allocations redirected from the Board of Education's operating budget and instead be used for the payment of interest and principal on bonds issued by the NYS Dormitory Authority or any other bonding agency. This proposal was reflected in the April 2006 NYS legislative EXCEL agreement on increased state Building Aid.

- The second successful strategy, which emerged from the Commission created by Chancellor Cortines, was to make school buildings "watertight" because so many repairs were related to water damage. The head of this Commission, Harold O. Levy, became the Chancellor after Mayor Giuliani forced Chancellor Crew from office.

Unfortunately, Harold Levy who cared passionately about repairing public school buildings was to experience two huge setbacks in this effort. While he was heading the Commission, he predicted at many public events and at City Council hearings that it was only a matter of time before a student would be hurt by falling masonry, because so many parapets and exterior brick walls were in a deteriorated condition. His prediction came true, but the student who was killed by falling bricks was a victim of a poorly managed repair project. Newspaper stories alleged that the project manager was hired by the School Construction Agency as a patronage favor to a staff member of Governor Pataki. This set in motion the second major setback experienced by Chancellor Levy. The Governor, angered by these allegations, created a Mooreland Commission to investigate the School Construction Authority and the city's capital budgeting process for the schools. After a year of study, staff of the Commission announced several findings. One was that the estimates of the cost of constructing new seats was artificially low at the beginning of each capital plan and there were no amendments to the plan to reflect significant cost increases. The most startling revelation was that despite numerous cuts to the capital plan since 1989, the Board of Education had never actually amended the capital plan to account for these cuts until the end of the capital plan period. NYC Comptroller Hevesi chimed in that by law any cost overrun of ten percent or more was supposed to trigger an amendment to the capital plan. So for the first time in over a decade, a Chancellor was forced to actually reduce the capital plan projects when capital funding was reduced or cost increases escalated. Chancellor Levy had to make these types of amendments twice — jettisoning not only all new school construction projects but also some of the "watertight" projects where there was no imminent danger. As the fate of the 2000-04 capital plan revealed, only in the strange, murky world of capital budgeting could budget cuts not "stick." But even after this reform, nothing quite "sticks," including lists of projects, time periods, or even dollar amounts.

CHALLENGES TO MEANINGFUL MONITORING Advocates and civic and parent leaders need to understand the wide gap between appearance and reality in this area of municipal budgeting. Much can be known only in hindsight and then only after considerable effort. The objective of EPP's report, *Castles in the Sand*, was to discover why elementary schools remained so overcrowded in the eleven districts that were overcrowded in 1989. Answering this question took two years, including the full-time effort of one economist and consulting services of three other economists.

*Castles in the San*d made several surprising discoveries. While elementary schools in the eleven districts remained overcrowded, elementary schools and middle schools in the rest of the city had more excess seats than they had in 1989. The contrast between high-immigrant community school districts and those with fewer immigrants had grown more stark. We found that a fourth of the seats that had been created under Mayor Giuliani's administration had been in trailers. Most astoundingly, there was a net reduction of only 4,723 students in overcrowded elementary school buildings in these high-immigrant districts.[30] The 47 schools that were built had just kept pace with enrollment growth. No significant progress had been made in reducing overcrowding.

EPP staff tried to understand these results by analyzing how funds had been spent. No capital budget document proved helpful, so EPP was forced to rely mostly on NYC Comptroller's annual reports on actual capital expenditures to provide vague clues to changes in capital funding. Our review of a 13-year period, from Fiscal Years 1989 to 2001, found that $10.525 billion in capital funds had been expended, despite all the cuts to the capital budget by three mayors.[31] Getting information on capacity projects and their cost from the School Construction Authority proved very difficult. Six months were wasted in analyzing incorrect information, but finally the SCA provided us with more accurate lists of projects and costs. Over the 13-year period, spending for capacity projects to reduce overcrowding totaled $3.007 billion, or a 28 percent share of all spending, larger than we had assumed.[32] So despite the shrinking share of budget allocation devoted to expanding capacity, the rising costs of new school construction required higher expenditures than anticipated — though far fewer buildings were completed. Much of this spending to reduce overcrowding, however, had occurred before 1997. In the last five years spending for capacity had decreased to just 12 percent.[33]

Castles in the Sand received some criticism for not keeping to the time span of each capital plan and concluding, prematurely, that spending for capacity would continue on a downward direction. Though spending in this area increased slightly, the last two amendments to the 2000-04 capital plan ended all capacity projects that were not already in progress. Obviously, capital spending at any point in time is not the best way of analyzing the progress of a capital plan because of its "lumpy" nature, but the problem is that the other types of reports on capital budgeting prove even less informative. At least spending provides a snapshot of what "happened." Other types of budget reports provide very poor indications of what "will happen" or even "what is happening."

THE STRANGE, MURKY WORLD OF CAPITAL BUDGETING Before describing the three types of reports on capital allocations and expenditures in New York City there is a need to provide several crucial points of reference. The first is that school buildings represent more than half of the building assets owned by the city.[34] The city never provides capital funding for the schools anywhere near the proportion of assets that they represent of all city buildings. During part of the period of "delayed maintenance," from 1977 to 1989, only a paltry 6.5 percent to 10.9 percent of the city's total capital expenditures went to the schools. After 1989, the school system's share of total capital expenditures slowly rose to a high point of 32.2 percent in 2001.[35] In Fiscal Year 2005-06, capital expenditures of $1.781 billion for the schools represented a 27 percent share of the city's $6.594 billion in capital expenditures.[36]

The second point of reference is that these billions, while true expenditures, do not represent costs to the city on an annual basis — or the ultimate costs after 30 years. A common misunderstanding among the less informed public is that a five-year, $13.1 billion capital plan will cost the city $13.1 billion over five years. The five-year dollar amount is just a plan for the amount that will be borrowed. Like a mortgage, the annual cost will be much lower, but after 30 years the total cost will be much higher, almost double the $13.1 billion, because of payments of interest on bonds. Though most homeowners have a good sense of their own annual mortgage costs and some know the total cost of their borrowing over the years, neither annual

costs or 30-year costs of borrowing are presented in school capital plans that the public sees. So all the public reporting by the city about its total capital budget or its capital budget for the schools is very much like a friend telling everyone about buying a house for $500,000 without providing any information about the size of the mortgage, the monthly mortgage payments, or what all this borrowing will cost after 30 years. While it is acceptable for a friend to keep these details private, in the public arena the constant talk of billions of dollars hides pertinent information from the taxpayer. In June 2006 when the 2006-07 city budget was adopted, budget officials calculated that debt service associated with the schools for that year (which consisted of payments of interest and principal for all past capital plans) totaled $806 million.[37]

This lack of disclosure cuts both ways: it shields city government from pressures to enlarge the current capital plan (one could hear parents or Councilmembers saying "Why not add another $50 million?") at the same time that the ultimate costs of borrowing after 30 years of interest payments are also kept hidden.

The current schools' capital plan costs must be added to the total debt outstanding for the city, which totaled $55.4 billion in Fiscal Year 2005-06.[38] On a per capita basis, the NYC Comptroller calculates that this comes to $6,801 for every New York resident, which sounds like a scary number until it is equated with a 30-year mortgage of $6,801. Toggling back and forth between amounts borrowed and actual annual costs of this borrowing can be confusing, but the "bigger picture" is that, by law, borrowing amounts by local governments are kept quite low, government interest rates are low, and the annual cost of all of this borrowing and its relationship to annual tax revenues remains the main indicator of "what is affordable." While this city's per capita debt is larger than almost any other cities in dollar terms, per capita incomes as well as property values are higher in New York City than in most other cities. In addition, few other localities have all three types of taxes — income, property and sales.

Conservative fiscal commentators like to warn of looming debt obligations on the near horizon without reference to the fact that mayors have considerable discretion in stretching out debt payments through refinancing bonds or by pre-paying debt. In general, Mayor Giuliani tended to refinance the city's bonds because during the early part of his administration tax revenues were down and there were favorable interest rates during this period. Like refinancing a home mortgage, this strategy added to total debt outstanding. In contrast, up to 2006, Mayor Bloomberg has favored pre-paying city debt. The cost of borrowing has an indirect impact on the ultimate dollars available for capital projects, and yet it is rarely referenced until an inevitable "adjustment" is made by city officials to account for them. These debt payment policies and "adjustments" are not debated by the members of the City Council and are almost never reported by the press. What does come before the City Council, other elected officials, and the public are reports of what is done with the borrowed money.

REPORTING There is a significant difference in the amount of information contained in the city's reports on its yearly operating budget for the NYC Department of Education and its reports on the capital budget for the schools. Operating budgets provide dollar figures for planned allocations for personnel and other than personnel for each major function, and there are regular quarterly updates on changes in these allocations. In October, after the fiscal year has ended, the NYC Comptroller releases a report on actual expenditures using the same categories as the adopted budget. In contrast, the capital plan for schools, the basis of the capital budget, is only a five-year projection of the borrowing needed to accomplish a wish-list of construction and repair projects. While the city's operating budget is also just a projection of resources needed, the five-year school capital budget (and the city's four-year capital budget as well) is a wildly inaccurate projection of resources needed: Many of the projects will not get done, others will be done after the time period, and the dollar amounts for accomplishing the projects vary substantially from the initial estimates. In short, the projects, the time period, and

the dollars, seemly so factual when the capital budget for the schools is presented, will change considerably. Capital reports, as they stand now, make tracking these changes very difficult.

The three types of capital budget reports are mostly about dollars with no references to projects. There is some contradiction in this — capital plans are incredibly detailed, much more than the city's operating budget, but the capital budget reports for the next couple of years lack almost all details and provide dollar figures in lump sums. Here are the three types of reports:

- **Authorized** There are regular reports on "authorized" levels of funding from city's bond proceeds for each agency. This is, in essence, the upper limit.

- **Commitments** There are regular reports on capital funding actually "committed" to the total value of signed contracts identified for the Department of Education's capital plan. For most years, the SCA has been able to use almost all the "authorized" level of funding for contracting, while many other city agencies do not. So for the schools, there isn't much of a difference between "authorized" and contract "commitment" levels. The real problem for monitoring is that while the dollar amount of a contract signed with a plumbing contractor might be reflected in the commitment report of 2004-2005, some of the projects may actually be performed in 2007 or 2008 and payments for that work may stretch into yet another year or into the next capital plan.

- **Expenditures** The NYC Comptroller reports on actual capital expenditures each year. Of all the various reports, capital expenditures tend to come closer to measuring the progress of the capital plan as a whole, but they don't measure what parts of the plan are lagging or on target. Expenditure levels may actually be higher than the "commitment" plan for that same year because, as in the case of the plumbing contractor mentioned above, the work is actually done in that year, though the contract was signed in a previous year.

The difficulty in reconciling these different reports is compounded by the fact that the NYC Education Department's "commitments" as recorded on the city's Financial Management System (FMS) are really just transfers to the SCA, and the SCA is not required to report these "commitments" in the same fiscal year. Even the FMS is not adequately updated.[39]

Given the capabilities of city budget staff and spreadsheet software, these reports could be far more detailed and at least reported by categories that are used in the schools' capital plan. But they are not. Details about "commitments" depend on the willingness of the SCA to disclose them. In recent years, the NYC Department of Education has been more willing to provide these details through amendments to the capital plan. The NYC Council, when it gained oversight of the schools capital plan, required these annual amendments. As vague as the budget reporting is for the schools' capital plan, other agencies give even fewer details. The NYC Independent Budget Office's *Guide to The Capital Budget* outlines many areas of omission. A more recent February 2007 report *Does City Capital Spending Match the 10-Year Strategy?* is even more explicit about how difficult it is to monitor the city's capital plans.

The city's capital budget reporting system has often been criticized, but attempts to "fix" the reporting have not proved workable, largely because the focus tends to be on providing even more details rather than creating coherent categories for reporting. For example, the 1995-99 capital plan for the schools promised that there would be a reconciliation between the dollar figures and <u>each</u> project, but at the end of the capital plan this reconciliation could not be done, leading to a newspaper-headline war where some Board of Education members openly accused SCA of "losing" millions. The elimination of lump-sum reporting by the NYC Comptroller by categorizing commitments and expenditures by functional area would go a long way to provide more helpful information to public officials, taxpayers, and advocates.

4. ADEQUATE FACILITIES:

JUDICIAL LOGIC MAKES ENDING OVERCROWDING A PRIORITY

In May 1993, the Campaign for Fiscal Equity (CFE) began legal procedures to file a lawsuit against the state of New York. CFE was spearheaded by Robert Jackson, a parent and a president of Community School Board for District 6, the most overcrowded district in Manhattan, and Michael Rebell, who had served as an attorney for the same school board. Among the plaintiffs were students, parents, and school board members.[40] In contrast to previous litigation, *Levittown v. Nyquist,* that argued unsuccessfully that the state constitution required a fair distribution of education funding, the innovative legal theory behind the newest lawsuit focused on student outcomes. CFE's central argument was that the state was violating its own constitution because of the state's failure to provide sufficient funding to provide a sound, basic education to school children in New York City.

After six years of legal skirmishes and an astounding number of 167 depositions, the CFE trial began on October 12, 1999 before NYS Supreme Court Judge Leland DeGrasse and finally concluded seven months later in May 2000.[41] The trial was guided by directives imposed by a 1995 Court of Appeals decision that directed the lower court to evaluate whether New York City school children were receiving a sound basic education over multiple years in three areas: 1) minimally adequate teaching; 2) minimally adequate physical facilities and classrooms; and 3) minimally adequate instrumentalities of learning such as desks, chairs, pencils and textbooks.[42]

Michael Rebell and Joseph Wayland, co-counsels for CFE, organized testimony and arguments on the relationship between student learning and facilities:

- Both the testimony and summary contained descriptions of the dilapidated condition of school buildings in New York City, the length of time that these conditions had remained "deplorable," and the absence of sufficient funds for preventive maintenance and major capital repairs. Superintendents from five districts testified that the lack of proper heating, air conditioning, ventilation, and lighting systems in many schools affected the quality and extent of instructional offerings. The defendants countered with a study by Eric Hanushek, at the time professor at the University of Rochester, who found no correlation between a lack of repairs and student outcomes.

- There were far more detailed arguments and counter arguments about overcrowding. Two issues in contention were the accuracy of the building capacity formulas and student enrollment projections used by the New York City school district. In contrast, there was little opposition to plaintiffs' witness testimony on the negative affects of overcrowding and explanations of how it adversely affected instruction: classes put in inappropriate spaces such as hallways, closets, bathrooms, auditoriums, gymnasiums; limited course offerings; and the forced elimination of art programs, sports programs, assemblies, science laboratories, vocational workshops, and rooms for staff and parents. There was additional testimony about the lack of libraries, computer wiring and connectivity, playground spaces, sports facilities, and classrooms for pre-kindergarten programs.

- There was substantial testimony about the impact on learning of overly large classes. In particular, there was a detailed description by Dr. Jeremy Finn, professor at SUNY

Buffalo, of a well-designed experiment in Tennessee to measure test gains differences among young students randomly assigned to small class sizes, larger class sizes, and larger class sizes with an aide assisting the teacher. Known as the STAR program, the results showed measurable learning benefits for students who were educated in smaller classes. The study's methodology and results had been extensively peer reviewed, though, of course, the findings could be of no surprise whatsoever to suburban and private school parents whose first priority is small classes for their children.

THE JUDICIAL RESPONSE FOCUSED ONLY ON MEASURABLE IMPACTS ON STUDENT LEARNING Justice DeGrasse's 189-page opinion was issued on January 10, 2001, seven months after the trial had ended and just at the beginning of the legislative session in the state capital. This lower court decision found that the state was in violation of the Education Article of the New York State Constitution because it failed to provide a sound, basic education to New York City school children and ordered the state to put in place reforms of school financing and governance to redress the constitutional violations by September 2001.

The judge's examination of the relationship of student academic outcomes to school facilities was a masterful dissection of what he considered primary considerations from secondary considerations. The arguments and data submitted to the court on facilities was voluminous and reflected the full range of opinions surrounding priorities for school facilities. Subjected to the logic of judicial scrutiny, however, many assertions made during the trial fell by the wayside. Justice DeGrasse stated that "causal link" between building disrepair and poor student performance existed, but "the strength of that link is difficult to measure."[43] He underscored this difficulty by comparing the statements of experienced educators about impediments to learning in decaying buildings to the study of Hanushek purporting to show that there was no correlation between repair needs of schools and the test results of students.[44]

The fact pattern on the impact of overcrowding was easier for Judge DeGrasse to measure. Approximately 59 percents of the city's public school students attended over utilized schools.[45] Too many students in a school resulted in the loss of specialized spaces, such as libraries, art rooms, and science labs. He took cognizance of the reduction of the instructional day at seven Queens high schools that had received waivers from the state. Judge DeGrasse concluded, "The most significant negative impact of overcrowding is its effect on class size."[46] The decision reviewed the results of the Tennessee's STAR experiment in reducing class size and dismissed Eric Hanushek's argument that California's poorly implemented program cast doubt on the relationship of smaller classes to student achievement. He also criticized the state's argument that it was New York City's deployment of teachers, not class size, that was at fault: "The court finds that teacher student ratios are not the relevant benchmark of adequacy. No matter how many teachers are on staff, class size cannot be reduced without expanding classroom space."[47] The NYS Supreme Court 2001 decision, based on evidence provided at trial and through briefs, was the clearest statement that the judiciary was to make that overcrowding and large class sizes were the measures of inadequacy that required remedies.

Judge DeGrasse's ruling on the inadequacy of school facilities and his parsing of the relevant and irrelevant relationship of facilities to student outcomes were reaffirmed by the Court of Appeals. In a June 2003 opinion of the Court of Appeals, Chief Justice Judith Kaye took note that the there was no measurable correlation between building disrepair and student performance. On the other hand, the plaintiffs presented "measurable proof" that New York City's large class sizes affected learning.[48] Once again, overcrowding and large class sizes were the prime deficiencies cited by the court along with the absence of specialized spaces.

Though the New York Supreme Court's 2001 opinion was strongly worded, it followed the directive of the 1995 Court of Appeals ruling that the court was not to outline detailed remedies or set education standards. And, indeed, Justice DeGrasse's 2001 decision did not.

Under "The Potential Costs of Increased Educational Resources" the judge wrote, "At this juncture, the court does not prescribe the precise spending measures that must be taken. The following examples are given to sketch the breadth and depth of the public schools' needs."[49] But a few pages later he stated that the $11.2 billion funding level of the 2000-04 capital plan for the New York City schools was "too low" given the evidence presented at trial (this statement was made before the funding level of the 2000-04 was reduced).[50] Nevertheless, the final section of the decision, "Remedy and Order," reiterated the court's self-imposed limits: "The court will not at this time prescribe a detailed remedy for these violations. Rather it is the legislature that must, in the first instance, take steps to reform the current system."[51] In another passage, he explained this deference and qualified it:

> "…The Regents, SED and BOE have far greater expertise than this court in crafting solutions to the educational problems discussed in this opinion. This expertise should guide the State as it reforms the current system. There is no need, at least at this time, for the court to supersede the legislature, the Governor, the State Education Department, and the Regents, in imposing a remedy. That said, the court's deference to the coordinate branches of State government is contingent on these branches taking effective and timely action to address the problems set forth in this opinion."[52]

DELAY, DELAY, DELAY The same day that Judge Degrasse's decision was made public, CFE issued a press release that stated "…We hope that the legislature will work with us in getting to work immediately on a new funding system." By the end of February the Governor filed an appeal to this decision. Both houses of the Legislature failed to develop their own reform plans, but instead focused on opposing the Governor's proposal to restructure some of the school aid formulas into "Flexaid." Despite subsequent affirmations of the lower court's decision by the intermediate and highest courts, the continual filing of appeals by the Governor and a lack of action by the Legislature was to become a familiar pattern for the next five years. Most of the children who had entered kindergarten in 1993, when the legal action commenced, graduated from high school without any compliance by the state with the courts' rulings.

In his first decision, Justice DeGrasse stated that he would not prescribe spending measures, but by 2004 he did. The judge appointed three referees, John Feerick, E. Leo Milonas, and William Thompson, to evaluate the estimated costs for bringing the New York City public school system up to the level of minimal adequacy and subsequently affirmed their November 2004 findings. The referees accepted the plaintiffs' $8.19 billion BRICKS proposal to end overcrowding and reduce class size, which the referees characterized as a $9.179 billion plan to account for the inflation in costs from 2003. Their report listed the five primary areas of deficiencies that needed correction: 1) elimination of overcrowding; 2) class size reduction; 3) access to specialized spaces; 4) prevention of building deterioration that would increase overcrowding; and 5) providing computers and other technology upgrades.[53] The referees stated unambiguously that the $9.179 billion was to be funded entirely by the state. They even specified that the Defendants provide $1.835 billion each year starting in July 1, 2005 for the next five years.[54] It was not clear, however, that they intended that these capital funds were to be additional funds above the city's current capital plan or part of the capital plan. This ambiguity did not emerge from an error in calculation or poor wording by the referees, but reflected the hybrid nature of the BRICKS plan itself.

CFE'S LEARNING OBJECTIVES RE-ORDERED THE USUAL PRIORITIES OF CAPITAL PLANS FOR SCHOOLS The plaintiffs, the Campaign for Fiscal Equity, created two cost estimates for providing an adequate education for New York City school children, one for yearly operating funds and one for capital funding. The BRICKS proposal ("Building Requires Immediate Capital for Kids") was drafted by Patricia Zedalis, the former Chief Executive for the Division of School Facilities of the NYC Board of Education. The plan

adhered to the parameters set by Judge DeGrasse's decision, so its main focus was on the elimination of overcrowding, the reduction of class sizes, creating or upgrading specialized spaces, supplying more computers, and providing limited funding for building repairs to prevent the loss of classrooms and buildings that could increase overcrowding. The BRICKS plan states, "This Marshall Plan approach would establish a substantial, dedicated state fund to finance a rapid capital construction program that will address New York City's most urgent facilities needs."[55]

There was, however, a competing plan. The city's proposed 2005-09 capital plan was unveiled in the fall of 2003 for adoption by July 2004, the beginning of the 2004-05 fiscal year. It was called *Children First*, the name given to all the educational restructuring and new initiatives of the Mayor and the Chancellor. At the time that the BRICKS final draft was released in the spring of 2004, the city's five-year capital plan had already been circulating for five months. The two plans were in competition before the courts and, ultimately, before New York State legislators. But elements of the BRICKS plan were also based on parts of the city's capital plan that was to be adopted in June 2004. One of the reasons for the hybrid nature of the BRICKS plan is that there were uncertainties as to whether the draft capital plan would be amended substantially. Another reason is that CFE's cost estimates relied on estimates used in preparation for the new capital plan. Moreover, the BRICKS plan included some of the objectives of the city's proposed capital plan, but added additional ones. This overlap between the two plans was difficult to calculate in two areas, access to specialized spaces and repairs, because the city's plans were not detailed enough in these areas. Michael Rebell, the lead attorney for CFE, stated to EPP that part of the reason why the BRICKS plan included portions of the city's capital plan was that there was no way of really knowing how much of the city's school building upgrade and repair program would actually be accomplished at the end of five years, so CFE selected those portions of the city's capital plan that were crucial for meeting the broad objectives outlined by the courts.

Another way of interpreting this approach is that since the courts (wisely or unwisely) refused to take up the role of setting education standards or even standards for school facilities, the plaintiffs would at least establish concrete benchmarks for upgrading school facilities by itemizing how many seats and specialized spaces should be created and how many schools should receive additional renovations and repairs. In the area of class size reduction the BRICKS plan exceeded the scope of the city's capital plan by $2.5 billion. Three-fourths of the BRICKS plan was devoted to the reduction of overcrowding and the reduction of class size. The next largest category was the creation of specialized spaces, 15 percent. Only 11 percent was devoted to repairs. The following table compares the BRICKS plan and the city's 2005-09 capital plan by the dollar amounts under broad categories and the percentage of funds dedicated to each priority. The $9.179 billion plan cited by the court referees was based on a BRICKS cost estimate of $8.912 billion with an inflation factor. The BRICKS plan shown below was updated by a one-year cost factor of 2.5 percent.[56]

CFE BRICKS PLAN		**CITY'S 2005-09 CAPTIAL PLAN**	
75 % New Capacity & Class Sizes	**Cost: $6.868 B**	**32 % New Capacity & Class Sizes**	**Cost: $4.2 B**
14 % Upgrades of Schools	**Cost: $1.307 B**	**35 % Upgrades of Schools & Restructuring**	**Cost: $4.6 B**
11 % Repairs & Replacements	**Cost: $1.001 B**	**32 % Repairs & Replacements**	**Cost: $4.1 B**
Total Cost: $9.17 billion 2004 Estimate		**Total Cost: $13.12 billion** 2004 Estimate	

Given the fact that no city capital plan since 1989 had ever built even half the number of new schools specified in any capital plan, the BRICKS proposal reversed the usual ranking of capital plan priorities. The following sections are a more detailed presentation of specific remediation efforts in the BRICKS plan and where there is any overlap in the city's capital plan.

BIG EMPHASIS ON REDUCING OVERCROWDING AND CLASS SIZES The BRICKS class size reduction plan was far more extensive than the city's capital plan, because it reduced the average number of students in classes from grade 4 through high school. Yet these targets were considerably more conservative than CFE's earlier *New York Adequacy Study* where professional judgment panels had recommended class sizes as low as 16 students up through the 5th grade and full-day pre kindergarten for four-year olds and half-day programs for three-year olds. Instead, BRICKS used the state's average class sizes as targets to be met. In addition, the estimates for new seats required at both the middle school and high school levels were calculated using community school district and borough capacity figures. These calculations assumed that some of the overcrowding in schools could be alleviated by changing school boundaries and adopting other methods of creating a better distribution of students among existing schools. A school-by-school analysis, on the other hand, would have resulted in a higher estimate of new seats needed. Nevertheless, this modest class size reduction from grades 4 to 12 required an additional 52,789 seats and an additional $2.85 billion above the 2005-09 capital plan. (BRICKS estimates are shown in 2003 dollars in all following charts.)

NEW CAPACITY AND CLASS SIZE REDUCTION			
BRICKS PLAN	**BRICKS COST**	**IN CITY PLAN?**	**CITY 2005-09 CAPITAL PLAN**
66,000 seats to relieve overcrowding & of this total, 28,014 seats needed to reduce class sizes from K-3 to 20	$3.81 B	$3.81 B	BRICKS plan uses same assumptions as city capital plan
Eliminates 15-20 year old mini-buildings (2,200 seats)	$126 M	$0	Plan replaces old trailers (TCU's)
Class size reduction 4-5 grades to 20 students (1,897 seats)	$109 M	$0	No class size reduction for these grades
Class size reduction 6-8 grades to 23 students (230 seats)	$15 M	$0	No class size reduction for these grades
Class size reduction 9-12 grades to 24 students (50,662 seats)	$2.60 B	$0	No class size reduction for these grades
Total for 119,092 new seats	$6.66 B	$3.81 B	

SPECIALIZED SPACES The creation of specialized spaces within the two plans presents problems for analysis. The BRICKS plan created more science labs, but assumed that the city's targets for labs was higher than merely 25 percent of the ten-year assessment of need. It also assumed that the city's plan would not create libraries. (At the time that the BRICKS program was prepared, this was accurate, but a 2005 amendment to the city capital plan inserted a contribution of city dollars to a public-private partnership with the Robin Hood Foundation's program to create 25 new libraries.[57])

ACCESS TO SPECIALIZED SPACES			
BRICKS PLAN	**BRICKS COST**	**IN CITY PLAN?**	**CITY 2005-09 CAPITAL PLAN**
Restoring specialized spaces from overcrowding (1000 seats)	$70 M	$0	Not in BRICKS plan
Creating libraries in 125 schools	$169 M	$10 M	Private-public program
Creating auditoriums/gyms in 38 schools & gym equipment in 325 schools	$204 M	$338 M	Budgeted only for physical fitness
Middle & H.S. labs (241 schools)	$379 M	$294 M	One-fourth of need
Total	$822 M	$642 M	

The BRICKS plan did not account for the possibility that when large schools host smaller schools in their buildings there could be a loss of access to specialized spaces. No calculation existed for specialized spaces that needed to be recaptured due to restructuring. (This will be discussed in chapter 6.) Despite all these problems in making a comparison between the two plans, the BRICKS targets for the creation of these specialized spaces was more ambitious and added $180 million more for these renovations than the 2005-09 capital plan.

INSTRUMENTALITIES OF LEARNING Because the 2001 CFE court decision specifically mentioned the lack of computers and fully functioning school libraries as indicators of inadequate learning environments, the BRICKS plan outlined these costs. Its estimates included the purchase of more computers. More importantly, the plan also upgraded libraries in 350 schools, an objective totally lacking in the 2005-9 capital plan. The BRICKS targets for investments in instrumentalities of learning added $277 million more to the 2005-09 capital plan.

INSTRUMENTALITIES OF LEARNING			
BRICKS PLAN	**BRICKS COST**	**IN CITY PLAN?**	**CITY 2005-09 CAPITAL PLAN**
Wiring the remaining 20 % of unwired classrooms (same as capital plan)	$176 M	$176 M	Computer wiring for remaining schools
Purchase of new computers	$126 M	$0	Not in capital plan
Library upgrades for 350 schools	$151 M	$0	Not in capital plan
Total	$453 M	$176 M	

CAPITAL REPAIRS The BRICKS plan's objectives for repair were also ambitious in that they exceeded the repair targets of the capital plan, but they were couched as additional repairs needed to "avoid imminent additional overcrowding." The BRICKS schedule for window repair and replacement constituted the largest add-on and may have reflected the extensive testimony of superintendents that the inability to open windows resulted in too much heat and not enough fresh air in some classrooms. So even though repairs constituted a small proportion of the CFE capital plan, they added $163 million to the total dollar amount for the 2005-09 capital repair program.

CAPITAL REPAIRS			
BRICKS PLAN	**BRICKS COST**	**IN CITY PLAN?**	**CITY 2005-09 CAPITAL PLAN**
Exterior modernization, 8 more schools and $55.6 M more than in capital plan	$351 M	$296 M	Exterior modernization for 50 schools
Window replacement for 75 more schools	$368 M	$231 M	Window replacement for 104 schools
Roof repair and replacement for 55 more schools	$116 M	$60 M	Repair/replacement for 60 schools
Exterior masonry (fewer projects, only 19 schools)	$35 M	$120 M	Exterior masonry repair
Climate control replacement for 175 schools (same as capital plan)	$60 M	$60 M	Climate control repair for 175 schools
Heating plan upgrades for 43 schools (same as capital plan)	$48 M	$48 M	Heating plan upgrades for 43 schools
Total	$978 M	$815 M	

The sum of all of the BRICKS plan's costs for meeting adequate facilities benchmarks was $3.917 billion above the capital plan's $13.1 billion in 2004 dollars. If the two were combined, the result would have been a $17 billion capital plan. Realistically, it would have been difficult to complete the additional number of schools required to be built or leased within a five-year period.

It is widely believed that the New York City Department of Education's $13.1 billion plan was formulated so that it exceeded the NYC Council's proposed $12.9 billion capital plan. The mystery remains as to why the Mayor and the Chancellor did not want to meet the higher targets of the BRICKS plan, especially after the court affirmed the referees' requirement that the state provide $9.2 billion in facilities grants to the city above the state's share of the 2005-09 capital plan. This was a much higher figure for the state's contribution than the Mayor's request for $6.5 billion. One possibility is that Governor Pataki informed Mayor Bloomberg that the BRICKS plan was "a deal breaker." Another explanation for the lack of support by city officials is the fear that the NYS Legislature could have adopted the BRICKS plan but required the city to pay for half the resulting $17 billion capital plan, which would mean an additional $2 billion from the city on top of its $6.5 billion local share of the 2005-09 capital plan. Even more costly, the city's operating budget would also have had to be significantly increased when the BRICKS plan projects were completed. Class size reductions, new schools, and new specialized spaces would involve the salaries of thousands of more teachers and hundreds of more librarians and science lab technicians.

The Mayor continued to steadfastly keep to a demand for a 50-50 match of state dollars to city dollars for the $13.1 billion facilities plan and aimed no higher. The Mayor also continued to argue that the city's capital plan represented a "CFE remedy" for bringing facilities up to "adequacy." But two years after the city's capital plan was adopted, the state had still not provided the funds in a way that would satisfy the Mayor. Once he succeeded in this objective (which will be described in the next chapter), the BRICKS plan — and its rare focus on meeting student needs — faded from the collective memory of city and school officials as though it had never existed.

5. THE CITY CAPITAL PLAN BECOMES THE CFE REMEDY:

THE MAYOR HOLDS 20 SCHOOL BUILDINGS HOSTAGE

While the referees that Judge DeGrasse had appointed were still deliberating as to the costs of achieving "adequacy," the city's Corporation Counsel, Michael Cardozo, submitted a letter to them stating, "We recognize that the City is not a party to these proceedings. Nevertheless, as you seek to determine the components of a sound basic education plan for New York City, substantial consideration should be given to the views of the Mayor and Chancellor, who today have the responsibility of running the New York City school system."[58] The letter accompanied an August 25, 2004 *Plan of the City of New York to Provide a Sound Basic Education to All Its Students*. This document asserted that the capital plan "specifically addresses deficiencies found by the Court of Appeals."[59] Two months later, the referees' costing out calculations for school facilities were clearly based on the BRICKS proposals, not the city's. A year and a half later, however, the Mayor succeeded in building a coalition to get the much more modest 2005-09 school capital plan funded as the "CFE remedy."

FINANCING STRATEGY In hindsight, the most successful part of the city's capital plan was its financing strategy with its non-negotiable demands that the state fund half of the city's $13.1 capital plan and that state Building Aid formulas recognize urban building costs. Some background is needed to understand these demands. New York, compared to most other states, has a fairly generous program to reimburse its school districts' capital expenditures, based on the life cycle of the building components being repaired or the cost of new buildings or leases.[60] This reimbursement is supposedly based on school district wealth. The lowest-wealth school districts, such as Buffalo, could receive more than 90 percent reimbursement for payments of interest and principal on their bonds through state Building Aid. Of course, low-wealth school districts do not have sufficient credit worthiness to borrow money for even a modest building and repair program. In contrast, most affluent suburban school districts could hypothetically receive reimbursements as low as 30 to 40 percent for their capital outlays, but they can chose old wealth measurements which make them seem less wealthy and receive a 60 percent reimbursement rate. More importantly, they have enough resources to invest in facilities. In short, state Building Aid is a "spend-to-get" reimbursement system that does not really help low-wealth school districts and level the playing field.

At average wealth for the state, New York City's Building Aid reimbursement rate should have been around 64 percent. But there were two huge problems for the city in actually receiving these state funds:

> **Cost Ceilings** The *Children's First* capital plan stated that the city received 64.7 percent reimbursement for repairs, but only 25 percent for new school construction because Building Aid formulas contained "cost ceilings" that were too low for the construction realities in urban areas, such as site acquisition, land clearance, and multi-storied buildings. Another problem was that the New York State Department of Education used different building capacity figures for New York City schools than for schools in the rest of the state.[61]

Shares The biggest impediment, only briefly mentioned in the capital plan, was that no matter how much the city school system received in the Building Aid formula, the city's School Aid increase was capped to a share of the total increase in School Aid each year. "Shares" is the longstanding practice of the NYS Legislature to divide School Aid increases among different parts of the state (38 percent for New York City, 11 percent for Long Island, and 51 percent for the rest of the state) in near rigid proportions so that "every rising tide lifts all boats." The trouble with this system readily becomes apparent. If New York City had doubled it capital expenditures for schools, the city would have seen increases in its Building Aid reimbursements, but at the end of the day, since Building Aid was lumped together with other state School Aid formulas, the city would receive the same "share" of the state's total School Aid increases. Ultimately, it didn't matter whether the city got reimbursed the full 64.7 percent for capital repairs, it would gain less money in other formulas.

The capital plan's plea for more realistic cost allowances for new school construction in urban areas was understandable, and, in fact, became a reality during the 2005 New York State legislative session along with a modest increase in Building Aid reimbursement rates for all high-need school districts.[62] While this was a victory, the Governor and the Legislature refused to make any commitment to provide half the funding for the city's capital plan. But a year later, "they blinked" and the Mayor achieved this more ambitious goal.

The greatest departure of the *Children First* capital plan from past capital plans was that all of its financing strategies ultimately were put in place. Prior plans also developed strategies, but most never materialized because of the lack of political power of the Board of Education. Beholden to many constituencies, the members of the Board of Education were unable to marshal these constituencies to secure necessary reforms in Albany or to prevent capital budget cuts by city mayors. While assessments of mayoral control of the school system are mixed, one of its achievements so far is the willingness of the Mayor to negotiate with the Governor and to undertake a hard-fisted battle with NYS legislators to get a fairer reimbursement rate. Moreover, the Mayor was able to cobble together a broad and powerful coalition. The UFT, computer company representatives, parent leaders, and Wall Street finance houses all took some credit for securing the cooperation of the Governor and in getting the Legislature to act. On the other side of the coin, this dollar-for-dollar match from the state to pay half the city's debt service, in effect, made the $13.1 billion plan less expensive to the city than the $7.18 billion initially approved for the prior capital plan.

THE MAYOR TAKES HOSTAGES In February 2006, Mayor Bloomberg flanked by Chancellor Klein, City Council Speaker Quinn, City Council Education Committee Chair Jackson, and UFT President Weingarten held a press conference to announce the indefinite postponement of 21 schools that were to be created under the 2005-09 capital plan. Because the city had not received $1.8 billion in the first year of the capital plan or $1.8 billion in the second year, not only would the schools not be built but at risk were also 40 new science labs, 15 new libraries, 60 new athletic facilities, 40 new art facilities, 20 new technology upgrades and 20 new heating systems. The press release stated, "Calling for a united front, the Mayor and Chancellor and their guests encouraged parents and community leaders to reach out to their State Assembly representatives and State Senators and the Governor to voice their concern and insist on their full support of CFE funding to City schools. Information on how to reach elected state officials is available through [the city's phone-line response system] 311."[63] This hostage situation got considerable press attention. What followed from the initial press conference was a carefully orchestrated, largely bogus "amendment process" where the Panel on Education Policy went through the motions of formally amending the capital plan to eliminate these projects (ultimately 20 schools, not 21) to much hooting and hollering by parents in the audience. Parent Council, Borough President, and City Council hearings were also held to build up community and parent anger at state legislators. While 200 projects were "at risk," it was the

much-needed 20 school buildings that galvanized New Yorkers to participate in this political theater and to take action. State legislators in Albany responded, especially since 2006 was an election year for all of them. Within a remarkably short period of time, three months, this united-front campaign secured the $6.5 billion in state funding sought by the capital plan.

THE STRUCTURE OF THE DEAL Toward the end of April the Governor signed into budget law an EXCEL program that would guarantee New York City up to $6.5 billion to cover half of the cost for the *Children First* capital plan in a ceremony witnessed by the Mayor, the Chancellor, Assembly Majority Speaker Silver, and a host of other city and state officials. Estimates of the ultimate benefits of the budget agreement ranged from $6.5 billion, to $11.2 billion, to $11.4 billion, and even to a patently ridiculous $20 billion. Touted as "the CFE facilities settlement," in the legislative language it contained no guarantees that learning upgrades and capacity projects would be completed — though these were the projects that were held hostage for three months — or even that the city would adhere to the definition of what constituted "adequacy" for facilities in the various CFE court decisions. Very possibly, despite the willingness of legislative leaders to link the agreement with CFE, the Governor and the Mayor were not willing to go beyond dollar commitments nor to agree to timetables.

The EXCEL program (Expanding our Children's Education and Learning) was a two-part funding mechanism for the New York City 2005-09 capital plan with a portion reserved for the rest of the state. The two mechanisms are explained in greater detail following this table.

EXCEL PROGRAM		
Time Frame	**First Year** Fiscal Year 4/1/06-3/30/07	**After First Year** Fiscal Years 4/1/07-3/30/08
Funding Provided	$1.8 billion grant for NYC, $800 million in grants for rest of state school districts	State Building Aid reimbursements totaling $4.7 billion for capital projects
Financing Mechanism	30-year bonds issued by DASNY, debt payment by state	TFA allowed to issue up to $9.4 billion in bonds, debt paid partially by Building Aid
Restrictions	Only projects listed in NYC capital plan as of June 2005	Projects listed in NYC capital plan 2005-06 as amended at any time

GRANTS The payment of $1.8 billion in grants to New York City and $800 million to school districts in the rest of the state, for a total of $2.6 billion, was generous, because the state usually only reimburses school districts for a portion of their payments of interest and principal for bonds. The DASNY grants were supposed to be upfront payments with no outlay or hidden cost to New York City and to other school districts. At the time, EPP staff and members were given many assurances by legislators that these were true grants. In September 2006, DASNY approved the issuance of $2.65 billion in EXCEL bonds, to be backed by NYS personal income tax revenue. The state was to be obligated to pay $100 million a year for 30 years to DASNY through "service contracts" entered into by the NYS Budget Director toward the total debt payments of $2.6 billion issued by DASNY. Proceeds from these bonds were supposed to be forwarded to eligible school districts, as opposed to being sent to the state comptroller and then forwarded to the school districts. This process, though not interesting by itself, took the debt obligation from the open book ledger of the state and hid state debt within a public authority.

When Governor Eliot Spitzer unveiled his Executive Budget recommendations for FY 2007-08, this elaborate "deal" to ensure that these would remain grants was undone — this "grant" turned into a reimbursement. New York City's allocation of state Building Aid included $94 million in debt payments for the EXCEL grant. Possibly there were legal objections to

hiding this state debt, but there is another section of the state budget apart from the computerized school formula allocations that routinely list "grants" provided to school districts, and it could easily have been listed there outside of the formulas. But it was not. City officials and education advocates focused considerable efforts on trying to change this part of the Governor's Executive Budget. The larger problem was that the Executive Budget continued the "shares" agreement in distribution of state School Aid to New York City, capping the city's share to between 38 percent to 39 percent depending on which School Aid formulas were counted. This meant that the extra $94 million in EXCEL debt payments included in Building Aid for the city was crowding out other funding for city schools. In the adopted state budget there was a compromise. The Governor and the Legislature added an "education grant" of $88.9 million for New York City, which essentially made the city somewhat "whole" (minus $6 million) in compensation for characterizing the state's payments for the EXCEL "grant" as an allocation.[64]

When it came to dollar amounts for school districts, state officials continued to be hardnosed, but when it came to any oversight of the city's capital plan there was a "hands-off" policy. EXCEL grant-funded projects could include: acquisition; design; planning; construction; reconstruction; rehabilitation; improvement or modernization of a school facility; educational technology projects; health and safety projects; accessibility projects; physical capacity; and energy projects. In short, just about anything that was usually in a capital plan. In New York City, the EXCEL grants could only be used for projects that were listed in the five-year capital plan adopted by the City Council as of June 2005, but there were no requirement that all the projects in the plan be completed or provide any deadlines or benchmarks. In the rest of the state, EXCEL funds could only be used for school construction projects that had been approved by the NYS Education Commissioner, but not with contracts certified before April 1, 2006, placing these grants for the rest of the state into the next fiscal year. The $800 million in grants for school districts in the rest of the state consisted of $400 million for high-needs school districts outside of NYC, distributed on a per-pupil basis of $778.22, and $400 million for remaining school districts distributed on a per-pupil basis of $320.46. The per-pupil calculations were based on 2005 student enrollment data. It should be noted that the NYS Education Department's definition of "high-need" is based on school-district wealth measurements and a demographic profile of students, not need-related indicators such as overcrowding, aging buildings, or the absence of specialized spaces, such as libraries and science labs.

As part of the accountability structure for the program, the Dormitory Authority had to provide a report to the Legislature on or before November 15th of each year and again February 15th of each year. DASNY was given a guarantee by the state as a covenant to bondholders that annual debt service payments would be maintained as enacted. The "accountability" provisions in EXCEL were all financial.

TRANSITIONAL FINANCE AUTHORITY BORROWING The very different estimates of the ultimate value of the EXCEL program originate in this part of the "deal." One way to understand it is that New York State will not be providing the city any more funds, hypothetically, than anticipated. State Building Aid reimbursements will continue to pay for a portion of the city's yearly payments of interest and principal for bonds issued for the schools' capital plan. For the city, however, the change in how bonds are issued and the new mechanism for debt service make an enormous difference. Essentially, these mechanisms turned out to be the structure of financing sought by Chancellor Crew in the previous capital plan (see page 18).

Some background is needed to understand this shift at the city level and its importance. Historically NYC General Obligation bonds backed by city property tax revenues have financed school construction and major repairs. These bonds also finance most of the city's other major capital projects. Mayor Giuliani created the Transition Finance Authority (TFA) in 1997 because New York City had exceeded the state constitutional debt limit for localities, which is

that debt could not exceed 10 percent of the city's assessed real property value. The Mayor and some fiscal experts argued that this debt limit was archaic since it was written before the creation of municipal sales tax and a city personal income tax. Therefore, the constitution did not take into account all of the revenues available to the city to pay bondholders. TFA bonds are secured with personal income tax revenue and the sales tax revenue not already encumbered.

In most school districts in the state, when state Building Aid is received the funds are transferred to a separate account for debt service on bonds issued by the school district exclusively for school capital projects. More importantly, while geographical regions fell under the "shares" agreement, no single school district other than New York City has its state School Aid increases "fixed" by a percent limit. For the city, state Building Aid amounts were irrelevant because they fell under the city's fixed 38 percent "share" of any increase in a statewide School Aid total. The Board of Education, now the NYC Department of Education, was allowed to keep the state Building Aid allocation as part of its operating budget. (A portion of the city's annual debt service was attributed to the school district and was recognized as part of the city's fiscal support for the school system.)

The EXCEL legislation provided TFA, beginning in state Fiscal Year 2008, with additional bond authority up to $9.4 billion to cover only the costs and expenses associated with the city's 2005-09 capital plan for the schools. The Mayor was allowed to assign payments of state Building Aid to TFA for debt service on these bonds. There were various benefits to this new system:

- Currently, General Obligation bonds have an interest rate of 4.14 percent. TFA bonds have a lower interest rate of 4.05 percent.[65] Borrowing costs for the schools' capital plan should be lower.

- State legislators have always been uneasy about the capital funding of school projects through municipal G.O. bonds because each bond has been issued for a wide variety of city capital projects. These bond issues would be dedicated only to school projects.

- State Building Aid will be applied directly to debt service in New York City, so the city's capital funding system will be similar to those of other school districts.

Announcements of the EXCEL agreement stated that New York State would provide $4.7 billion in debt service payments for the issuance of $9.4 billion in TFA bonds (called Building Aid Revenue Bonds, or BARBs), that is, a 50 percent reimbursement rate through state Building Aid. There are, however, many unknowns in this part of the agreement. First, the city may chose not to issue that much debt in the next three years. EXCEL authorizes the issuance of these bonds, but does not obligate the city to do so. The slower-than-expected pace of the capital plan may mean that the $9.4 billion in bonds may be issued over the next four to five or even seven years. The TFA part of the EXCEL agreement covers any future amendments to the 2005-09 capital plan, so it is conceivable that a future amendment could reflect a cut to the capital plan. Second, even though state budget language stipulates that the state will match the city 50-50, the city may want to seek a higher contribution from the state in future years more in line with the higher reimbursement rates received by school districts in the rest of the state. On the other hand, the Mayor might be satisfied by 50-50 matching funds simply because it improved reimbursements for new school construction. This section of the EXCEL legislation contains more references to construction expenses than the section on grants.

VARYING NUMBERS The range of numbers describing the dollar value of the EXCEL program can be explained in various ways. The value of the grants, $1.8 billion, added to the expected future payments of state Building Aid, $4.7 billion, came to a total of $6.5 billion, that is, half the value of the $13.1 capital plan (excluding smaller pockets of capital

funding from federal and city sources). When the additional grant money for the rest of the state's school districts was added, the EXCEL funding totaled $7.3 billion. Only when the city's issuance of $9.4 billion in bonds were added to the grant for New York City of $1.8 billion did the funding approach the higher estimate, $11.2 billion, but of course the city's contribution towards this amount was not factored out of state funding. The highest estimate of the value of EXCEL came from totaling both the grant funds for the whole state, $2.6 billion, and the TFA bond issuance, $9.4 billion, but also a higher rate of state Building Aid reimbursements for city school projects, 64.7 percent or $6.08 billion ($2.6 B + $9.4 B + $6.1 B = $18.1 B).

All of these billions were based on 30-year borrowing, so, just as with any home mortgage, yearly costs to New York State are much lower. Based on calculations using a home mortgage calculator and an annual interest rate of five percent, the state will have to pay $170 million a year or more in debt service for DASNY bonds of $2.6 billion. In the second part of the agreement, half of TFA annual debt service costs total about $360 million a year if all bonds are issued. Ultimately the EXCEL program could cost the state $530 million a year for the next 30 years.

It is important to note that the redirection of state Building Aid reimbursements to debt service for TFA bonds is a truly significant reform only if the state's current system of School Aid is restructured. In other words, Building Aid needs to be a separated from the school Operating Aid funding stream or New York City's state School Aid will continue to be hampered by the "shares" system that limits new funding for city schools to 38 to 39 percent of total state aid increases. The CFE lawsuit argued that this arbitrary funding ceiling was the primary budget mechanism that kept the city's education funding inadequate. If the "shares" budget policy remains in place, any significant increases in state Building Aid that New York City will receive in the years ahead will result in less funding for instruction. A minor problem is that, in line with the second part of the EXCEL agreement, new state Building Aid will go directly to pay debt service for BARB's (TFA bonds for schools), rather than to the NYC Department of Education's operating budget. This will result in a budget shortfall that must be filled with city dollars.

"ADEQUACY"? — THE CLOUDY ORIGINS OF THE DEAL The EXCEL agreement, when it was announced, was touted as the "CFE facilities remedy." City representatives and city legal briefs repeatedly stated that the city's capital plan represented a "remedy" for inadequate school facilities in New York City. Governor Pataki, on the other hand, was reluctant to confer legitimacy for any part of the CFE lawsuit. This may explain why one of the participants who negotiated the agreement stated that the funding agreement was framed by past facilities initiatives that had been "hanging around Albany for years" and not any of the court decisions or proposals of the CFE plaintiffs. He stated that, although all of the participants "were familiar" with CFE's BRICKS facilities plan, the origins of the $2.6 billion EXCEL grant program came from a failed $2.4 billion School Facility Health and Safety Bond Act that was narrowly rejected by voters in 1997. The second part of the EXCEL agreement, the redirection of state Building Aid to provide debt service for the city's TFA bonds was modeled on Chancellor Crew's 1999 proposal to "securitize" state Building Aid. State legislators had always been uneasy that Building Aid payments were tied to the city's G.O. bonds covering a multitude of municipal capital projects and were eager to tie Building Aid to bond issuances that were dedicated exclusively to school projects, "like the rest of the school districts in the state." Ultimately, there was just a push to get state legislators from the city out of hot water in an election year. The Mayor's hostage plan put a time pressure on them to get the $6.5 billion deal "done" before the legislative session ended and the election season began in earnest.

Interestingly, the structure of the EXCEL agreement is eerily foreshadowed by assertions made by a witness for the state during the 1999-2000 CFE trial. Charles Szuberla of the NYS Education Department stated, "New York City would have received approximately

$1.4 billion in additional state aid reimbursement if all its building costs were within the cost allowance."[66] He went on to state that Building Aid could be "capitalized" by using these annual cash payments from the state for debt service on city bonds.[67] Relevant here is not the plaintiffs' counter arguments, which were cogent, but the outline of how state facilities aid could be restructured to provide more funding for city school facilities without a significant jump in state funding for facilities. This witness on the stand for the state essentially outlined in 2000 the parameters of the 2006 EXCEL agreement six years before it happened.

The accountability sections of EXCEL come down to reporting by various financial city and state officials that bond issuances had occurred and their interest rates. Despite the rush to get the "hostage schools" reinserted in the capital plan and legislators out of hot water, "accountability" did not encompass any effort at better tracking of new school construction projects or better reporting of capital plan accomplishments. Very possibly, just as the BRICKS plan was a "deal breaker" for Governor Pataki, any effort to establish benchmarks or even ensure that the 20 hostage schools would ever be built was a "deal breaker" for Mayor Bloomberg. While the EXCEL agreement will certainly increase New York City's state reimbursement levels for capital expenses for the schools, this new, higher level will still be below what most school districts in the state receive. Given the city's huge expenditures in this area in comparison to all other school districts, "the deal" came down to what the Governor and legislative leaders would accept.

Seven months after the EXCEL agreement was reached, the NYS Court of Appeals, in its last court decision in the Campaign for Fiscal Equity lawsuit, vacated the lower court's order for BRICKS facilities funding and also substantially lowered the court's minimum threshold amount for additional operating funds from $5.6 billion to $1.9 billion. Of even greater significance, these CFE funds were no longer to be in addition to the school district's annual increases. Governor Spitzer barely exceeded the court's target dollar number, but the real "sleight of hand" hidden from the public and ignored by the press was that CFE remedy funds were just the annual increases in School Aid to the city over a four-year period. The funding gap between city schools and those in the rest of the state would not be closed.

In 2004, it was difficult to evaluate the extent to which the 2005-09 capital plan specifically addressed deficiencies cited by the courts, as the Mayor's legal representatives asserted. All that could be stated with any certainty was the city's plan was far more modest in scope than the BRICKS plan, especially in reducing overcrowding, creating more classrooms to reduce average class sizes, and creating or upgrading specialized spaces. At mid-point in the plan, these early claims that it was a "CFE remedy" can be evaluated. Because the capital plan covers so many types of projects, the following two Sections look at different aspects of the plan.

6. SCHOOL IMPROVEMENT AND RESTRUCTURING ALLOCATIONS:

BETTER USE OF SPACE OR MORE OVERCROWDING?

City capital plans have always had a section on renovations, but the November 2003 draft of the *Children First* facilities plan lumped this category (which included improvements to auditoriums, gyms, and playing grounds and new technology, security and communication systems) with a $2.034 billion plan for School Improvement and Restructuring Allocations. Combining these two objectives, essentially, created a huge $4.6 billion centerpiece program for improving current schools, which the Department of Education loosely called SIRA. These billions combined with efforts to reduce overcrowding by building or leasing new schools justified city officials' claims to the courts that the 2005-09 capital plan addressed the central facilities issues of the CFE rulings. The rhetorical argument was that this was a *reform* plan that was going to improve learning by devoting almost a third of capital plan funding to the upgrading hundreds of low-performing schools. The CFE referees were not impressed. Worse, the City Council's negative comments about *Children First* focused mostly on the SIRA portion of the plan. Its cost estimates were deemed inflated and lacking specifics.

At midpoint of the plan, the City Council's assertions have proved to be valid. In retrospect, however, the problems associated with SIRA go beyond faulty cost estimates and a lack of details. This part of *Children First* not only has seen unchallenged reductions in allocations for school upgrades that directly benefit students, but also contains the most problematic "statistics" in the capital plan:

- The ten-year estimate of the need for the restoration of specialized spaces (science labs, libraries, gyms, and auditoriums) remains pegged to the original ten-year plan and is not updated to account for the loss of access to specialized spaces that may result when a large school is restructured or hosts smaller schools.

- On paper, the restructuring of large schools into smaller ones appears to increase the building's total "seat" capacity, thus reducing the need to build new schools. In reality, restructured schools have fewer students in their buildings. Because this reality remains hidden, the estimate for new seats needed to reduce overcrowding, especially at the high school level, have not been adjusted upwards to account for this lost capacity.

Given the NYC Department of Education's fast pace in restructuring schools, the original base-line quantification of the numbers of additional seats needed to end overcrowding and the numbers of specialized spaces needed for students has become woefully out of date. Despite an annual amendment process for the capital plan, neither the Department of Education or the School Construction Authority has measured the impact of restructuring on overcrowding or the need for new specialized spaces. If they did measure this impact, SIRA projects would result in an increase in future capital needs and costs.

IN THE BEGINNING When the NYC Department of Education unveiled its $4.6 billion centerpiece plan to "restructure and upgrade" schools, the reaction from the City Council was not positive. There was consternation that the SIRA program received the most funds, but

lacked the most details. Then NYC Council Education Committee Chair Eva Moskowitz publicly called it a "slush fund." The SIRA proposal stated that fully half the students in the system would benefit from instructional upgrades at 671 struggling schools. Asking for more information was a delicate issue, however, because by definition the low-performing schools that were to receive upgrades were to be restructured. Providing these details meant alerting schools that they were soon to face the axe or, conversely, it meant creating a five-year list. The capital plan stated that these restructuring decisions were to be made by the Deputy Chancellor for Teaching and Learning, Regional Superintendents, Local Instructional Superintendents, and principals and "many proposed restructurings will be subject to review and approval by the State Department of Education."[68]

Restructuring, funded at about $2 billion, included three options for low-performing schools: 1) phasing out large schools and replacing them with smaller schools; 2) creating smaller "learning communities" within a school; and 3) bringing in a charter school to operate within a school building. In February 2004, the wording for charter schools was amended to state that it was "subject to approval by a majority of the school's parents."[69] Also in response to criticism about the lack of details, the February 2004 version of the plan, which became the June 2004 adopted plan, contained a one-year list of 120 "eligible schools" that could get upgrades, be restructured, be eliminated, or become a host to another public or charter school. NYC Department of Education officials also began to stop referring to a $4.6 billion mega fund for upgrading existing schools, and instead began to describe this part of the plan by its discrete components.

These components, commonly referred to as renovations or upgrades, included an ambitious effort to rehabilitate science laboratories, but the two other types of renovations, auditorium and physical fitness upgrades, represented less than a quarter of the work needed to be done as identified in the Ten-Year Plan. The largest amount of funding for "enhancements," $736 million, went mostly for computer wiring, internet access, and labtops with the usual unquestioned faith that this technology would directly result in instructional improvement. The biggest problem for monitoring these educational enhancements was whether they would be restricted mostly to the restructured schools, would be expanded to the full list of 671 poorly-performing schools, or would be systemwide upgrades with an unknown priority basis. (At midpoint in the plan, it is now clear that upgrades are not restricted to low-performing schools.)

The sizable $2.03 billion invested in restructuring schools, however, remained unchanged and still somewhat of a mystery despite more specific language. The capital plan stated that the average cost for breaking down a large school into smaller components was $3 million.[70] The explanatory text for SIRA carefully stated that 671 struggling schools were "eligible" for restructuring. Yet the $2.03 billion would be necessary only if every struggling school was to be restructured. There was speculation that most of the SIRA funding would not or could not be spent. This turned out to be true.

AT MIDPOINT Over the last two years the proportion of capital funding devoted to SIRA has shrunk. What started out as a planned allocation of $2.034 billion over five years, as adopted by the NYC Council in June 2004, became $1.669 billion by June 2006. The NYC Department of Education issued amendments to the capital plan for adoption in June 2007 that reduced SIRA funding to $909.9 million by reallocating $750 million to cover increased costs of the repair program and the construction or leasing of new schools. In addition, $5 million in SIRA funds are to be directed to a new purpose, the creation of pre-kindergarten classrooms in newly constructed schools or, supposedly, schools with excess capacity. Thus, within a short two years, SIRA funding was cut by more than half. The next page contains the list of SIRA projects and changes in their five-year funding allocations from July 2004 to July 2007 (July is the beginning of the city's fiscal year, after proposed amendments have been adopted). These amounts exclude City Council funded projects.

10-yr need	5-Yr Funds as of July 04	SIRA Projects Enhancements & Upgrades	5-Yr Funds as of July 06	5-Yr Funds as of July 07	Contracts Signed FY 05 + FY 06
NA	**$2.034 B**	**Restructuring Schools**: replace large schools with smaller schools; create smaller learning communities; bring in outside schools	**$1,669 M**	**$910 M**	**$320 M**
50%	**$350 M**	**Partnership & Charter Schools:** match with private funds for leases or hosting of New Century high schools & 50 charters in public schools	**$359 M**	**$359 M**	**$56 M**
87%	**$736 M**	**Technology Enhancements:** Cabling of classrooms; internet access; PBX telephone; NYC DoE website portal; central office technology, pupil tracking system; and labtop & wireless programs	**same**	**same**	**$285 M**
78%	**$157 M**	**Safety Systems:** video surveillance; weapon detector systems; radio communications (more is allocated to Safety in other parts of the capital plan)	**same**	**same**	**$101 M**
84%	**$294 M**	**Science Lab Upgrades:** create or modernize science laboratories	**same**	**same**	**$91 M**
62%	**$179 M**	**Accessibility:** make schools full or partially accessible for people with mobility impairments.	**same**	**same**	**$19 M**
22%	**$338 M**	**Physical Fitness Upgrades:** repair playing fields; recover or repair playgrounds; upgrades of gyms; exercise rooms	**$275 M**	**$232 M**	**$53 M**
25%	**$416 M**	**Auditorium Upgrades:** lighting; seating; sound systems; and other improvements	**$272 M**	**$245 M**	**$23 M**
NA	**$37 M**	**Classroom Partitioning & Conversions:** divide classrooms; reconfigure computer labs and shop rooms into general classrooms	**same**	**$41 M**	**$18 M**
NA	**$11 M**	**Co-op Tech Model Schools:** Create Co-Op Tech schools in 4 other boroughs	**same**	**same**	**NA**
NA	**0**	**Libraries*:** Private-public partnership with Robinhood Foundation*	**$15 M**	**$18 M**	**$5 M**

* The upgrading or creation of school libraries was not listed as a project in the first year of the capital plan.

GOOD CUTS IN FUNDING AND NOT-SO GOOD When the *Children First* plan was unveiled in 2003, NYC Council Education Committee Chair Eva Moskowitz had specifically urged the Department to reallocate a majority of SIRA funds to repairs and the construction of new schools. Had this been done in the first year, inevitably there would have been pressure to increase the number of repair and capacity projects. By not doing so the Department of Education, either by design or by chance, retained a "cash cushion" in the allocations for SIRA. So far, the $1.1 billion reduction in initial $2.034 billion SIRA allocation has been reallocated to cover the rising costs of repairs and new school construction. While it is doubtful that all the projects in the capital plan will be completed, especially within the five-year period, a higher proportion of them will be completed than in most prior plans because of the availability of these extra funds.

Unfortunately, there have also been reductions in the allocations for the student-friendly physical fitness projects and auditorium renovations. EPP is uncertain why the NYC Council has not forcefully opposed these reductions, especially in light of concerns about childhood obesity and the absence of art, music, sports, and physical fitness programs in many public schools. It may be possible that some individual "Resolution A" funds (small amounts of capital funds controlled by each member of the Council for capital projects) may be directed to physical fitness and auditorium upgrades and thus are helping to blunt in a limited way these reductions in the capital plan.

It should be noted that the initial objectives of these upgrades were not ambitious in the first place — less than a quarter of schools needing them would have had their projects completed if the funding level had been not been cut. It is questionable if even a tenth of the projects listed in the ten-year estimate of need for upgrades will even be undertaken. Contract commitments, though not a particularly good tracking device for gathering information on work in progress or actual expenditures, show a very slow contracting pace in these two areas and hint at the possibility that there will be further reductions in funding. In contrast, there is a better pace for technology, safety systems, classroom conversions, and science labs. Even as late as the fall of 2006, there was some discussion about using the EXCEL grant for physical fitness and upgrading playgrounds. By late fall, however, there was a decision to use this grant money to finish the project to make buildings "watertight."

SOME UPGRADES ON A SLOW SCHEDULE In two areas of upgrades there are ongoing public-private partnerships. In 2003, 125 schools did not have specialized space for libraries. Working in partnership with the Robin Hood Foundation, whose donors will contribute one third of the funds, the NYC Department of Education will construct or refurbish 25 libraries. The total cost will be $24 million. The BRICKS plan would have provided libraries for all schools without them, but it had no objectives for physical fitness. The 2005-09 capital plan marks the completion of a public-project partnership with Take the Field to restore large athletic playing fields. A new partnership with The Trust for Public Land will restore 25 elementary and middle school playgrounds out of the 300 that need upgrading (according to the Ten-Year Plan), with the Department of Education contributing two thirds of the funding. Unfortunately, there is no private-public partnership to build auditoriums for the 363 schools without them. The current plan upgrades auditoriums, but does not create them other than through retrofitting lunchrooms to serve dual purposes. This cost-effective strategy is common in school districts across the nation.

SCIENCE LABS The creation and renovation of science labs involves a wide spectrum of projects and costs. The February 2007 proposed amendment document lists 40 projects in FY 2007-08. Half of them are mobile science labs costing between $43,000 to $60,000 each. Elementary and middle schools are getting the bulk of these, 14, but the remaining six will be used by small high schools in restructured buildings. The surprise is the high cost of most of the 20 "upgraded" or newly constructed science labs. Only two elementary

schools are scheduled to receive them, one costing $850,000 and the other $1.9 million. The remainder are going to middle schools and high schools at a cost that ranges from a low of $900,000 (one school) to $4 million (one school). The bulk of new labs or upgrades have a cost between $1.7 million to $2.8 million. It is unknown how many of these projects will continue the practice of prior renovations that eliminated individual student sinks and work stations to create only one sink for a teacher or sinks for six to ten students working together.

LOSS OF SPECIALIZED SPACES IS NOT QUANTIFIED When the SIRA concept was first introduced in 2003 as a mega fund to upgrade 671 struggling schools, it was not disclosed that school restructuring itself would result in the loss of specialized spaces. Some portion of physical fitness and science lab upgrades, for example, must go to restoring these spaces to small schools now sharing buildings. A good example of lost specialized space is a middle school in the Bronx that EPP visited that was restructured to host other smaller schools. Students of the host school no longer had any access to the science lab, which was used exclusively by a small middle school with higher-performing students. All students in the school lost the use of the library, which was transformed into a space for special education conferences and for various staff meetings.

Traditionally, the weakest part of every city capital plan for the schools has been in the area of creating and renovating specialized spaces for students. While the School Construction Authority hires experts to systematically inventory every school's building systems to identify repair needs, no such regularly scheduled inventory is taken of the need for creating or upgrading libraries, auditoriums, gyms, playgrounds or art and music rooms other than for the preparation of the Ten-Year assessment. It is as if the standards for repairs are real and taken seriously, while standards for children's education are not taken that seriously. There is also the issue of the absence of minimum oversight and expert assistance in the use of existing school space. In the case of the Bronx school mentioned above, where middle school children in a low-income neighborhood have no access to an existing school library, overcrowding was not the problem. The restructuring of the school into smaller schools resulted in a lack of designated space for staff and special education meetings, so the library was appropriated for that purpose. In addition, no one school principal wanted to have her/his budget carry the cost of a librarian. Budget assistance as well as the services of an architect or other type of space consultant could have offered solutions to these problems. Early on, when Community School District #4 in Manhattan pioneered the restructuring of large schools into smaller ones, it was recognized that "turf wars" between small schools often resulted in the loss of student access to specialized spaces if there was no intervention.

EPP staff and member representatives have frequently observed poor uses of existing space in site visits to schools, such as: libraries filled with broken computers; classrooms used as book storage rooms in "overcrowded" schools; and poor student scheduling for the use of science labs, art rooms, and music rooms. The school system reformed its haphazard tabulation of repairs that need to be done based on custodians' assessments, yet school officials continue to tolerate a haphazard use of existing classroom and specialized spaces as though no standards exist for the education program. Now that so many schools are sharing the same buildings, more oversight is needed to ensure that students retain access to libraries, science labs, auditoriums, gyms, and rooms for art or music. A more systematized assessment of the use of existing space is needed. In some cases, more cooperative scheduling among small schools could obviate the need for mobile science labs if some oversight existed.

RESTRUCTURING'S INVISIBLE IMPACT ON OVERCROWDING Immigration levels have decreased over the last ten years, starting in 1997, so there is an opportunity at last for the city to make progress in reducing overcrowding instead of merely keeping up with growing enrollments. There are other factors, however, that can create overcrowding. Education policies, especially those adopted since the advent of mayoral control of schools, are very similar to

those adopted in the 1980's that reduced building capacity (see pages 11 to 12). These reductions are for the most part unmeasured. One of the peculiarities of the recent capital planning process is that, while the consultants to the NYC Department of Education, the Grier Partnership, discuss the potential impact of these educational policies, annual amendments to the capital plan never make any adjustments to calculations for "seats" needed beyond class size reductions in the early grades, union contract requirements, and demographic projections. In all the various reiterations of the capital plan since 2003, there has been a steadfast refusal to acknowledge that the restructuring of large schools into groupings of small schools and the hosting of charters may reduce the capacity of existing school buildings.

LOST CAPACITY FROM CHARTER SCHOOLS AND PRE-K PROGRAMS Charter schools have smaller class sizes than their host schools, on average classes of 20 to 25 students. Out of a total of 58 charter schools, 38 are being hosted by public schools, though some on a temporary basis.[71] The Mayor and the Chancellor succeeded in lifting the statewide limit on the creation of new charter schools, so this number could double or triple. Most charter schools have been elementary schools, which provide far fewer options for reconfiguring space than high school restructuring. Administrative offices tend to be smaller; there frequently are no counseling offices or typing rooms that can be reconverted into classrooms; and even the hallways are narrower. Once again, the capital plan as adopted in June 2005 and all the amendments within the last two years make no adjustment for the potential decrease in building capacity at public schools when they serve as host to charter schools.

The amendments for adoption for the 2007-08 fiscal year introduced the concept of creating full-day pre-kindergarten programs in selected elementary schools and the new primary schools (PS/IS). Similar to the phasing in of full-day kindergarten in the 1980's, the transformation of classroom spaces formerly serving 36 children (two shifts of 18 four-year olds) into classroom spaces for 18 students for the full-day pre-kindergarten reduces the building capacity of the school if the same number of four-year olds are to be served. Some elementary schools are underutilized, and given the projections of demographers, more will become underutilized. Nevertheless, there should be a full accounting of the decrease in building capacity for full-day pre-kindergarten classrooms.

QUESTIONABLE ASSERTIONS OF INCREASED CAPACITY, ESPECIALLY AT THE HIGH SCHOOL LEVEL EPP has been informed by a facilities professional that the internal rule of thumb used by the Division for School Facilities for calculating seat loss for the previous hosting of smaller schools that occurred in the 1990's was a 10 percent reduction in building seat capacity. This calculation is no longer used. Instead, current education officials assert that SIRA projects are increasing building capacity and thus reducing overcrowding.

This is no minor technical issue. At the time of adoption, the capital plan stated that the objective over five years was to create 200 small schools. This initial goal will easily be surpassed. As of September 2006, there were 22 large high schools that were hosting or that had been restructured into 100 new small schools. The running "seat" tally kept by the School Construction Authority, which was 47,000 in August 2006, includes seats created through restructuring of schools.[72] As the NYC Department of Education moves on to add the restructuring of middle schools on top of the restructuring of high schools, most large school buildings could be restructured. The potential gain in extra seats (or, conversely, loss of capacity) is not inconsequential. Over the five-year period of the capital plan, up to 20,000 seats could be "created" statistically through SIRA projects, reducing the need for seats created by constructing or leasing schools by 30 percent.

The claims of education officials have been bolstered by a not-for-profit contractor, New Visions for Public Schools, that helped to create many of the restructured schools. The central argument is that schools often used space inefficiently, which EPP believes is correct.

Many of the large high schools, especially those constructed before the 1950's, were built for classrooms of 40 to 50 students with generous proportions for hallways, closets, offices, lunchrooms, gyms, and auditoriums. They found that over the years, classrooms were lost for use for other functions and that these classroom spaces can be recaptured. *From Large School Buildings to Small School Campuses: Orchestrating the Shift* issued by New Visions for Public Schools states: "Classrooms dedicated to obsolete uses — such as typing rooms, dysfunctional science labs, drafting rooms, woodshops, home economics rooms, and computer labs — can be converted to flexible classroom space. Other spaces — such as storage rooms, administrative offices, and corridors — hold potential for use as small group instruction spaces, meeting spaces, or informal learning environments."[73] The report gives examples of four high schools where the proportion of classroom space to total building space (including hallways, shared space, and basement boiler rooms) grew from a range of 23-26 percent to 31-36 percent. It should be noted that some of the conversions eliminated space used for counseling or used for special education staff or for English Language Learners. (New high schools have a waiver for a few years from having to serve students with disabilities or who haven't yet mastered English.)

EPP reviewed seat capacity figures for high schools that had been restructured. (Harry S. Truman High School in the Bronx was excluded because it had only one small school in the 2005-06 school year). This sample of 21 large schools became hosts of over 100 small schools. The results show that for most, but not for all high schools, the 2003 seat capacities of their building*s* grew larger over the next two years after restructuring.[74]

Changes in Estimated Seat Capacity of High School Buildings			
Restructured High Schools	**2003**	**2004**	**2005**
Evander Childs, Bronx	**2,481**	**2,776**	**2,871**
South Bronx, Bronx	**955**	**1,108**	**1,154**
William Howard Taft, Bronx*	**2,367**	**2,483**	**2,588**
Herbert H. Lehman, Bronx	**2,961**	**3,796**	**3,638**
Adlai E. Stevenson, Bronx	**2,839**	**3,128**	**3,689**
John F. Kennedy, Bronx	**3,644**	**3,765**	**4,214**
Theodore Roosevelt, Bronx	**2,138**	**2,662**	**2,871**
Christopher Columbus, Bronx	**2,218**	**2,412**	**3,117**
Morris, Bronx	**1,366**	**1,616**	**1,819**
Walton, Bronx	**2,032**	**2,249**	**2,473**
Prospect Heights, Brooklyn*	**2,272**	**2,160**	**1,962**
Bushwick, Brooklyn	**1,677**	**1,658**	**1,873**
Thomas Jefferson, Brooklyn*	**1,975**	**1,972**	**1,822**
Erasmus Hall, Brooklyn	**2.681**	**2,849**	**2,761**
Harry Van Arsdale Voc., Brooklyn	**1,314**	**1,552**	**1,686**
George W. Wingate, Brooklyn	**2,081**	**2,215**	**2,154**
Martin Luther King, Jr., Manhattan*	**2,447**	**2,961**	**2,923**
Park West, Manhattan	**2,338**	**2,385**	**2,844**
Seward Park, Manhattan	**1,476**	**1,670**	**1,852**
Springfield Gardens, Queens*	**2,413**	**2,390**	**2,322**
Far Rockaway, Queens*	**1,914**	**1,914**	**1,902**
Total Seat Capacity of Buildings	**42,911**	**49,721**	**52,535**
Changes in Capacity All Schools	**base yr**	**6,810**	**9,624**
Percent Increase in Capacity All Schools	**base yr**	**21 %**	**32 %**
Capacity of Six Underutilized Schools*	**13,388**	**13,880**	**13,519**
Capacity 15 Other Schools	**29,523**	**35,841**	**39,016**

The table on page 42 includes six high schools (designated by an asterisk) that were underutilized in 2003, so changes in seat capacity would not help to eliminate overcrowding in the building because there was none. Surprisingly, the restructuring of these underutilized schools resulted in only 131 more seats in 2005 after a slight jump in 2004. The 15 other schools that were at capacity or overcapacity gained the most seats, 9,493.

THE REALITY — FEWER STUDENTS ATTEND RESTRUCTURED SCHOOL BUILDINGS AND OVERCROWDING IN OTHER HIGH SCHOOLS RESULTS To evaluate the claims of education officials, EPP looked at actual enrollment trends (E) for two years, 2003 and 2005, for the same sample of restructured schools on page 42 to track changes in statistics on building capacity. (Building utilization (U) in the chart below is only relevant to an issue described in Note #1 at the end of this chapter.)

Restructured High Schools	2003 E	2003 U	2005 E	2005 U		2005 HOST SCHOOLS E	2005 HOST U
Evander Childs, Bx ≠	3,624	146%	3,004	105%		1,443	84%
South Bronx, Bx	880	92%	990	86%		0	0
William H. Taft, Bx*	1,775	75%	1,828	71%		127	48%
Herbert H. Lehman, Bx ≠	3,697	125%	4,608	127%		4,120	128%
Adlai E. Stevenson, Bx ≠	3,193	112%	3,973	108%		2,586	126%
John F. Kennedy, Bx ≠	4,382	120%	4,721	112%		3,419	120%
Theodore Roosevelt, Bx	3,001	140%	2,414	84%		299	31%
Chrstpher Columbus, Bx ≠	3,435	155%	3,642	117%		2,268	115%
Morris, Bx	1,451	106%	1,605	88%		0	0
Walton, Bx ≠	3,343	165%	3,162	128%		1,868	132%
Prospect Hights, Bklyn*	1,772	78%	1,286	66%		192	23%
Bushwick, Bklyn	1,763	105%	1,520	81%		497	75%
Thomas Jefferson, Bklyn*	1,534	78%	1,531	84%		720	70%
Erasmus Hall, Bklyn	2,698	101%	1,782	65%		0	0
Harry V. A. Voc., Bklyn	1,312	100%	906	54%		494	51%
Grge W. Wingate, Bklyn	2,004	96%	1,468	68%		290	25%
Martin Luther King, M*	1,574	64%	1,800	62%		0	0
Park West, M	2,350	101%	1,520	53%		422	30%
Seward Park, M	1,718	116%	1,136	61%		289	50%
Springfield Gardens, Q*	1,624	67%	1,031	44%		419	36%
Far Rockaway, Q*	1,305	68%	1,286	68%		1,099	65%
Totals All Schools	48,435		45,213			20,552	
Decrease in Enrollments			3,222				
% Decrease			6.65%				

This table shows that the combined enrollments of schools within the restructured buildings had decreased by over 3,000 students. In short, the "extra capacity" that was created mostly goes unused. The primary reason for this may be the smaller average class sizes in new small high schools compared to the larger average class sizes of the failing larger host school.

When the restructuring of large high schools is fully implemented, there will be a loss of overall building capacity at the high school level no matter how many "new seats" are created statistically. The old rule of thumb of a ten percent discount on building capacity may no longer be valid because of more efficient use of space, but once the current SIRA projects are fully completed, the true drop in student capacity of restructured buildings might be closer to seven percent. If this conclusion is correct, then the capital plan calculations for additional buildings needed to be constructed or leased at the high school level should be increased to account for the decrease in capacity of SIRA buildings. Instead of accounting for this decrease in capacity, the 2007 capital plan amendment reduced the number of additional seats needed to end overcrowding from 66,000 seats to 63,000 seats.

The decrease in enrollment shown in the table on page 43 substantiates many anecdotal reports that the restructuring of large high schools, irrespective of the statistical increase in seat capacity, has created overcrowding in other high schools. Large numbers of low-performing middle school students were no longer able to matriculate to neighborhood high schools that were being phased out and replaced with smaller schools. These students were unable, for the most part, to get into the new small, more selective high schools, and they flooded into high schools that had not been restructured. Some of these schools became dangerously overcrowded and developed serious disciplinary problems. Even the first generation of small high schools, those created in the 1990's, became overcrowded with these students and no longer remained "small." By 2006, the NYC Department of Education appeared to have developed better coping methods to stop dangerous levels of overcrowding. Nevertheless, education officials made certain that the enrollments of smaller high schools in the newly restructured buildings did not increase substantially, despite their added statistical building capacity. It is possible, of course, that in the future class sizes and enrollments in these small high schools will increase once private partners, such as the Gates Foundation, Carnegie Foundation, and Open Society Institute, end their grants for this initiative.

End Notes:

Note #1 The feedback that EPP received from circulating an advance copy of this report was that the table on page 43 was confusing because of the inclusion of building utilization statistics (U). The major purpose of the table was to quantify total student enrollments in restructured buildings. However, EPP also wanted to evaluate contradictory reports that have surfaced at NYC Council hearings that restructured schools were overcrowded, which would seem to counter EPP's assertion that there are smaller enrollments in buildings after restructuring. The table on page 43 shows that all the six restructured high schools that were overcrowded and functioning above 100 percent of capacity utilization in 2005 (designated by ≠) had substantial numbers of students still enrolled in the host schools that were being phased out. The table shows that once school buildings no longer had a host school or had only a few students left in the host school, they had utilization rates that were mostly in the 60 percent to 80 percent range. The table captures building statistics at different points in the process of restructuring. It appears that overcrowding is an early, transitional stage that affects mostly students in the host school being phased out. Once the host school disappears, the buildings' combined student enrollment is smaller than statistically inflated figures for seat capacity.

Note #2 Accurate building utilization and capacity statistics are important because they are used to calculate additional seats needed to end overcrowding. Building utilization statistics should continue to be based on student enrollment numbers. The reader should understand, however, that student attendance may vary substantially from enrollment, especially in low-performing high schools (see page 6). Most of the high schools that were in the process of being phased out had daily attendance rates that fell below 90 percent. For the most part, the smaller high schools that replaced them have better student attendance rates. In some cases, there may be more students in actual attendance in buildings after restructuring than before restructuring.

7. NEW SCHOOLS:

A FIVE-YEAR PLAN BECOMES A SEVEN-YEAR PLAN

One of the strengths of the *Children First* plan was that close to a third of the total capital plan funding for 2005-09 was to be devoted to capacity projects. This was a significant increase over the 2000-04 capital plan where capacity projects received less than a fifth of total funding. In addition, the previous plan's capacity goals were presented only as a number of seats to be created. The new capital plan, on the other hand, not only had a numerical goal of seats to be created but also listed new schools and located them within specific regions and community school districts. The effort to end overcrowding seemed concrete and tangible.

But any assessment of whether a capital plan's goal for ending overcrowding is genuine and aboveboard rests primarily on the accuracy of cost estimates for creating new seats. In the last decade, less than a third of new schools that were promised actually materialized. The 2000-04 plan set more modest goals, yet less than half of the promised seats were created. "Cost overruns" were the excuse for this dismal performance over the last 15 years. From the first draft of the *Children First* plan it was clear that the per-seat cost estimate was, like all the past plans, suspiciously low. Given these low-ball estimates, would even half the 2005-09 new seats materialize? There were reasons for optimism, however, because the new capacity plan was to create a third of the schools through leasing, which potentially could lower costs and accelerate the pace of creating new schools. But at mid-point, familiar patterns have emerged:

- Major repairs have been frontloaded and capacity-building backloaded.
- Construction costs have soared.

Towards the end of the last capital plan for the schools, when costs for new seats escalated, many capacity projects were jettisoned to the anguish of parents and neighborhoods. A new, more sophisticated public-relations strategy is in place now. While the goals for new seats and new schools keep changing slightly with every annual amendment to the capital plan, based on demographic projections alone, the most important change in capacity projects barely receives public notice, even by capital budget monitors and other city elected officials: More and more new seats are projected to be completed *after* June 2009, the end of the current capital plan. The salient question is now whether the 2005-09 capital plan is really a five-year plan to reduce overcrowding or more like a seven-year plan that could easily morph into an eight-or-nine-year plan. Capacity projects have not been "cut," but they have been moved out of the five-year plan period. Even more troubling, some have been moved to 2010, when a new Mayor takes office. This new Mayor may cancel the projects as "unaffordable."

IN THE BEGINNING The February 2004 version of the new capital plan envisioned creating 85 new schools with a capacity of 63,000 seats for a total cost of $4.028 billion over five years. By June 2004, the plan changed so that 90 new schools with a seat capacity of 66,000 seats were to be created at a total cost of $4.208 billion, with the extra money transferred from the Emergency Repair category. More than 32 percent of the capital budget was devoted to this objective. Previous capital plans had always provided unrealistically low estimates for the current costs of construction and low projections for future costs due to inflation. Given these low-ball estimates, once each capital plan was adopted, inevitably, costs would "escalate" up to more realistic expenditures and then two-thirds or half of the schools on the list would never be built during the capital plan.

At first blush, the *Children First* capital plan seemed to be following the same pattern of providing low-ball estimates. It projected an average per-seat cost of $60,110 without site-acquisition.[75] But by 2001, the per-seat cost for new construction had already risen to $58,491.[76] Using an annual inflation factor of 2.5 percent, 2005 per-seat cost could have been calculated as $64,562, almost $4,500 higher. What made this projection of a $60,000-per-seat cost potentially believable was that efforts were already underway to actually reduce costs below the 2001 levels in three ways:

- One strategy was to reduce New York City's extraordinarily rigorous code requirements for school building construction. For example, instead of requiring brick blocks for walls, double drywall construction became allowable. Changes in the city's building code requirements for schools were adopted in the first year of the capital plan.

- The second strategy was to encourage construction firms to meet a cost objective of $300 to $325 per square foot in their bids. In other words, city officials would no longer be content to choose the lowest bidder and hope that there was no collusion among contractors. The subtext of reports by facilities experts hinted that collusion among the limited number of school construction firms in New York City was a real possibility.

- The third strategy was to create one third of the new schools through leasing of facilities. Since renovations tend to be less expensive than new construction, the $60,110 per-seat cost was particularly high. In the past, most renovations of leased schools had been performed by landlords and rumored to be non-union. When lease renovations were overseen by the SCA for the Repertory Company High School in 1996, the per-seat cost was $7,875.[77]

Of all three strategies, leasing was by far the most likely to reduce costs. From EPP's perspective, the leasing strategy alone made low-ball estimates of future costs for new schools not only realistic, but generous.

LEASING — THE HIDDEN "CASH CUSHION" Past capital plans had limited leasing for a variety of reasons: There had been instances of serious corruption among staff responsible for the Board of Education's leasing program, so it had been suspended at various times. Though leases can be capitalized, New York City does not do so and lists annual-lease costs as municipal obligations that are factored into ratings about whether the city has the resources to pay outstanding debt. There is a slight risk that high leasing costs could lower the city's bond rating, and thus increase the city's interest costs. Also, leasing increases annual operating budget expenditures. But by far the biggest disadvantage is that at the end of their lease period, buildings revert to the landlord and are not an asset to the city. Nevertheless, given the roller-coaster swings in student population, the advantage is that leased space can be quickly acquired and may not be needed at the end of the 15-year or 20-year lease period. For example, schools built in the 1960's and 1970's for the Lower East Side and the South Bronx are now underutilized.

The NYC Council calculated that average construction time for a leased building was 11.8 months, in contrast to 24.5 months for new construction.[78] Of course, leasing renovation projects can vary from minor alterations of a former private school building to the reconfiguration of a vacant warehouse into instructional spaces. On the next page is a chart of the per-seat costs for elementary and middle schools by district as they appeared in the June 2004 capital plan that was recalculated by EPP for a 50 percent reduction for per-seat renovation costs for leased schools. The Department of Education estimates included site-acquisition costs.[79]

District	New Schools	Total Seats	Per-Seat Cost	% Seat Leased	EPP's Revised Cost Estimate
2	3	1,890	$62,645	66 %	$41,763
6	3	1,700	$77,176	0 %	$77,176
9	3	1,700	$68,412	37 %	$55,735
10	8	4,030	$64,143	42 %	$50,614
11	6	3,780	$66,984	33 %	$55,820
15	1	630	$52,857	100%	$26,429
18	1	630	$53,333	100%	$26,667
19	1	630	$78,095	0 %	$78,095
20	8	5,118	$63,872	46 %	$49,333
21	2	1,260	$80,238	0 %	$80,238
22	4	2,520	$66,270	25 %	$57,986
24	8	4,660	$66,545	27 %	$57,549
25	1	440	$50,227	0 %	$50,227
26	2	880	$49,660	50 %	$37,245
27	5	2,596	$67,604	17 %	$61,875
28	4	2,520	$63,016	50 %	$47,262
29	1	630	$61,904	0 %	$61,904
30	3	1,700	$65,941	37 %	$53,722
31	3	1,890	$73,492	0 %	$73,492

The *Children First* plan, however, made an unrealistic assumption that building smaller schools would be less costly on a per-seat basis than larger schools. Smaller schools are significantly more expensive to build. One of the findings of EPP's *Castles in the Sand* analysis of the last two capital plans is that the average per-seat cost of 37 school buildings ranging from 601 to 2526 seats was $36,443 to $37,643, while the per-seat cost of 11 schools with 600 seats or fewer was $46,802.[80] Of the 90 new schools listed in the capital plan, 19 were scheduled to be under 600-seat schools, with most of these projected to be 440-seat schools. Below is a similar breakdown of per-seat costs for new high schools or high school/intermediate school combinations listed in the June 2004 adopted capital plan factored by EPP for reductions in cost due to leasing. Though fewer high schools or secondary schools (H.S & I.S.) were to be leased, the per-seat costs were lower than for elementary and middle schools simply because their size tended to be larger.

Borough	New H. S./I.S.	Total Seats	Per-Seat Cost	% Seat Leased	EPP's Revised Cost Estimate
Bronx	8	9,900	$59,292	29 %	$50,608
Brooklyn	5	4,950	$63,455	33 %	$52,897
Queens	9	9,900	$61,778	33 %	$51,482
S. I.	1	1,650	$64,182	0 %	$64,182
Manhattan	0	NA	NA	NA	NA

All these cost-reduction strategies, especially leasing, made the per-seat estimates of costs more realistic than in past plans, so the hope was that at last there would be a significant reduction of overcrowding. After the adoption of the plan, there was another promising development. As a proponent of leasing, EPP was perplexed at the reluctance of the Board of Education to expand its leasing program. The significant cost savings seemed to outweigh risks of corruption, lower bond ratings, and added expenses to the operating budget. One important political factor seemed to be the opposition of construction trade union leaders. They objected to non-union workers doing renovation work on buildings that were to be used for public schools. From their point of view, this was a violation of the state's "prevailing wage" law that

required union-level wages for work on government buildings. Six months after the *Children First* capital plan was ratified, the Mayor entered into an agreement with the Construction Trades Council that required all contractors, even those chosen by the landlord, to meet the SCA's "prequalification process." Contractors working to renovate leased space would be required to have an "approved apprenticeship program" and pay workers prevailing wages.[81] Only union construction contractors have "approved" apprenticeship programs. With this political roadblock to leasing removed, the expectation was that school leasing might be expanded. But there were other signs that seat creation might not be so rapid.

REPAIRS FRONTLOADED, NEW SCHOOLS BACKLOADED While only one third of the $13.1 billion plan was devoted to repairs, there were hints from the first draft of *Children First* that once again that this area would remain the top priority of the capital plan. As explained earlier, capital spending is often "lumpy" in that site selection and architectural drawings might cost very little in the first years and then there is a burst of spending as schools are built or renovated. Repairs and system replacement, on the other hand, can be paced more evenly over a five-year span. The June 2004 adopted plan summary of yearly capital funding allocations showed a modest beginning for new schools and renovations of leased facilities. In contrast, many types of repairs and replacement projects were "frontloaded" by putting the bulk of budget allocations in the first two years. The following table compares projected allocations for repair programs costing $200 million or more with capacity building allocations for the first two years as they appeared in the adopted capital plan.[82]

Budget Category	5-Year Funding	% Allocated First 2 Yrs
System Expansion	$4,225 B	33 %
New Schl. Construction	$2.738 B	36 %
New Schl. Leasing	$1.141 B	17 %
Building Additions	$72 M	92 %
State of Good Repair*	$3.713 B	44 %
Exterior Modernization	$349 M	90 %
Low-Volt Electr. Systems	$361 M	41 %
Lighting Fixtures	$564 M	41 %
Windows	$271 M	60 %
Electrical Systems	$317 M	37 %

*Summaries of allocations are kept consistent from capital plan to capital plan, so some of the categories in "Good Repair" include SIRA projects, not broken out in this table, but included in the total allocation for Good Repair.

This pattern of frontloading repairs was consistent with prior plans. By midpoint of most past capital plans, more than half of the contract commitments were for repair projects, while construction contracting fell behind even the modest predictions of the allocation plan. The sequence of contracting, not just the dollar amounts, prove decisive as to what projects actually get done. It should be noted that more than half of the five-year funds in the current repair plan were dedicated to meeting the unmet objective of the last capital plan to make school buildings watertight. This partially explains why funding for exterior modernizations, roofs, window replacement, and exterior masonry was frontloaded to such an extent. However, the reduction of overcrowding was another unrealized objective of the 2000-04 plan, and there was no effort to frontload the last plan's targets to reduce student overcrowding beyond finishing the projects that had already been started.

Commitments for the full value of contracts, however, provides little clue as to when repairs or school buildings will be finished. As stated earlier in this report, at the beginning of the plan contracts can be signed with just a handful of repair contractors for the full value of the contracts, but then these contractors move from school to school throughout the five-year period

and get paid when their work on each project is completed. The one-to-three-year schedule for building new schools or renovating leased space is more predictable once a site is selected. A NYC Council analysis of when new schools were scheduled to be completed, based on the July 2004 adopted capital plan, showed the full impact of backloading school construction:

Year Completed	Constructed	Leased	Total Schools	Percent Schools
2004-05	0	0	0	73.3%
2005-06	1	1	2	
2006-07	8	7	15	
2007-08	14	14	28	
2008-09	7	14	21	
Sub-Total	30	36	66	
After Current Capital Plan				
2009-2010	1	10	11	26.6%
After 2011	0	13	13	
Sub-Total	1	23	24	
		Total Schools	90	

Slightly more than a quarter of the new schools were scheduled to be completed after June 2009. "Completion" can have several meanings, such as when construction is finished or just when the construction of the outer building shell is finished without flooring and without electrical and plumbing systems in place. While the schedule for leased schools was slightly ahead of the schedule for new construction, the leasing of all 59 schools within the five-year plan could have accelerated the reduction of overcrowding.

NEW SCHOOLS AT MIDPOINT: OPTIMISTICALLY, ONLY 60 PERCENT WILL OPEN DURING THE CAPITAL PLAN PERIOD The hints that there would be frontloading of repairs and backloading of seat creation have become full-blown patterns in this capital plan, patterns familiar in all the previous capital plans since 1989. Once again, sequence in contracting matters almost as much as total budget allocations. Though most funding for repairs will be allocated and committed within the five-year period of the plan, the effort to reduce overcrowding has become a seven-year plan, with the most expensive seats shoved into the 2008-2011 period of time. But totally new patterns have also emerged in the *Children First* plan. For example, the Mayor engaged in stop-and-go design and contracting for new schools, stretching out the time period for completion of capacity projects and making them more expensive. Another new wrinkle is that a school is no longer a building, so some of the larger buildings will house many schools. Even annexes of 200 seats might at some future date become a new "school."

The consequence of the delay in school design work and the slower pace of contract commitments for capacity is that fewer schools will be created within the five-year period. The lead time needed for site selections, lease negotiations, land clearances, and site preparations may even make the current schedule unrealistic. The following table shows that two fifths of the new schools will be created after Fiscal Year 2008-09. Moreover, three fourths of the new schools to be created after the plan period are to be constructed rather than leased.

Year Completed	Constructed	Leased	Total Schools	Percent Schools
2004-05	1	1	2	
2005-06	2	5	7	
2006-07	2	6	8	58.6%
2007-08	9	3	12	
2008-09	23	6	29	
Sub-Total	37	21	58	
After Current Capital Plan				
2009-2010	20	8	28	
2010-2011	11	2	13	41.4%
Sub-Total	31	10	41	
Total Schools	68	31	99	

Excludes "schools" under 200 seats, includes annexes and 10 early childhood centers (out of a total of 11 ECC's)

If this information is presented not as "schools" but as seats, the post-plan projections show a much higher proportion of seats that are created by construction rather than created by leasing. The most expensive seats are being built last.

Year Completed	Seats Constructed	Percent C-Seats	Seats Leased	Percent L-Seats	Total Seats
2004-05	500		1,000		1,500
2005-06	742		2,307		3,049
2006-07	920	45.6%	3,000	67%	3,920
2007-08	5,211		2,470		7,681
2008-09	10,453		2,855		13,308
Sub-Total	17,826		11,632		29,458
After Current Capital Plan					
2009-2010	14,242		4,747		18,989
2010-2011	7,057	54.4%	985	33%	8,042
Sub-Total	21,299		5,732		27,031
Total Seats	39,125		17,364		56,489

Excludes "schools" under 200 seats, includes annexes and 10 early childhood centers (out of a total of 11 ECC's)

This table shows that more than half of the seats created through new construction will come on line after 2005-09. By 2009, construction costs will also be higher. These cost escalations will be problems faced by a new Mayor in 2010 along with many new members of the City Council. The following sections provide more discussion of the reasons why so many capacity-building projects have been shoved past the five-year mark of June 2009.

FINDING SUITABLE SITES The major feedback received from NYC Department of Education officials who reviewed the April draft of this report is that EPP had not mentioned difficulties in finding sites for schools as a plausible explanation for delays in constructing schools. Land that might be available for purchase is often a "brownfield" with levels of environmental pollution that would not prove suitable for a school or would require costly remediation. Dense residential neighborhoods that are common in the city have few large plots of land that are vacant. In addition, there can be heated community opposition to plans for

building a new school. Our response was that many of the new school projects listed in the current plan were also in prior plans, so in some instances there has been failure to find a site for over a decade, not just a one or two-year period. More importantly, had sites been found in some neighborhoods, at the end of the day escalating budget costs of new construction would have required the jettisoning of a proportion of construction projects anyway, once the school system was forced to amend the capital plan to reflect budget cuts and rising costs (see page 18). In short, the often mentioned difficulties of finding sites explain why some neighborhoods don't get the new schools that are promised, but they don't explain why capital plans fall so short of their capacity goals and complete less than half of the seats that are promised.

VERY SLOW START FOR *CHILDREN FIRST* CAPITAL PLAN Most often, delays in capacity projects were explained away as a problem stemming from the lack of a state commitment for half of the plan's $13.1 billion capital funding. Contracting commitments, supposedly, were kept to the level that was equivalent to $6.5 billion in city funds. But the slow spending also conforms to the budget management style of the Bloomberg administration. There are few announcements of budget cuts, but actual spending can be kept relatively flat or even decline. Essentially, spending for the 2005-09 capital plan, until the EXCEL agreement was completed, was not much higher than the pace of the last few years of the previous capital plan, when funding had been cut to $4.5 billion by FY 2003. The NYC Comptroller's *Financial Report* on actual capital expenditure figures show that at the beginning of the Bloomberg administration there was a steady three-year decline in capital expenditures for schools until the 2005-06 year.[83]

2000-04 Capital Plan Expenditures				
FY 2000	**FY 2001**	**FY 2002**	**FY 2003**	**FY 2004**
$1.296 B	$1.708 B	$1.765 B	$1.315 B	$1.192 B
Children First Capital Plan				
FY 2005	**FY 2006**			
$0.975 B	$1.782 B			

Given that capital plans are, by their very nature, "lumpy," and contract commitments show up as expenditures a year or years after they have been entered into, all that can be stated after the first two years of this five-year plan is that the plan started slowly, which could also just as well be a measure of management inefficiency. One new development, however, was Mayor Bloomberg's frequent announcements that he was forced to postpone design work on new schools because of a lack of state funding. Design work on school construction projects are the least costly part of the process and do not have to be suspended for budgetary reasons. As will be discussed shortly, stop-and-go design and contracting can potentially increase costs. EPP can only speculate that the frequency of announcements about the suspension of design work may have had other purposes as well. A good hunch is that they were early forms of pointed hints to state legislators that schools in their neighborhoods would not be built without the $6.5 billion from the state. Another possibility is that they also reflected a contracting strategy to try to prevent collusion among the limited pool of construction firms willing to build schools in New York City. Whatever the true set of motives, however, the result was that the backloading of capacity projects continued, especially those involving new construction.

FRONTLOADING OF REPAIRS, BACKLOADNG OF NEW SEATS As discussed in the previous chapter, $750 million will be reallocated from SIRA to provide some measure of assistance in coping with the escalating costs of capital repairs and new school creation. The question that EPP wanted to answer was whether the frontloading of repair projects continued at the same pace, so we first looked at contract commitments and then actual spending. On the basis of information contained in the amendments adopted in June 2007, commitments for the first two years for "System Expansion" represented 26 percent of all

available five-year funding for this purpose. The commitments for the first two years for "State of Good Repair" represented 31 percent of all five-year funding for this purpose. This calculation showed less frontloading of repairs than anticipated in the table on page 48. The School Construction Authority, however, at a hearing before the City Council on March 12, 2007, uncharacteristically disclosed actual spending by function. Unfortunately, these expenditures include all sources of funding including federal, Borough President, and City Council funding making it difficult to reconcile with EPP's earlier calculations on page 48. This table summarizes these expenditures.

June 2007 5-Yr Allocation	Category	Actual Spending First 2 Yrs	Spending as a Percent of 5-Yr
$4.495 B	**New Capacity**	**$1,249 B**	**28 %**
$5,308 B	**Repairs**	**$1,942 B**	**37 %**

It should be noted that both contract commitments and actual spending are primarily indicators of the slow start of the *Children First* capital plan. If contract commitments had kept at a steady pace, which is not a characteristic of capital spending, the first two years of contracting would have represented 40 percent of available funding over the course of five years. In the table above, actual spending for repairs is close to that 40 percent benchmark. It should be noted that spending tends to lag behind commitments, so as of June 2007 actual contract commitments for repairs may be much higher. True to form, the *Children First* capital plan, like all prior capital plans for the schools, shows a higher level of expenditures and pace of contracting for repairs than for reducing overcrowding.

OLD, OLD STORY: COSTS RISE AGAIN Another change in the budget allocations for System Expansion is the belated recognition that per-seat costs are lower for larger buildings than for small 400 seat-buildings. Future schools may still be small, but more of them will be sharing buildings with a capacity of between 630 seats to 1,650 seats. Nevertheless, estimates of per-seat costs have risen from $64,139 to $67,854, according to information accompanying the amendments adopted in June 2007. "Escalating" costs have once again become the central challenge in completing the capacity projects in the capital plan for the schools, just as it became the central issue for each of the three other plans since 1989. Possibly because of mayoral control, the news media and monitors are no longer calling the situation a "disgrace," "out of control," or hinting at "corruption." Constructions costs have risen because of a vibrant city economy as well as the building boom in China that, unexpectedly, has raised the price of concrete and cement throughout the world. The salient question is when they increased.

According to the *Engineering News-Record* Construction Cost Index for New York City, which measures the monthly changes in local wages of skilled labor and the local purchase price of cement, steel, and lumber against a previous-year cost, the big jump in costs in the city occurred in 2004, with a record-breaking 12.3 percent increase over 2003. Up to August 2005 projected increases averaged between four and seven percent over the previous year. So for the first year of the capital plan, which used a standard 2.5 percent cost factor to account for increases, all the estimates were too low. Since that time, however, the CCI has been mostly in the usual range of two to three percent. In response to a question by EPP on how the city calculates increased costs, we were informed that the city's policy was to keep to a 2.5 percent annual inflation factor, but that now this had been recalculated to a 5 percent inflation factor. The irony, of course, is that the recalculation of cost increases is just now accounting for the big jump that occurred in 2004 and 2005, and that after this period construction costs have stabilized.

The prediction of construction costs is complex and the subject of numerous dissertations in engineering schools. Construction firms, by and large, consist only of workers and their tools, not warehouses. Suppliers bring all the construction materials to construction sites on a daily basis. Steel fabricators deliver steel as needed and marked as to where girders should be placed. Cement is delivered by the truckload and must be mixed and used within 90 minutes. Steel, cement, and lumber are commodities that are traded, just as pork bellies are, through commodities markets where prices change by the hour and by the day.

Construction contracting is equally complex and may also play a role in cost escalations for building new schools. Though there has been an increase in school construction since 1990 across the country, the relative paucity of school construction projects in comparison to other types of construction projects keeps firms willing to do new school construction to a limited number in most major urban areas. One of the findings in *Castles in the Sand* is that there were lower per-seat costs in the years when large numbers of seats were built.[84] Hypothetically, if the School Construction Authority had been able to build the 159 schools needed in the first ten years, per-seat costs could possibly have been lower because more construction firms would have entered into this field. The risk, of course, is that some of these firms might have done shoddy work. Nevertheless, if this speculation has some merit, the constant cutting of capital budgets for school construction has had the unintended result of keeping the pool of school construction firms small and of raising the odds of collusive bidding practices among this small number of firms. Outside of school construction, more building projects, even those with a unionized workforce, are being completed at a quicker pace because more construction firms are willing to work within a fixed budget. Public-private partnerships in building schools hold the promise of avoiding the "cost-plus" contracts that allow contractors to submit low bids and then get a series of change orders that raises the ultimate cost of projects. There is substantial political pressure, however, not to change the dynamics of contracting for public works, and any such change would involve amending state law.

In short, the variables of the construction costing and contracting practices, when combined with the murkiness of capital budgeting, provide less predictability than in most other areas of government. Real-world market prices and contracting realities seem to have only a tangential relationship to the cost factors used by OMB, the NYC Department of Education, and the School Construction Authority. While, indeed, the specter of corruption may account for some of the cost increases that limit efforts to reduce overcrowding, better budget calibrations alone could provide sounder estimates of the actual multi-year costs of capital plans. This dose of reality, however, would mean that fewer capacity projects would be listed in every new capital plan. The question arises as to whether city policy makers want a more honest capital planning process.

8. THE BOTTOM LINE:

ADEQUATE SCHOOL FACILITIES BY 2009? BY 2015?

The working definition of "adequate" used throughout this report has been shaped, for the most part, by the courts in the Campaign for Fiscal Equity lawsuit with an added emphasis by EPP on physical fitness and the arts:

- Access by most students in a school building to a fully-equipped library, gym, playground, art/music room, and auditoriums and, in addition, for middle and high school students access to a fully-equipped science lab and playing field(s);
- The elimination of overcrowded schools;
- The reduction of average class sizes to state norms.

SPECIALIZED SPACES The question about whether there will be student access to specialized spaces in every school by the end of the 2005-09 *Children First* capital plan is easy to answer. For the reasons described in chapter 6, the answer is no. There is no stated effort in the capital plan to recapture specialized spaces lost to overcrowding. This objective existed only in CFE's BRICKS plan. The city's current capital plan did not hide the fact that goals for the upgrading or creation of libraries, gyms, playgrounds, playing fields and auditoriums were a fraction of the renovations that need to be done. The only category of upgrades that are on the fast track is the creation of science labs. This is not an issue of broken promises, but promises never made.

Since neither the Department of Education nor the SCA updates statistics on schools needing educational renovations, except when a Ten-Year plan is unveiled, there is no way to quantify the impact of restructuring on specialized spaces. Even then, without oversight and the enforcement of standards, there is no way to ascertain whether existing specialized spaces are being used for their stated purposes. For example, a school library might be used primarily for staff meetings, or there might be a music room but no music teacher.

Unless the next capital plan for 2010-14 makes the restoration of specialized spaces a priority and the public education system fully staffs its schools with librarians, gym teachers and art/music teachers, New York City schools will continue to fall far short of the standards that are common in the rest of the state's school districts. What makes this harsh reality so poignant is that in many low-income neighborhoods, children's access to books, art, musical instruments, performance space, and physical fitness programs depends primarily on whether they exist in the schools.

OVERCROWDED BUILDINGS Since almost half the planned new seats in the capital plan will be created after the five-year deadline (see tables on page 50), the obvious answer is that school overcrowding will not end by 2009, except possibly at the high school level. The only real question is whether school overcrowding will be ended by 2015. The answer is a "maybe." The conclusion of "maybe" rests on three factors: 1) whether the current goals for new seats are met, even by 2015; 2) whether the demographic calculations provided by The Grier Partnership prove accurate; 3) and whether the capacity calculations for school buildings are accurate. While much criticism by parent groups is directed at demographic calculations, EPP's major concerns have focused on questionable building capacity calculations used by the NYC

Department of Education. The reader should note that the following sections use these questionable calculations to answer the question as to whether overcrowding will be ended by 2015.

The 2007 amendments to the *Children First* capital plan, as usual, made minor changes in the number of new schools and new seats. The plan emphasized the tangible by stating that there will be 105 new buildings, but the number of overall seats to be created has decreased from 66,000 to 63,000, based on demographic projections alone. In the following two sections we compare past student enrollment and seat capacity to the demographers' projections and the capital plan's 2007 goals for new seats. "U" stands for seat utilization.

ELEMENTARY SCHOOLS

CSD #	2004-05 Building Enrollment	2004-05 Target Capacity	Over or Under U 2005	Students Grier 2010	Students Grier 2015	2007 Estimate Capital Plan Seats Added by 2011
1	7,798	10,916	-3,118	7.122	6,679	0
2	16,639	18,148	-1,509	17,573	19,531	3,150
3	11,761	14,614	-2,853	10,406	11,102	0
4	9,254	12,352	-3,098	9,170	8,612	0
5	9,632	12,792	-3,160	7,425	7,806	0
6	17,998	16,631	1,367	14,181	11,864	1,103
7	9,647	12,756	-3,109	9,877	10,121	0
8	13,329	15,029	-1,700	13,913	13,309	0
9	21,188	22,689	-1,501	18,955	18,707	0
10	30,236	28,074	2,162	28,464	26,871	2,520
11	20,854	19,975	879	21,077	20,902	2,960
12	14,762	17,614	-2,852	13,073	12,984	0
13	9,830	14,678	-4,848	7,043	6,380	0
14	10,812	16,278	-5,466	8,127	7,831	0
*15	15,590	17,105	-1,515	16,290	18,273	*1,071
16	7,907	11,475	-3,843	6,437	5,792	0
17	16,398	18,731	-2,333	14,012	12,410	0
18	12,662	14,803	-2,141	11,094	9,823	506
19	15,686	18,330	-2,644	15,799	14,641	1,030
*20	19,526	18,168	1,358	22,660	25,878	*5,448
21	15,106	17,097	-1,991	14,816	13,954	0
22	19,685	19,592	91	20,401	19,381	1,260
23	10,335	13,264	-2,929	10,197	8,971	0
*24	25,387	22,575	2,812	26,478	27,740	*5,220
25	17,161	18,633	-1,472	16,331	16,385	630
26	11,405	11,675	-270	10,255	10,399	441
27	23,705	24,555	-850	25,315	24,800	2,331
28	17,816	17,447	369	17,989	17,182	2,520
29	17,953	19,416	-1,463	17,763	16,843	630
30	20,496	20,521	-25	19,180	17,971	1,260
31	28,233	30,104	-1,871	29,569	30,694	1,700
32	9,540	11,025	-1,485	9,135	8,672	441
	496,331	**557,062**	**-49,008**	**490,127**	**482,508**	**36,551**

This table shows the districts' elementary school enrollment as reported for the 2004-05 school year and building capacity using a 2004-05 "Target" measurement to reflect smaller class sizes from kindergarten to third grade and union contract commitments for cluster rooms.[85] It should be noted that student enrollments in schools change annually, and every year there are changes in some buildings' capacity. Every few years, the formulas for establishing building capacity change. EPP has chosen statistics from the 2004-05 school year simply because this was the beginning of the capital plan. "Grier 2010" and "Grier 2015" refer to the NYC Department of Education demographers and their projections of the number of students likely to be enrolled in elementary schools in these years, based primarily on birth rates.[86] By adding new seats (last column) to the 2005 "Target" capacity figure (in the third column), an estimation can be made as to whether a district will be overcrowded by 2010 and 2015 (districts getting new seats are highlighted in blue). If the demographers' predictions and the building capacity figures are correct, only three community school districts will still have an overcrowding problem by 2015: district 20 and, to some degree, districts 15 and 24 (designated by asterisks).

Absent, of course, are estimates of lost capacity due to restructuring, such as the hosting of charter schools, and other educational policies, such as grade retention (see page 5). It should also be noted that providing district-wide enrollment figures for elementary schools understates overcrowding. A district can have many overcrowded schools, yet also have underutilized schools in other parts of the district. Capital plan amendments state that a portion of new "elementary school seats" include seats in primary schools that go up to the eighth grade or in early childhood centers with many pre-kindergarten seats. Thus, not all new seats will be for children from kindergarten to sixth grade where the student overcrowding exists. Nevertheless, by adding the new seats to the 2004-05 measurement of building capacity, it appears that in 13 out of 16 community school districts, elementary school overcrowding should end by 2015. As will be discussed further on, this conclusion will hold only if other variables do not emerge and only if there are good policies in place at the community school district level to re-define school boundaries to better distribute students.

HIGH SCHOOLS

Borough	2004-05 Enrollment	Systemwide 2004-05 Capacity	H.S. Students Grier 2010	H.S. Students Grier 2015	Capital Plan Seats Added by 2011
Manhattan	60,183		56,190	50,002	0
Bronx	58,579		50,828	44,879	9,912
Brooklyn	93,291		75,440	65,321	5,266
Queens	78,973		73,075	64,295	9,912
Staten Island	16,873		13,266	12,526	1,664
Total	**307,899**	**291,757**	**268,799**	**237,023**	**26,754**

Includes special education, alternative high schools, and GED students and some other grades.

This table uses total high school enrollment in the 2004-05 school year from data in a January 2007 report by The Grier Partnership.[87] (The school system's *Enrollment-Capacity-Utilization* reports an enrollment for that same year of 306,112 students, which is close to the number cited by the Grier report.) Because of difficulties in reconciling high school regions and boroughs along with the locations of alternative high schools, EPP used the total high school system's seat capacity figure in the *Enrollment-Capacity-Utilization* report for 2004-05 rather than statistics by a borough.[88] Since students often travel outside of their neighborhoods to attend high schools, seat capacity statistics by boroughs are not as important as community school district boundaries. For the 2004-05 school year there was no "Target" measurement of capacity similar to the ones used at the elementary school level, because there was no plan to

reduce class sizes at the high school level. Even though class sizes are smaller in restructured schools as discussed in chapter 6, building capacity statistics were increased for these schools.

There will be a sharp drop in high school enrollments based on demographers calculations that use "survival rates," not birthrates. This is a measurement of the percentage of students at each grade, which reflects those students who drop out as well as students who are unable to be promoted to the tenth grade because of course-and-test-failure rates and other students who take more than four years to graduate. If the demographers' calculations prove to be accurate, it appears that high school overcrowding should end by the 2009-10 school year. It should be noted that despite this expected drop in high school enrollments over the next eight years, the capital plan is adding high school seats in three boroughs. It is possible that some of these added seats will ultimately result from "new schools" that are building additions and are combined with restructuring.

MIDDLE SCHOOLS The capital plan is not adding seats to middle schools and there is no need to do so. Almost all community school districts have had excess capacity at this level, though eleven districts have fewer than 1,000 extra seats. In 2005, the excess capacity at the middle school level was 45,019 seats; as of 2010, the projection is 82,524 excess seats, and as of 2015, the projection is 85,845 excess seats. Since the publication of its report, *Castles in the Sand,* the Educational Priorities Panel has advocated that some middle schools be reconfigured into elementary schools, high schools, or K-8 grade primary schools. This would help to substantially reduce student overcrowding, except in the borough of Queens. Education officials have not been receptive to this idea.

VARIABLES Building overcrowding could grow worse, continue, lessen, or be eliminated in a few short years depending on factors that are difficult to predict. Many of these variables are discussed in the first two chapters of this report and are briefly cited here. Others require more of an explanation.

BETTER STRATEGIES The latest amendments to the capital plan for adoption in June 2007 slightly reduced the allocations for new school construction, slightly increased projected leasing costs, and raised planned allocations for building additions sevenfold from $50 million to $375 million. Building additions are a cost effective strategy, long advocated by former NYC Comptroller Hevesi among others, as a way of eliminating the costs of land purchase, environmental clean up, and site selection. It is particularly suitable for certain areas of Queens, the North Bronx, and Staten Island where schools tend to be built on larger plots of land, though not always. As discussed above, the reconfiguration of underutilized middle schools could also accelerate the reduction of overcrowding at low cost.

CAPITAL BUDGET CUTS Though there was a slow start to the current capital budget, so far there hasn't been a planned reduction in allocations. This could change. It should also be noted that many capacity projects extend beyond the five-year period of the plan. NYC Department of Education officials assert these projects would not be included in a new capital plan (thus vulnerable to changes), but instead could remain in a separate rollover program guaranteed to ensure that the specific projects are completed.[89] However, a new Mayoral administration, burdened with building the most expensive seats, could jettison these construction plans unless there are signed contracts for all remaining projects.

RATES OF IMMIGRATION There have been recent declines in new arrivals which have been factored into demographic predictions. There have also been new patterns of exodus of recent immigrants relocating to other parts of the country. For example, immigrants from the Dominican Republic have settled in Pennsylvania and Pakistani families have moved in large numbers to Detroit. On the other hand, conflicts or environmental disasters could bring a new, unexpected wave of immigrants to New York City.

NEW EDUCATIONAL INITIATIVES School restructuring, housing of charter schools, grade retention, pre-k classes and full-day pre-k classes are examples of polices that can reduce building capacity and that currently are not measured. However, class size reduction and the creation of specialized spaces also impact building capacity. At the end of the day, especially if more initiatives are adopted, overcrowding may not be reduced to the level projected.

THE ECONOMY Currently, New York City has the highest proportion of private school students in the state. A downturn in the economy could result in more parents enrolling their children in the public school system. High school dropout rates, which are a very complex phenomena, can also be influenced by the job market. For example, a poor local economy tends to decrease dropout rates because of the lack of employment for youth. An improvement in the low-wage job market due to declining rates of immigration, on the other hand, could increase dropout rates even during an economic slump.

IMPROVEMENTS IN THE QUALITY OF EDUCATION AND STUDENT PERFORMANCE Large numbers of working-class and middle-class parents traditionally leave the city for better public schools in the surrounding suburbs, particularly when their children reach the middle school grades. If there was a significant improvement in education, which has so far not occurred, school overcrowding could again become a problem. On the other hand, better academic performance by students could relieve some overcrowding because fewer students would need remediation or be held back a grade. A 2006 study prepared by the Community Involvement Program of the Annenberg Institution for School Reform mistakenly assumed that 10,907 additional seats would be needed for Bronx high school students attending small, restructured high schools because fewer of them will drop out and more of them will reach 12th grade.[90] While The Grier Partnership predicts future enrollments on the basis of a "survival rate" of only 36 percent of ninth graders reaching the twelfth grade, the demographers also calculated that close to 40 percent of ninth graders will remain in the ninth grade for at least one more year. While a higher number of students in small high schools graduate, far fewer students remain in the ninth and tenth grades for a second year. Currently, high school enrollment by grade is very similar to the shape of a pyramid, with bulk of the students in ninth or tenth grades and a smaller proportion in eleventh and twelfth grades.

CHANGES IN THE HOUSING MARKET One of the criticisms by parent groups of the first draft of this report was that there was no discussion of the large numbers of new apartment buildings in Manhattan and the gentrification taking place in other boroughs. Suburban housing may become even more unaffordable. If parent groups are correct in their predictions, there could be substantial school overcrowding in the near future. Housing patterns, however, are difficult to predict. As discussed briefly on pages 9-10, there was a widespread perception in the mid-1970's that the emergence of school overcrowding was due to a "baby boomlet," but subsequent research revealed that immigration accounted for all enrollment increases. New apartment construction may attract mostly "empty nesters" or young people without children. Young middle-class parents could also continue to follow the pattern of staying in the city only until their children are of school age or reach middle school.

OVERCROWDED CLASSROOMS The big question is whether city students will ever have the benefit of having class sizes that are the norm for students in the rest of the state. This spring, NYS Assembly Education Committee Chair Catherine Nolan introduced legislation requiring that a quarter of Campaign for Fiscal Equity funds be used to reduce class sizes. The final 2007 state budget agreement weakened her language but required the city school system to adopt a plan to reduce average class sizes over the next five years. Is a plan like this feasible? The answer is yes.

The central paradox of the current overcrowding problem is that there is a poor fit between students and available seats, primarily because immigrants settled in new neighborhoods in New York City. At the elementary school level, a majority of school buildings have excess seats, but a majority of students attend overcrowded buildings. The table on page 55 shows that in the 2004-05 school year there were 49,000 excess seats in elementary schools even if there had been class size reduction in the early grades to an average of 20 students. As of 2010, if the demographers predictions are correct, there will be 72,072 excess seats in elementary schools. Middle schools have remained underutilized and by 2010, there could be as much as 82,524 excess seats. While high schools have been overcrowded for close to 20 years, within a few short years, according to data used by the NYC Board of Education, there will be an excess of 22,958 seats at this level by 2010 and an excess of 54,734 seats by 2015, as shown in the table on page 56. Even now there is enough capacity in many high schools to begin reducing class sizes in core subjects like English Language Arts and math.

The key issue for class size reduction, however, is not classroom space in schools, but the willingness of city officials to expand the number of teachers in the public school system. Overcrowded buildings may serve as a barrier to class size reduction for all students in every building, but there could have been extensive class size reduction in a majority of city school buildings over the last ten years. In fact, the state has provided the New York City school system with up to $88 million a year to reduce class sizes from kindergarten to third grade since the 2000-01 school year. Yet an audit released in March 2006 by the NYS Comptroller found that instead of an additional 1,586 new classes that should have been formed with these state funds, there were only 20 additional classes formed to reduce early grade class sizes by the 2004-05 school year.[91]

The last significant class size reduction initiative implemented by the New York City public school system was in the early 1980's under Chancellor Nathan Quiñones over twenty years ago. The immediate question is whether the city and education officials will comply with the 2007 state budget agreement to develop a five-year plan to reduce average class sizes with Campaign for Fiscal Equity funds. If they fulfill this state legislative mandate, overcrowded classrooms will be ended for most students.

9. CONCLUSION: RECOMMENDATIONS

Capital funding expenditures during fiscal year 2007-08 will reach the $20 billion mark from the date the School Construction Authority was created in 1989. For all our criticisms and policy differences expressed in this report, EPP does see progress made from capital plan to capital plan. Yet there has been very little progress when it comes to the needs of school children. While we recognize that there have been funding constraints, the expenditure of just one tenth of the $20 billion could have provided school children with all the libraries, science labs, art/music rooms, and physical fitness they need. Yet all of these types of projects have been relegated to the bottom of the list of priorities. And while each capital plan is touted as a response to the "crisis" of overcrowding, it will have taken the city 20 years to solve this "crisis." It is as if a distant bureaucracy, in charge of the repair of railroads, ignored most of the repairs that would help get the trains to arrive on time. There is an serious disconnect between educational goals and the priorities of the city's capital plans for the schools.

Education officials have stated that there needs to be a better alignment between the five-year capital plan for the schools and the city's ten-year capital planning cycle. In a March 2007 City Council hearing, a Deputy Chancellor stated that the NYC Comptroller needed to conduct a comprehensive study, similar to the one conducted by NYC Comptroller Hevesi, to provide an estimate of the costs of bringing all the city's assets up to a state of "good repair." Reforms in the capital planning process for the schools and for the city as a whole must go much deeper than mere alignment and the generation of new repair estimates. In particular, the singular focus on building repairs needs to be questioned.

There must also be a recognition that capital plan reporting is so unhelpful that it has created a widespread lack of trust in the validity of capital plan information. One of the surprises of research for this report has been the number of city budget staff responsible for capital budget monitoring who expressed frustration and confusion about the information they received about the capital budget from the School Construction Authority, the NYC Department of Education, and the Office of Management and the Budget. One monitor said, "I really don't understand what I'm getting." Another said that "it's all funny money, the projects don't cost what they say they do." The term that former NYC Council Education Committee Chair Eva Moskowitz used in 2004, "a slush fund," came up again and again.

As education advocates, EPP may question wording accompanying key budget documents, but we believe that the days when the city used capital funding for operating expenses ended when the city's 1975-77 fiscal crisis ushered in an era of budget reform. We believe that currently the city, the Education Department, and the School Construction Authority engage in reasonably good fiscal and contract oversight with sufficient safeguards against fraud. Indicators of widespread corruption and the existence of a behind-the-scenes "slush fund" do not seem apparent to us. But what is obvious is that the murkiness of capital budget reporting and the constant use of ambiguous terminology does not inspire confidence that the city's capital planning process has integrity or meets the standards that are common in other areas of government planning and reporting. In what other area of government could officials claim that school building restructuring increases seat capacity at the same time that restructured buildings have fewer students in them? How could the hosting of charter schools with small average class sizes in larger school buildings not reduce access to specialized spaces and reduce building capacity? How can a five-year capital plan morph into a seven-year plan when it comes to ending overcrowding? When it comes to the capital planning process, budgeting, and reporting, the process of democratic review and input is seriously broken.

Bureaucratic officials have an almost total lock on meaningful information, so much so that civic advocacy in this area is often blind and thwarted at every turn. The lack of democratic review has not produced efficiency, but poor performance in meeting stated goals.

As the end of the current capital plan approaches and a new plan is formulated, there will be the inevitable demand for more new schools from parents and communities, a demand for more detailed information from the Council, and a demand for more repairs from facilities experts. With greater certainty than available for demographic projections, EPP can predict that:

- Parent and community demands for an end to overcrowding will continue to be subverted by highly questionable estimates of costs and highly questionable statistics about building capacity and ambiguous terms, such as "seats" created. There will be little better than a 50 percent chance that a new school on a capital plan list will get built within the timeframe specified;

- There may be more details to allow individual Councilmembers and Borough Presidents to track selective projects, but little verifiable information on the progress of the capital plan as a whole. The leverage gained in state law requiring the NYC Council's approval of capital plans for the schools, so far, has not resulted in meaningful oversight;

- Capital repairs will get the most funds and will be accomplished at a faster pace than other parts of the capital plan, but decisions about which repairs get done and in what sequence will be made by a bureaucracy. Facilities professionals will continue to strive for a high-cost standard of "state of good repair" with no effort to balance this objective with an effort to meet education standards and provide more opportunities for reading, physical fitness, art and music, and hands-on science learning.

The recommendations that follow are aimed primarily at achieving some honesty and transparency in the capital planning process and to create a better balance between repair needs and educational objectives. One of the Educational Priorities Panel's major recommendations is similar to the one in our 2002 facilities report, *Castles in the Sand*. It calls for a more participatory capital planning process geared to providing school parents and staff with more say in prioritizing repairs and more capacity to restructure available space to create more classrooms and upgrade specialized spaces. For brief periods of time, such as a bond initiative in Los Angeles and an Arizona court-ordered program to bring school facilities up to standard, more participatory capital planning has been achieved. While the Department of Education solicits the input of educators at the beginning of each new capital plan, once it is adopted the school community has no say on its implementation. As costs rise and projects are jettisoned by a distant bureaucracy, the result at the school level can be counterproductive.

1) **REPORT RESULTS** The School Construction Authority web site should feature an accurate list of projects that have been completed by both school district and type of project, not that much different from the lists contained in the capital plan and yearly amendments. Legislators, city budget monitors, parents, and community groups should not have to expend huge amounts of energy to secure information that should be routinely made public.

2) **REPORT CAPITAL EXPENDITURES AND CONTRACT COMMITMENTS BY FUNCTIONAL AREA** Because the NYC schools capital plan is so large, the NYC Comptroller and Office of Management and Budget should revise capital budget expenditures reports so that expenditures are shown by the broad functional categories of repair, new capacity, upgrades, and "other." This should also be done for contract

commitments. At this point in time, the disclosure of this information is dependent on the willingness of the SCA to do so.

3) **EACH YEAR SURVEY THE NEED FOR SPECIALIZED SPACES AND ADJUST BUILDING CAPACITY TO REFLECT THESE NEEDS** What is not measured tends to be ignored when it comes to facilities planning. New York City pioneered the procedure of having outside consultants review all school building systems to rate them from 1 (a state of good repair) to 5 (broken or in need of replacement because the system is nearing the end of its expected cycle of use). These surveys are now being done on an annual basis. The need for specialized spaces, however, are only calculated for the ten-year plan. Appropriate consultants should be hired by the SCA on an annual basis to survey whether all students in a building have access to specialized spaces, such as gyms, science labs, performance space, and libraries, and whether these spaces need upgrading. These experts should also evaluate whether the capacity figures for school buildings are valid, on the basis of current usage and usage that meets educational standards. Their expertise could also be used to propose low-cost ways of creating more classrooms or re-creating specialized spaces. These objective observations are particularly important now that more schools are sharing building space. At a minimum, the NYC Department of Education must create a capacity standard that measures building capacity if specialized spaces, such as gyms and libraries, are restored for their intended use.

4) **INCLUDE IMPACT OF EDUCATIONAL POLICY CHANGES IN PROJECTIONS OF EXTRA SEATS NEEDED TO REDUCE OVERCROWDING** Under two different Chancellors, study groups were convened that found that school building capacity had been reduced through policies, such as creating full-day kindergarten and more difficult graduation requirements. Currently, the NYC Department of Education's consultants for projecting demographic changes serve as a lightning rod for complaints about the disconnect between the crowded state of many schools and modest projections for enrollment growth. Grade retention, course or test failure rates at the high school level, pre-k programs, the hosting of charter schools, and school restructuring have all reduced school building capacity. None of these policies came with an "impact statement," but their impact was felt in schools that were near to full capacity or overcrowded. Even the reclaiming of specialized spaces, such as libraries, carries the potential for reducing school building capacity. The consequences of education policies for school overcrowding should no longer be kept hidden and instead should be factored into projections for the current and future capital plans.

5) **CLARIFY TERMS AND MAKE MEASUREMENTS MEANINGFUL** As explained on page 4, "seats" can be "created" that have no impact on the reduction of overcrowding, but are merely replacements of existing seats in trailers or reconfigured classrooms. Why not simply define seats as either "new seats" or "upgraded seats"? There are many ways of measuring building capacity at the elementary school level. One of these, "Target capacity," is a measurement of building capacity if class size reduction takes place. Name this measurement for what it is, capacity if state standards are met and use this "state standards" capacity measurement for middle school and high school buildings. Especially with shared buildings, parents, community leaders, and legislators need to know if all students have access to specialized spaces.

6) **FRONTLOAD EDUCATIONAL UPGRADES AND ADDED CAPACITY IN THE NEXT CAPITAL PLAN** Restoration and creation of specialized spaces, repair of playgrounds, and reduction of school and classroom overcrowding should be prioritized for the next capital plan. Contract commitments to finish these projects should come first, not last. Recognize that the NYC school system, at this time, may not be able to attain a full-

fledged preventive maintenance program when the most basic instructional of students have not been met. Recognize that the lead time for site selections, lease negotiations, land clearance, design, environmental abatement, and site preparation can stretch many new school projects toward the end of the capital plan unless they are initiated as soon as the next capital plan is adopted.

7) **MANAGE OVERCROWDING** Require "walk throughs" of schools and districts that have severe overcrowding, similar to those conducted by Community School District 6 where teams made up of superintendent staff, union representatives, CEC representatives, and parents toured each building top to bottom to verify building capacity figures. Rezone school catchment areas and grades to redistribute enrollment. Develop targeted programs for high schools with large numbers of over-age ninth and tenth graders, including extensive summer school programs, rather than allowing these students to be "pushed out" with little hope of earning a high school diploma. Extend the school day and year for overcrowded schools and districts.

MAJOR RECOMMENDATIONS

REFORM THE CITY AND SCHOOL CAPITAL BUDGET REPORTING AND PLANNING PROCESS The Mayor, the NYC Comptroller, or the NYC Council should appoint a commission that would include other government representatives, including the NYC Independent Budget Office, along with economists and other academics familiar with capital budgeting, public sector construction contracting, and price estimation to propose ways in which the city could increase the transparency and predictability of capital budgeting. This would include ways to 1) improve how allocations, contract commitments, and capital expenditures are reported; 2) determine the best intervals for reporting project completion and projects in the process of completion for each agency and type of project; 3) develop more concise and meaningful terminology; 4) improve public sector contracting; 5) more accurately measure construction cost increases; and 6) evaluate whether an alignment between the school and the city capital planning process is necessary or beneficial.

CREATE A MORE INTELLIGENT, LOCALIZED, AND PARTICIPATORY PROCESS FOR PRIORITIZING THE SEQUENCE OF REPAIRS, EDUCATIONAL UPGRADES, AND CAPACITY PROJECTS In preparation for each new five-year capital plan the NYC Department of Education and the School Construction Authority should develop a master list of all repair and system replacement projects as well as estimates of need for specialized spaces and upgrades of gyms and playgrounds. They also should survey the priorities of principals, superintendents, and regional administrators. Borough Presidents and members of the NYC Council and NYS Legislature and community leaders should also have a voice in the creation of a multitude of projects listed under each new capital plan. Unfortunately, the lists of projects are so lengthy and the estimates of cost increases over the five-year period are so inaccurate that many of the items on these lists end up on the cutting-room floor. Each capital plan begins with a bang and ends with a whimper. Each capital plan also begins with a huge effort of consultation and ends with most final decisions being made by a remote bureaucracy of engineers and budget staff.

Interestingly, under the Giuliani administration there was a short-lived funding stream for charter schools called the" Mandela Fund" which provided $250,000 in capital funds annually to charter schools for their facilities needs, which was roughly equivalent to the amount of capital funding received by each school if the funds were equally distributed to the city's 1,000 school buildings. Since the school system has embarked on school-site management and created school budgets, this type of approach

should be extended to capital planning. Three types of capital allocation budget formulas could be created for each school (based on building size): 1) a formula for each school could be created for the number of ratings of "5" for needed repairs or system replacements; 2) another formula would be created for the number of specialized spaces or educational upgrades and physical fitness upgrades needed for the school building and schools within a building; and 3) a new capacity budget formula for schools within overcrowded community school districts willing and able to expand their building space for more classrooms or to host another school. In overcrowded community school districts there would still be an additional "new capacity" budget for the creation of new school buildings.

The contracting for repairs, system replacements, and upgrades should continue to be done by the SCA along with estimating the changing costs of repairs and renovations. But the massive lists contained within the capital plan would revert from being largely fantasy projects to being "allowable" projects. Principals and their school planning committees, upon adoption of the capital plan, would prioritize repairs and educational upgrades each year. If their school buildings were in an overcrowded school district, they would also evaluate whether they wanted to create more classroom space. These decisions, however, would be informed decisions. Part of the funding for the capital plan would include sufficient funding for the consulting services of an engineer or architect for each school district to work with principals and school planning committees to help them evaluate priorities generated by the Building Condition Assessment surveys and Specialized Space surveys.

A criticism of the Los Angeles short-lived bond issue which gave principals a say in repairs and upgrades is that principals tended to ignore "what was behind the walls." On the other hand, there is considerable frustration by principals and parents when needed repairs of bathrooms are not done and, instead, millions are spent for a new roof when the current one does not leak. Given the inadequate funding available for the schools capital plan, let school-site staff and parents make the difficult decisions. As repair and renovation costs escalate, as they inevitably do, principals and school planning committees will have to figure out what projects need to get done and what projects they must postpone or abandon — rather than a distant bureaucracy. Do they need a library or a science lab? Maybe the condition of the playground is of more importance. Or is the occasional flooding of the basement a more serious problem? The architect or engineer would be their expert, helping them see if costs could be reduced and not letting them ignore "what's behind the walls."

This site-based decision making would need a good reporting system that would allow both school staff and monitors to track the progress of all projects. SCA contracting would remain geared to contracting for multiple sites. This distant bureaucracy, however, would no longer make the decisions about what "really gets done" at the school level and what is merely promised.

FOOTNOTES

[1] *Growth and Disparity: A Decade of U.S. Public School Construction*, Building Educational Success Together, October 2006. pp. 4-5

[2] *No Vacancy*, Howard Blume, *LA Weekly*, June 7, 2000.

[3] NYC School Construction Authority January 16, 2007 internal report released to EPP.

[4] Verbal report by Chicago-based Neighborhood Capital Budget Group to EPP.

[5] *A School System at Risk: A Study of the Consequences of Overcrowding in New York City Public Schools,* Francisco L. Rivera-Batiz and Lilian Marti, Institute for Urban and Minority Education (best access is ERIC data base, search by author).

[6] *Investigation into the Board of Education's $2 Billion Budget Gap for the First Two Years of the 2000-04 Capital Plan*, p. 22.
[7] *Castles in the Sand: Why School Overcrowding Remains a Problem in NYC,* Educational Priorities Panel, 2002, Appendix 2, Chart 8A.
[8] *EPP Monitor,* Summer 2003, p.4.
[9] NYC Department of Education press release of August 29, 2006, *Mayor Bloomberg and Schools Chancellor Klein Tour Newly Constructed Bathgate Campus.*
[10] *Castles in the Sand*, p.45.
[11] A recent example of such research is described in *Federal Study Finds No Edge for Students Using Technology-Based Reading and Math Products,* Education Week, April 4, 2007.
[12] October 18, 1989 letter from the Educational Priorities Panel to Amy Linden, Chief Executive for School Facilities referring to EPP's analysis of "Transfer of Jurisdiction of School Buildings." 24 of these schools were recaptured by the Board of Education.
[13] *Bursting at the Seams*, *Report of the Citizens' Commission on Planning for Enrollment Growth* (Timpane Commission), January 30, 1995, Appendix A, pp.A1-A3.
[14] EPP calculation from NYC Board of Education *School Facilities Enrollment-Capacity-Utilization* 1988-89, as reported in Table 6 and Table 7, *Castles in the Sand,* Educational Priorities Panel, 2002, p. A-19 and p. A-21.
[15] *Building Schools for Student Success,* Educational Priorities Panel, 1989, pp. 51-52.
[16] *Hanging In: A Study of Student Credit Accumulation in High Schools*, Educational Priorities Panel, 1990.
[17] *Building Schools for Student Success,* Educational Priorities Panel, 1989, p. 88.
[18] *Castles in the Sand,* p.18.
[19] *Budget Briefing 1990: A Graphic Review of the Decade in NYC Public Schools*, Educational Priorities Panel, Dr. Joan Scheuer, 1990.
[20] Even schools functioning at under capacity have multiple lunch periods for a variety of reasons: fear of disorderly lunchrooms and hallways; insufficient funding for school aides; the teacher's contract no longer requires lunchroom duty; fewer kitchen staff; multiple schools sharing the same building; and some schools have small lunchrooms.
[21] P. 25.
[22] *School Push-Outs: An Urban Case Study,* Advocates for Children 2005, p.1.
[23] *School System at Risk: A Study of the Consequences of Overcrowding in NYC Public Schools,* Dr. Francisco L. Rivera-Batiz and Lilian Marti, Teachers College, Columbia University, prepared for the Citizens' Commission on Planning for Enrollment Growth, January 1995. Since high-achieving, popular schools are also overcrowded, this study conducted a statistical analysis to exclude these types of school where there are much fewer lower-income students.
[24] For a decade after the SCA was formed, there were no amendments to the capital plan. In 2001, both NYC Comptroller Hevesi and Governor Pataki's Moreland Commission pointed out that the Board of Education, in violation of state law, had never amended the capital plan to reflect budget cuts to the capital plan. Once plans were amended, there were more cuts to capacity projects than repair projects. A September 2005 *Fiscal Brief* by the NYC Independent Budget Office, *Follow the Money: Where School Construction Dollars Spent as Planned,* stated that 2000-2004 capital plan expenditures for capacity projects were higher than anticipated. Not mentioned was that the number of capacity projects had been cut twice during the plan, so many more capacity projects had been planned at the onset. Higher than anticipated expenditures for new schools reflected higher than anticipated costs for fewer school construction projects.
[25] *Report of the Commission on School Facilities and Maintenance Reform*, June 1995.
[26] In contemporaneous notes of EPP staff interviews from 1989 to 1994, state officials explained that the legislative language for the creation of SCA required an interest rate for each construction and capital repair project. City bonds, however, were issued for multiple projects. In 1994, this language was amended so the NYC officials could use the annual interest rate on city-issued general obligation bonds.
[27] The Governor and legislative leaders also approved the use of a portion of city MAC bonds for this purpose.
[28] *New York City Board of Education Year 2000 Master Plan,* March 1989, pp 106-110. Overcrowding was also to be reduced by construction of mini schools and building additions.

[29] See discussion in the last chapter on monitoring. Funding cuts or increases to the capital plan often do not decrease or increase actual spending. Despite cuts to the capital plan by Mayor Giuliani, expenditures increased up until 2001.
[30] *Ibid*, page ii.
[31] *Castles in the Sand*, p. 6 (based on *NYC Comptroller's Financial Reports* from 1960-2001).
[32] *Ibid*, Appendix Table 9.
[33] *Ibid*, page 17.
[34] *NYC Comptroller's Report for Fiscal 2006*, p.320.
[35] *Castles in the Sand*, p. 6 (based on *NYC Comptroller's Financial Reports* from 1960-2001).
[36] *NYC Comptroller's Report for Fiscal 2006*, p.279.
[37] *Expense, Revenue, Contract*, p. 56E.
[38] *NYC Comptroller's Report for Fiscal 2006*, p.294.
[39] A fuller description of the problem of FMS annual variances between capital funds transferred from the NYC Education Department to the SCA is described in "End Notes," *Does City Capital Spending Match the 10-Year Strategy?* NYC Independent Budget Office, February 2007, p.7. As part of the FY 2007 adopted budget, the NYC Council and the Mayor agreed to a series of "terms and conditions" to require updates in the Financial Management System, which is described in the NYC Council's *Fiscal 2008 Preliminary Budget Response,* April 2007, p.39.
[40] The Educational Priorities Panel was represented on the Board of Directors of CFE, but was not among the plaintiffs.
[41] *Plaintiffs' Proposed Findings of Fact and Conclusions of Law, Volume I of II*, submitted to the NYS Supreme Court (Index No. 111070/93) by Michael A. Rebell Associates and Simpson Thatcher Bartlett, attorneys for the Campaign for Fiscal Equity.
[42] *Supreme Court, Count of New York, Index No.: 111070/93, Campaign for Fiscal Equity, et al., v. The State of New York, et al.*, p. 36.
[43] *Ibid.*, p.64.
[44] *Ibid.*, p.78.
[45] *Ibid.*, p.80.
[46] *Ibid.*, p.82.
[47] *Ibid.*, p.89.
[48] *Campaign for Fiscal Equity, et al., v. The State of New York, June 26, 2003, Index No. 74,* p.19
[49] *Ibid.*, p.125.
[50] *Ibid.*, p.127.
[51] *Ibid.*, p.185.
[52] *Ibid.*, p.186.
[53] *Report and Recommendations of the Judicial Referees,* Index No. 111070/93, November 30, 2004, pp.36-7.
[54] *Ibid.,* p.5.
[55] Campaign for Fiscal Equity, *Sound Basic Education Task Force Ensuring Educational Opportunity for All, Part II Adequate Facilities for All*, April 13, 2004, p.26.
[56] The court-appointed referees added an inflation factor to account for costs at the end of 5 years. The NYC Department of Education added an inflation factor to account for costs at the end of five years, based on a 2003 Ten-Year Master plan estimate of bringing school facilities to a state of good repair.
[57] November 4, 2004 press release of Robin Hood Foundation. 31 libraries had been created. With the additional 25, the total was expected to be 56 by fall 2006.
[58] NYC Law Department letter to John Ferrick, E. Leo Milonas, and William Thompson, August 25, 2004.
[59] P. 4.
[60] Governor Pataki, in his second term of office, succeeded in limiting state Building Aid to the life cycle of capital repairs. Prior to that change, affluent districts tended to get higher reimbursements because their bonds were of shorter duration.
[61] NYS Education Department officials deny that there was a separate capacity calculation for New York City, but instead allege that there was a lack of planning by city officials. An analysis in EPP's *Castles in the Sand* (chapter 7) shows that the application of a different capacity formula for New York City accounts for a significant reduction in Building Aid.

[62] There is confusion as to when higher cost allowance ceilings would be used for calculations of Building Aid. The adopted budget stated that changes would take place for future projects, but subsequent language stated that changes in cost ceilings for New York City were retroactive to projects approved after July 1, 2004, the beginning date for the city's capital plan for the schools. The High Need Building Ratio applied to projects approved after July 1, 2005.
[63] NYC Department of Education press release, February 13, 2006.
[64] NYS Department of Education *2007-08 State Aid Projections under Section 3609 Plus Other Aids*, March 31, 2007, Run Number SA070-8.
[65] Information provided by the NYC Independent Budget Office, January 2007.
[66] *Plaintiffs' Proposed Findings of Fact and Conclusions of Law, Volume I of II*, submitted to the NYS Supreme Court (Index No. 111070/93) by Michael A. Rebell Associates and Simpson Thatcher Bartlett, attorneys for the Campaign for Fiscal Equity. p.519.
[67] *Ibid*., p.520.
[68] *Children First Ten-Year Needs Assessment and Proposed 2005-2009 Five-Year Capital Plan,* NYC Department of Education, November 2003, p. 11.
[69] *Children First Ten-Year Needs Assessment and Proposed 2005-2009 Five-Year Capital Plan,* NYC Department of Education, June 2004, p.18.
[70] Ibid, June 2004, p.19.
[71] November 2006 Proposed Amendment, p. 13.
[72] NYC Department of Education press release, August 2, 2006 about the Bathgate Educational Campus. EPP calculates the figure at 28,520 at that date from all source of capacity projects, including building additions.
[73] November 2005, p.14.
[74] *Enrollment, Capacity, Utilization Report* (known as Blue Book) for the three years, NYC Department of Education.
[75] June 2004 Adopted 2005-2009 Five-Year Capital Plan, p.41. Per-seat cost that included site acquisition was estimated to be $64,143.
[76] *Castles in the Sand*, Appendix Table 10.
[77] *Castles in the Sand*, Appendix Table 6.
[78] *Analysis of the Department of Education Proposed Five-Year Capital Plan*, New York City Council Finance Division, March 15, 2004, 2nd page.
[79] June 2004 Adopted 2005-2009 Five-Year Capital Plan, p.39 and pp. C88-C99.
[80] *Castles in the Sand*, Appendix Table 1A.
[81] January 6, 2005 press release by the office of the Mayor. The agreement also appears on the web page of the School Construction Authority.
[82] June 2004 Adopted 2005-2009 Five-Year Capital Plan, pp. C1 to C4.
[83] *NYC Comptroller's Report for Fiscal 2006*, p.278.
[84] Appendix Table 9. It is possible that the low-cost in some years was due to the fact that more "seats" in trailers were part of the total for these years.
[85] EPP's summary of data in 2004-05 *Enrollment, Capacity, Utilization Report* (known as Blue Book), NYC Department of Education. A staff member of Councilmember Jackson's office has questioned whether this "Target Capacity" measurement truly reflects the restoration of gyms, auditoriums, and science labs that were converted to classrooms many years ago. This question is yet another reason why EPP recommends that professional surveys be done of the need for specialized spaces in every school, augmented by "walk throughs" to verify capacity figures.
[86] Figures taken from *Enrollment Projections 2006 to 2015 NYC Public Schools Volume II: Narrative Report*, The Grier Partnership, January 2007, Appendix C.
[87] *Ibid.*, Appendix D.
[88] 2004-05 *Enrollment, Capacity, Utilization Report* for 2004-05 school year, NYC Department of Education, p.33.
[89] Response by NYC Department of Education Deputy Chancellor Grimm at March 12, 2007 hearing by NYC City Council.
[90] December 2006 PowerPoint presentation prepared for the Northwest Bronx Community and Clergy Coalition.
[91] *NYC Department of Education Administration of the Early Grade Class Size Reduction Program*, 2005-N-3, Office of the NYS Comptroller, March 16, 2006, p.18.

APPENDIX

The following lists of "capacity projects" are generated by three different agencies, each using different criteria for projects and completion dates. It should be noted that many of EPP's coalition members dispute the accuracy of lists provided by the School Construction Authority and the NYC Department of Education.

APPENDIX A: The list provided by the School Construction Authority is the longest and includes projects that may not create additional capacity, but simply replace already existing seats. The original list provided to us by the SCA did not contain EPP's tabulation of "schools" using different criteria.

APPENDIX B: The second list is the NYC Department of Education's effort to respond to a request by EPP for a clarification of projects under the 2000-04 capital plan and those under the 2005-09 capital plan.

APPENDIX C: The third list was provided to us by NYS Assemblymember Ivan Lafayette. The report was created for him by the NYS Department of Education. It is a list of claims for the construction or leasing of new schools that were submitted to the NYS Department of Education by the NYC DoE/SCA for state Building Aid reimbursement for the period from July 1, 2001 (one year after the beginning of the 2000-04 capital plan) to March 2, 2007 (more than two years after the beginning of the 2005-09 capital plan). EPP was surprised by the small number of projects on this list and asked the NYC Department of Education for an explanation. We were informed that the criterion of "new school" made this list shorter and the contract award dates were not similar to project completion dates used by the SCA and NYC DoE.

ACKNOWLEDGEMENTS

EPP wants to thank staff members of the NYC School Construction Authority, the NYC Department of Education, the NYC Independent Budget Office, the Office of Management and Budget, and the NYC Council Finance Division for attempting to answer our many questions and to provide us with the information we requested. We also want to acknowledge the assistance provided to us by the Office of NYC Council Education Committee Chairperson Robert Jackson and his staff, including the reproduction of an April 2007 draft of this report. This report reflects solely the policies and point of view of the Educational Priorities Panel. Thanks also goes to Eleanor Stier and Marilyn Braveman for their editing and helpful comments and to EPP's Executive Committee and representatives of member organizations who provided comments and other feedback on various drafts of this report.

Appendix A
NYC SCA
Report

NYC School Construction Authority
NEW SEATS CREATED 1989 TO 2006

By Seats
Including
Replacement
Seats

YEAR	BORO	SCHOOL	PROJECT TYPE	SEATS	EPP Schls 300 +	Seats	EPP Schls 400 +	Seats
1990	M	P.S. 128 MINISCHOOL	NEW SCHOOL	150				
1990	Q	P.S. 11 MINISCHOOL	NEW SCHOOL	300				
1990 Total				450	0		0	
1991	K	P.S. 169 MINISCHOOL	NEW SCHOOL	150				
1991	K	P.S. 235 MINISCHOOL	NEW SCHOOL	310				
1991	K	P.S. 249	ADDITION	300				
1991	K	P.S. 269	ADDITION	300				
1991	M	P.S. 152	ADDITION	290				
1991	M	P.S. 173	ADDITION	300				
1991	Q	P.S. 199	ADDITION	270				
1991	Q	P.S. 47 MINISCHOOL	NEW SCHOOL	260				
1991	Q	P.S. 62	ADDITION	261				
1991 Total				2,441	0		0	
1992	K	P.S. 195	ADDITION	75				
1992	M	I.S. 218	NEW SCHOOL	1,810	1	1,810	1	1,810
1992	M	JK ONASSIS H.S. - INT'L CAREERS	ADDITION	580			1	580
1992	M	P.S./I.S. 217 ROOSEVELT ISLAND	NEW SCHOOL	840	1	840	1	840
1992	Q	I.S. 125 MINISCHOOL	NEW SCHOOL	390				
1992	Q	I.S. 73 MINISCHOOL	NEW SCHOOL	540			1	540
1992	Q	P.S. 233 MINISCHOOL (@Q875)	NEW SCHOOL	90				
1992	Q	P.S. 54 MINISCHOOL	NEW SCHOOL	220				
1992	Q	P.S. 55 MINISCHOOL	NEW SCHOOL	250				
1992	Q	P.S. 64	ADDITION	125				
1992	X	P.S. 23	NEW SCHOOL	650	1	650	1	650
1992	X	P.S. 279	NEW SCHOOL	998	1	998		
1992 Total				6,568	4	4,298	5	4,420
1993	K	P.S. 12 (P.S. 900A)	NEW SCHOOL	998	1	998	1	998
1993	K	P.S. 6 (P.S. 600B)	NEW SCHOOL	650	1	650	1	650
1993	M	I.S. 88 (WADLEIGH SCHOOL)	ADDITION	1,040			1	1,040
1993	M	P.S. 48	NEW SCHOOL	700	1	700	1	700
1993	M	P.S. 5	NEW SCHOOL	998	1	998	1	998
1993	M	P.S. 528	NEW SCHOOL	360	1	360		
1993	Q	P.S. 92	NEW SCHOOL	650	1	650	1	650
1993	X	EARLY CHILDHOOD #1 (P.S. 170)	NEW SCHOOL	300				
1993 Total				5,696	6	4,356	6	5,036
1994	K	I.S. 2	NEW SCHOOL	1,200	1	1,200	1	1,200
1994	K	I.S. 246	ADDITION	480			1	480
1994	K	P.S. 314	ADDITION	266				
1994	M	COALITION CAMPUS H.S.	LEASE	600	1		1	600
1994	M	I.S. 90	NEW SCHOOL	1,800	1	1,800	1	1,800
1994	M	P.S. 128	ADDITION	299				
1994	Q	P.S. 15	ADDITION	50				
1994	Q	P.S. 7 (AKA P.S. 1)	NEW SCHOOL	1,200	1	1,200	1	1,200

NYC School Construction Authority
NEW SEATS CREATED 1989 TO 2006

YEAR	BORO	SCHOOL	PROJECT TYPE	SEATS	EPP Schls 300 +	Seats	EPP Schls 400 +	Seats
1994	Q	P.S. 82	ADDITION	240				
1994	X	I.S. 306 (206 A)	NEW SCHOOL	1,810	1	1,810	1	1,810
1994	X	P.S. 209 (FORMER P.S. 9 AX)	NEW SCHOOL	362	1	362		
1994	X	P.S. 37 (P.S. 600 TIBBET GARDEN)	NEW SCHOOL	600	1	600	1	600
1994 Total				8,907	7	6,972	7	7,690
1995	K	P.S. 376A	NEW SCHOOL	650	1	650	1	650
1995	M	P.S. 153	ADDITION	300				
1995	M	P.S. 4	NEW SCHOOL	650	1	650	1	650
1995	M	P.S. 8 (P.S. 600C)	NEW SCHOOL	650	1	650	1	650
1995	Q	P.S. 51 (ECC)	NEW SCHOOL	297				
1995	Q	P.S. 89	ADDITION	400			1	400
1995	Q	TOWNSEND HARRIS H.S.	NEW SCHOOL	1,034	1	1,034	1	1,034
1995	Q	WEST QUEENS H.S.	NEW SCHOOL	2,526	1	2,526	1	2,526
1995	X	FANNY LOU HAMER FREEDOM H.S.	LEASE	380				
1995	X	P.S. 15	NEW SCHOOL	1,200	1	1,200	1	1,200
1995	X	P.S. 3	NEW SCHOOL	650	1	650	1	650
1995	X	P.S. 72	ADDITION	300				
1995	X	WINGS ACADEMY	LEASE	500			1	500
1995 Total				9,537	7	7,360	9	8,260
1996	K	49 FLATBUSH	NEW SCHOOL	650	1	650	1	650
1996	K	ACORN H.S. (GRAND AVE.)	LEASE	807			1	807
1996	K	P.S. 22 (900B)	NEW SCHOOL	998	1	998	1	998
1996	M	I.S. 120 @M838	LEASE	630			1	630
1996	M	NYC P.S. REPERTORY CO -TOWN HALL	LEASE	200				
1996	M	P.S. 176	NEW SCHOOL	650	1	650	1	650
1996	Q	I.S. 145	ADDITION	768			1	768
1996	Q	I.S. 5	NEW SCHOOL	1,200	1	1,200	1	1,200
1996	Q	P.S. 14	ADDITION	350				
1996	Q	P.S. 43	NEW SCHOOL	1,200	1	1,200	1	1,200
1996	Q	P.S. 65	LEASE	582			1	582
1996	Q	P.S. 88	ADDITION	475			1	475
1996	Q	RENAISSANCE SCHOOL	LEASE	640			1	640
1996	R	PORT RICHMOND H.S.	ADDITION	824			1	824
1996	X	EARLY CHILDHOOD #3 (P.S. 172)	NEW SCHOOL	300	1	300		
1996	X	HEALTH OPPORTUNITIES H.S.	LEASE	1,113			1	1,113
1996	X	P.S. 20	NEW SCHOOL	1,200	1	1,200	1	1,200
1996	X	P.S. 226 ANNEX (VAN CARPENTER)	NEW SCHOOL	250				
1996	X	P.S. 34	NEW SCHOOL	228				
1996 Total				13,065	7	6,198	14	11,737
1997	K	49 FLATBUSH	NEW SCHOOL-PHA	360				
1997	K	P.S. 130	ADDITION	120				
1997	K	P.S. 152	ADDITION	350				
1997	K	P.S. 181	ADDITION	500			1	500

Appendix A
NYC SCA
Report

NYC School Construction Authority
NEW SEATS CREATED 1989 TO 2006

By Seats
Including
Replacement
Seats

YEAR	BORO	SCHOOL	PROJECT TYPE	SEATS	EPP Schls 300 +	Seats	EPP Schls 400 +	Seats
1997	K	P.S. 224	ADDITION	243				
1997	K	P.S. 233	ADDITION	400			1	400
1997	K	P.S. 24 (SUNSET PARK)	NEW SCHOOL	873	1	873	1	873
1997	K	P.S. 244	ADDITION	600			1	600
1997	K	P.S. 721 OTC	NEW SCHOOL	500	1	500	1	500
1997	M	P.S. 130	ADDITION	255				
1997	Q	P.S. 148	ADDITION	450			1	450
1997	Q	P.S. 152	ADDITION	491			1	491
1997	Q	P.S. 16 (@ Q721)	ADDITION	330				
1997	Q	P.S. 20	ADDITION	515			1	515
1997	Q	P.S. 69	ADDITION	386				
1997	Q	P.S. 721 (OTC)	NEW SCHOOL	504	1	504	1	504
1997	R	P.S. 21	ADDITION	240				
1997	X	EARLY CHILDHOOD #2 (P.S. 171)	NEW SCHOOL	300				
1997	X	EARLY CHILDHOOD #4 (P.S. 173)	NEW SCHOOL	300				
1997 Total				7,717	3	1,877	9	4,833
1998	K	BUSHWICK H.S.	ADDITION	745			1	745
1998	K	EBC H.S. FOR PUBLIC SERVICE	LEASE	528			1	528
1998	K	MAXWELL VOC H.S.	ADDITION	290				
1998	K	P.S. 217	ADDITION	298				
1998	Q	GATEWAY HEALTH & SCIENCES H.S.	NEW SCHOOL	591	1	591	1	591
1998	Q	I.S. 93	ADDITION	480			1	480
1998	Q	P.S. 113	ADDITION	100				
1998	Q	P.S. 139	ADDITION	300				
1998	Q	P.S. 150	ADDITION	375				
1998	Q	P.S. 16 (@ Q721)	ADDITION	747			1	747
1998	Q	P.S. 33	ADDITION	389				
1998	Q	P.S. 35	ADDITION	265				
1998	R	P.S. 56 (P.S. 900)	NEW SCHOOL	955	1	955	1	955
1998	X	P.S. 102	ADDITION	250				
1998 Total				6,313	2	1,546	6	4,046
1999	Q	P.S. 117	ADDITION	425			1	
1999	Q	P.S. 97	ADDITION	200				
1999	Q	P.S. 149	ADDITION	375				
1999	Q	P.S. 135	ADDITION	250				
1999	Q	I.S. 210	ADDITION	448			1	
1999	Q	P.S. 138	ADDITION	410			1	
1999	Q	P.S. 229	ADDITION	445			1	445
1999	R	P.S. 22	ADDITION	618				
1999	X	P.S. 83	ADDITION	692			1	692
1999	K	P.S. 115	ADDITION	357				
1999	K	P.S. 114	ADDITION	473			1	473
1999	X	P.S. 340	NEW SCHOOL	652	1	652	1	652

Appendix A
NYC SCA
Report

NYC School Construction Authority
NEW SEATS CREATED 1989 TO 2006

By Seats
Including
Replacement
Seats

YEAR	BORO	SCHOOL	PROJECT TYPE	SEATS	EPP Schls 300 +	Seats	EPP Schls 400 +	Seats
1999	X	P.S. 360	NEW SCHOOL	652	1	652	1	652
1999	X	I.S. 254	NEW SCHOOL	608	1	608	1	608
1999	K	P.S. 7	NEW SCHOOL	984	1	984	1	984
1999	M	WEST SIDE H.S.	NEW SCHOOL	815	1	815	1	815
1999	X	P.S. 280/I.S. 80	ADDITION	493			1	493
1999	Q	P.S. 21	ADDITION	360				
1999	R	P.S. 20	ADDITION	150				
1999	K	I.S. 234	ADDITION	527			1	527
1999	M	P.S. 189	ADDITION	493			1	493
1999	Q	P.S 68	ADDITION	510			1	510
1999	Q	I.S. 119	ADDITION	540			1	540
1999	Q	P.S. 120	ADDITION	480			1	480
1999	X	P.S / I.S. 235	NEW SCHOOL	980	1	980	1	980
1999	X	P.S.. 54	NEW SCHOOL	622	1	622	1	622
1999 Total				13,559	7	5,313	19	9,966
2000	K	P.S. 254	ADDITION	300				
2000	Q	P.S. 161	NEW SCHOOL	838	1	838	1	838
2000	Q	P.S. 107	ADDITION	300				
2000	Q	I.S. 226	ADDITION	600			1	600
2000	Q	P.S. 212	NEW SCHOOL	655	1	655	1	655
2000	Q	I.S. 230	NEW SCHOOL	753	1	753	1	753
2000	R	P.S. 44	ADDITION	180				
2000	R	P.S. 45	ADDITION	150				
2000	Q	P.S. 63	ADDITION	300				
2000	Q	P.S. 153	ADDITION	820			1	820
2000	K	P.S. 279	ADDITION	505			1	505
2000	K	P.S. 230	ADDITION	150				
2000	K	P.S. 204	ADDITION	350				
2000	R	P.S. 6	NEW SCHOOL	505	1	505	1	505
2000	K	MIDDLE COLLEGE H.S. @ MECC	NEW SCHOOL	836	1	836	1	836
2000 Total				7,242	5	3,587	8	5,512
2001	Q	P.S. 129	ADDITION	320				
2001	Q	P.S. 166	ADDITION	360				
2001	R	P.S. 13	ADDITION	150				
2001	R	P.S. 39	ADDITION	150				
2001	M	P.S. 178	NEW SCHOOL	441	1	441	1	441
2001	Q	P.S. 242	NEW SCHOOL	350	1	350		
2001	Q	P.S. 228	NEW SCHOOL	318	1	318		
2001 Total				2,089	3	1,109	1	441
2002	K	LEON GOLDSTEIN H.S.	NEW SCHOOL	960	1	960	1	960
2002	K	P.S. 69	NEW SCHOOL	724	1	724	1	724
2002	Q	P.S. 28 ECC	NEW SCHOOL	414	1	414	1	414
2002	Q	I.S. 137	NEW SCHOOL	1,675	1	1,675	1	1,675

NYC School Construction Authority
NEW SEATS CREATED 1989 TO 2006

YEAR	BORO	SCHOOL	PROJECT TYPE	SEATS	EPP Schls 300 +	Seats	EPP Schls 400 +	Seats
2002	Q	P.S. 108	ADDITION	474			1	474
2002	Q	P.S. 58	NEW SCHOOL	985	1	985	1	985
2002	Q	P.S. 222 ECC	NEW SCHOOL	304	1	304		
2002	K	P.S. 156	NEW SCHOOL	1,201	1	1,201	1	1,201
2002	K	P.S. 312	ADDITION	50				
2002	Q	P.S. 62	ADDITION	200				
2002	Q	P.S. 181	ADDITION	240				
2002	Q	P.S. 195	ADDITION	300				
2002	Q	P.S. 100	ADDITION	240				
2002	X	P.S. 141	ADDITION	298				
2002	Q	P.S. 91	ADDITION	450			1	450
2002	Q	P.S. 124	ADDITION	310				
2002 Total				8,825	7	6,263	8	6,883
2003	R	P.S. 58	NEW SCHOOL	985	1	985	1	985
2003	Q	I.S. 5	ADDITION	615			1	615
2003	Q	BACCALAUREATE SCHOOL	LEASE	350				
2003	Q	P.S. 239	NEW SCHOOL	704	1	704	1	704
2003	Q	INFORMATION TECHNOLOGY H.S.	LEASE	837			1	837
2003	Q	P.S. 268	NEW SCHOOL	704	1	704	1	704
2003	K	P.S. 66	NEW SCHOOL	917	1	917	1	917
2003	Q	P.S. 270	NEW SCHOOL	704	1	704	1	704
2003	Q	I.S. 61	ADDITION	660			1	660
2003	M	MILLENNIUM H.S.	LEASE	621			1	621
2003	X	BRONX DANCE ACADEMY	LEASE	350				
2003	M	HARVEY MILK SCHOOL	LEASE	170				
2003	Q	P.S. 234	NEW SCHOOL	901	1	901	1	901
2003	Q	P.S./I.S. 266	NEW SCHOOL	760	1	760	1	760
2003	Q	I.S./P.S. 208	NEW SCHOOL	925	1	925	1	925
2003	Q	H.S. FOR TEACHING PROFESSIONALS	NEW SCHOOL	1,182	1	1,182	1	1,182
2003	Q	I.S. 77	ADDITION	660			1	660
2003	M	ELEANOR ROOSEVELT H.S.	LEASE	533			1	533
2003	X	P.S./I.S. 194	NEW SCHOOL	1,050	1	1,050	1	1,050
2003	X	H.S. FOR LAW, GOVERNMENT & JUSTICE	NEW SCHOOL	733	1	733	1	733
2003	Q	H.S. FOR LAW ENFORCEMENT	NEW SCHOOL	897	1	897	1	897
2003	X	CITY AS SCHOOL & AUX. SERVICES FOR H.S.	LEASE	250				
2003	M	BALLET TECH SCHOOL FOR DANCE	LEASE	80				
2003 Total				15,588	10	10,462	16	14,388
2004	K	P.S./I.S. 395	NEW SCHOOL	1,098	1	1,098	1	1,098
2004	M	THURGOOD MARSHALL	LEASE	665			1	665
2004	K	ACORN H.S. (SOCIAL JUSTICE)	LEASE	600			1	600
2004	Q	FRANK SINATRA H.S.	LEASE	370				
2004	X	M.S./H.S. 368	NEW SCHOOL	1,190	1	1,190	1	1,190
2004	Q	P.S. 253	NEW SCHOOL	704	1	704	1	704

Appendix A
NYC SCA
Report

NYC School Construction Authority
NEW SEATS CREATED 1989 TO 2006

By Seats
Including
Replacement
Seats

YEAR	BORO	SCHOOL	PROJECT TYPE	SEATS	EPP Schls 300 +	Seats	EPP Schls 400 +	Seats
2004	Q	P.S. 254	NEW SCHOOL	704	1	704	1	704
2004	Q	P.S./I.S. 499	NEW SCHOOL	534	1	534	1	534
2004	K	P.S. 372 (Our Lady of Peace)	LEASE	125				
2004	M	P.S. 18 ANNEX	LEASE	750			1	750
2004	X	BRONX STUDIO WRITERS & ARTISTS	LEASE	75				
2004	X	BRONX H.S. OF VISUAL ARTS (MERCY)	NEW SCHOOL	500	1	500	1	500
2004	X	SOUNDVIEW EDUCATIONAL CAMPUS	LEASE	1,000			1	1,000
2004	K	ALL CITY LEADERSHIP (BUSHWICK)	LEASE	170				
2004 Total				8,485	6	4,730	10	7,745
2005	Q	P.S. 12	ADDITION	297				
2005	K	49 FLATBUSH	ADDITION	442			1	442
2005	Q	QUEENS VOCATIONAL H.S.	ADDITION	643			1	643
2005	R	P.S. 3	ADDITION	150				
2005	R	P.S. 14	ADDITION	150				
2005	R	P.S. 44	ADDITION	200				
2005	R	P.S. 52	ADDITION	150				
2005	X	SOUTHERN BLVD. H.S.	LEASE	553			1	553
2005	Q	QUEENS H.S. (DeVry)	LEASE	744			1	744
2005	K	BEDFORD Y	LEASE	310				
2005	K	OUR LADY OF SOLACE	LEASE	200				
2005	R	H.S. @ COLLEGE OF SI	LEASE	108				
2005	Q	ST. CLEMENT POPE (JUMP START ACAD.)	LEASE	500			1	500
2005 Total				4,447	0	0	5	2,882
2006	Q	CONSTRUCTION TRADES H.S.	NEW SCHOOL	992	1	992	1	992
2006	K	P.S. @ HOLY INNOCENTS	LEASE	200				
2006	K	P.S. @ ST. THOMAS ACQUINAS	LEASE	372				
2006	Q	QUEENS WEST ECC (P.S.78 Q)	LEASE	41				
2006	X	BATHGATE H.S.	LEASE	1,313			1	1,313
2006 Total				2,918	1	992	2	2,305
Grand Total				123,847				

Total number of schools using criteria of "new school" with at least 300 seats and excluding leases & minischools: 75

Total number of schools using criteria of "new school," leased schools, minischools, and additions -- all with at least 400 seats: 125

Total number of SCA defined "new schools," which includes minischools but excludes leased schools and building additions: 91

Note 1: This list was prepared by the Finance Department of the School Construction Authority on 1/16/2007. The last 4 columns are additional EPP calculations based on EPP criteria and do not reflect the original report provided to EPP by the SCA.

Note 2: Several EPP member representatives believe this list is inaccurate. Some discrepancies are due to the fact that seats listed under "additions" may actually not represent new seats, but include some seats that have been reconfigured into new classrooms. The list should be viewed as an SCA report on work completed rather than a report on "new seats" that have been created to increase school capacity or reduce overcrowding. Also, the SCA Finance Department completion dates for projects are based on the year of final contract payments, not when schools have opened for students.

Note 3: The criteria of "new school" with at least 300 seats and excluding leases & minischools are more comparable to lists of "new schools" kept by the NYC Board of Education before 1989 when it was responsible for building schools.

Appendix B
NYC DoE
Report

Third Capital Plan Capacity Projects
(FY2000 - 2004)

By Project
Completion
Date

JUR. DIST.	BLDG ID	SCHOOL	PROJECT TYPE	NO. OF SEATS	SUBSTANTIAL COMPLETION DATE
31	R044	P.S. 44	NEW CONSTRUCTION	180	7/11/00
15	K230	P.S. 230	NEW CONSTRUCTION	150	8/3/00
20	K204	P.S. 204	NEW CONSTRUCTION	350	8/3/00
MHS	M107 ***	HERITAGE (EXPANSION)	LEASE	150	9/1/00
MHS	M895	YOUNG WOMEN'S LEADERSHIP	LEASE	200	9/1/00
79	M920	SATELLITE ACADEMY	LEASE	300	9/1/00
25	Q129	P.S. 129	NEW CONSTRUCTION	320	9/1/01
30	Q166	P.S. 166	NEW CONSTRUCTION	360	9/1/01
31	R013	P.S. 13	NEW CONSTRUCTION	150	9/1/01
31	R039	P.S. 39	NEW CONSTRUCTION	150	9/1/01
6	M178	P.S. 178	NEW CONSTRUCTION	441	9/1/01
25	Q242	P.S. 242	NEW CONSTRUCTION	350	9/1/01
30	Q228	P.S. 228	NEW CONSTRUCTION	318	9/1/01
8	X953	CSE #8 OFFICES	LEASE	300	12/1/01
KHS	K535	LEON GOLDSTEIN HS	NEW CONSTRUCTION	960	3/3/02
20	K069	P.S. 69	NEW CONSTRUCTION	724	3/8/02
28	Q828	CSE #28 OFFICES	LEASE	270	5/2/02
24	Q028	P.S. 28 ECC	NEW CONSTRUCTION	414	5/9/02
27	Q137	I.S. 137	NEW CONSTRUCTION	1675	5/20/02
27	Q108	P.S. 108	NEW CONSTRUCTION	474	5/25/02
24	Q058	P.S. 58	NEW CONSTRUCTION	985	6/6/02
30	Q222	P.S. 222 ECC	NEW CONSTRUCTION	304	6/6/02
23	K356	PS 156	NEW CONSTRUCTION	1201	6/18/02
22	K905	P.S. 312	NEW CONSTRUCTION	50	6/19/02
27	Q062	P.S. 62	NEW CONSTRUCTION	200	6/24/02
27	Q100	P.S. 100	NEW CONSTRUCTION	240	7/14/02
10	X141	P.S. 141	NEW CONSTRUCTION	298	7/26/02
24	Q091	P.S. 91	NEW CONSTRUCTION	450	7/30/02
27	Q124	P.S. 124	NEW CONSTRUCTION	310	8/5/02
29	Q268	P.S. 268	NEW CONSTRUCTION	704	8/20/02
20	K989	PS 185 ANNEX/DISTRICT OFFICE RELOCATION	LEASE	894	9/1/02
KHS	K825	SOUTH BROOKLYN COMMUNITY HS	LEASE	125	9/1/02
KHS	K907	TEACHERS PREP COLLABORATIVE	LEASE	600	9/1/02
6	M865	PS 210	LEASE	67	10/1/02
8	X833	DISTRICT 8 OFFICES	LEASE	300	12/1/02
31	R058	P.S. 58	NEW CONSTRUCTION	985	12/4/02
24	Q005	I.S. 5	NEW CONSTRUCTION	615	2/6/03
QHS	Q798	BACCALAUREATE SCHOOL	LEASE	360	6/13/03
24	Q239	P.S. 239	NEW CONSTRUCTION	704	7/28/03
QHS	Q725	INFORMATION TECHNOLOGY HS	LEASE	837	8/1/03
18	K066	P.S. 66	NEW CONSTRUCTION	917	8/22/03
29	Q270	P.S. 270	NEW CONSTRUCTION	704	8/27/03
24	Q016	I.S. 61	NEW CONSTRUCTION	660	8/30/03
2	M824	MILLENNIUM HS	LEASE	621	9/1/03
10	X852	BRONX DANCE ACADMY	LEASE	350	9/1/03

Third Capital Plan Capacity Projects
(FY2000 - 2004)

JUR. DIST.	BLDG ID	SCHOOL	PROJECT TYPE	NO. OF SEATS	SUBSTANTIAL COMPLETION DATE
79	M807	HARVEY MILK SCHOOL	LEASE	170	9/1/03
30	Q234	P.S. 234	NEW CONSTRUCTION	901	9/1/03
26	Q266	P.S./I.S. 266	NEW CONSTRUCTION	760	9/4/03
29	Q208	I.S./P.S. 208	NEW CONSTRUCTION	925	9/4/03
QHS	Q566	HS FOR TEACHING PROFESSIONALS	NEW CONSTRUCTION	1182	9/4/03
24	Q849	I.S. 77	NEW CONSTRUCTION	660	9/6/03
2	M855	ELEANOR ROOSEVELT HS	LEASE	533	9/8/03
11	X194	P.S./I.S. 194	NEW CONSTRUCTION	1050	9/11/03
XMS	X460	HS FOR LAW, GOVERNMENT & JUSTICE	NEW CONSTRUCTION	733	9/30/03
QHS	Q690	HS FOR LAW ENFORCEMENT	NEW CONSTRUCTION	897	12/1/03
22	K395	P.S./I.S. 395	NEW CONSTRUCTION	1098	1/23/04
MHS	M970	THURGOOD MARSHALL	LEASE	665	2/2/04
KHS	K987	ACORN H.S. (SOCIAL JUSTICE)	LEASE	600	2/2/04
QHS	Q735	FRANK SINATRA HS	LEASE	370	2/15/04
10	X368	M.S./H.S. 368	NEW CONSTRUCTION	1190	6/18/04
27	Q253	P.S. 253	NEW CONSTRUCTION	704	7/2/04
27	Q254	P.S. 254	NEW CONSTRUCTION	704	8/20/04
25	Q499	P.S./I.S. 499	NEW CONSTRUCTION	534	8/25/04
2	M824	MILLENIUM H.S (@M824)	LEASE	621	9/11/04
31	R052	P.S. 52	NEW CONSTRUCTION	150	11/9/04
31	R003	P.S. 3	NEW CONSTRUCTION	150	11/9/04
31	R044	P.S. 44	NEW CONSTRUCTION	200	11/17/04
31	R014	P.S. 14	NEW CONSTRUCTION	150	11/17/04
24	Q012	P.S. 12	NEW CONSTRUCTION	297	8/15/05
QHS	Q600	QUEENS VOCATIONAL H.S.	NEW CONSTRUCTION	643	8/19/05
QHS	Q650	CONSTRUCTION TRADES,ENGINEER'G	NEW CONSTRUCTION	992	7/20/06
29	Q181	P.S. 181	NEW CONSTRUCTION	240	6/31/2002
29	Q195	P.S. 195	NEW CONSTRUCTION	300	6/31/2002

Proposed Five-Year Capital Plan Amendment
Fiscal Years 2005 - 2009
Capacity Projects

District	Bldg ID	School	Project Type	Forecast Capacity	Actual / Est. Compl
XHS	X972	SOUNDVIEW EDUCATIONAL CAMPUS	Lease	1,000	Jul-04
XHS	X839	BRONX HS FOR THE VISUAL ARTS	New Construction	500	Sep-04
XHS	X973	M.S./H.S. 270	Lease	553	Jul-05
27	Q907	P.S. 43 ANNEX	New Construction	150	Aug-05
QHS	Q781	JOHN ADAMS HS ANNEX	Lease	500	Aug-05
KHS	K728	HS OF SPORTS MANAGEMENT	Lease	200	Aug-05
10	X143	THE NEW SCH FOR LEADERSHIP AND JOURNALISM	New Construction	300	Sep-05
XHS	X002	EXPLORATIONS ACADEMY	New Construction	131	Sep-05
KHS	K805	SCIENCE SKILLS CENTER HS	New Construction	442	Sep-05
KHS	K994	BEDFORD ACADEMY	Lease	310	Sep-05
QHS	Q735	QUEENS HIGH SCHOOL COMPLEX	Lease	744	Mar-06
30	Q768	P.S. 78 ANNEX	Lease	41	Jun-06
XHS	X970	NEW BRONX HS @ BATHGATE	Lease	1,313	Aug-06
22	K776	OUR LADY OF REFUGE	Lease	372	Aug-06
QHS	Q695	YORK EARLY COLLEGE ACADEMY	New Construction	290	Sep-06
22	K735	P.S. 245	Lease	200	Sep-06
KHS	K049	ACADEMY FOR ENVIRONMENTAL CAREERS	Lease	343	Sep-06
QHS	Q739	YOUNG W. LEADERSHIP SCL ASTORIA	Lease	400	Dec-06
22	K729	P.S. 207 ANNEX	Lease	372	Dec-06
11	X113	I.S. 113	New Construction	192	Jan-07
29	Q263	P.S. /I.S 263 (@ JAMAICA AVE)	New Construction	630	Jun-07
11	X189	P.S./I.S. 189 (@STEENWICK AVE)	New Construction	916	Jul-07
06	M093	P.S 210	New Construction	503	Jul-07
24	Q269	P.S./I.S. 269	Lease	500	Aug-07
02	M843	P.S. 234 ANNEX	Lease	143	Aug-07
19	K814	P.S. 89	Lease	330	Mar-08
24	Q245	P.S. 245 ECC (@ SENECA AVE)	New Construction	441	May-08
KHS	K705	MIDWOOD HS ADDITION	New Construction	340	May-08
31	R829	PROJECT @ (OLD PS 15)	New Construction	440	May-08
KHS	K485	TELECOM. ARTS & TECH.	New Construction	466	May-08
11	X362	I.S./H.S. 362	New Construction	437	Jun-08
XHS	X362	I.S./H.S. 362	New Construction	1,227	Jun-08
QHS	Q744	ART AND LEATHER BUILDING HS	Lease	1,640	Jun-08
27	Q262	ECC 303 (@ ST. ANTHONY'S)	New Construction	441	Jun-08
24	Q260	P.S./I.S. 260 (@ ROOSEVELT AVE)	New Construction	996	Jul-08
28	Q003	ECC @ (OLD PS 3 SITE)	New Construction	254	Aug-08
RHS	R043	I.S./H.S. 43	New Construction	1,664	Aug-08

Proposed Five-Year Capital Plan Amendment
Fiscal Years 2005 - 2009
Capacity Projects

District	Bldg ID	School	Project Type	Forecast Capacity	Actual / Est. Compl
KHS	K313	FAMILY COURT	New Construction	1,073	Aug-08
25	Q244	P.S. 244 ECC (@ FRANKLIN AVE)	New Construction	441	Sep-08
QHS	Q570	FRANK SINATRA HS (@ 35TH ST.)	New Construction	998	Oct-08
02	M151	P.S. 151	New Construction	544	Nov-08
24	Q821	PROJECT #8	Lease	354	Feb-09
XHS	X423	JAMES MONROE HS ANNEX	New Construction	1,144	Mar-09
06	M263	PS/IS 263	New Construction	600	Mar-09
30	Q740	PROJECT #3	Lease	589	Apr-09
20	K229	P.S. 229	New Construction	650	Apr-09
20	K237	P.S./I.S. 237 (@ MAGEN DAVID)	New Construction	1,154	Apr-09
31	R861	PROJECT @ OLD PS 44 ANNEX	New Construction	822	Apr-09
09	X338	PS/IS @ MACOMBS ROAD	New Construction	630	May-09
XHS	X099	HS @ FORMER PS 99	New Construction	638	May-09
22	K789	PROJECT #1	Lease	316	May-09
XHS	X465	EAGLE ACADEMY FOR YOUNG MEN	New Construction	577	Jun-09
11	X169	P.S. 169	New Construction	453	Jun-09
XHS	X392	M.S/H.S 269	Lease	652	Jun-09
28	Q743	PROJECT #4	Lease	460	Jun-09
24	Q013	P.S. 13 ADDITION	New Construction	700	Jun-09
24	Q049	P.S. 49 ADDITION	New Construction	380	Jun-09
24	Q102	P.S. 102 ADDITION	New Construction	900	Jun-09
24	Q113	P.S. 113 ADDITION	New Construction	440	Jun-09
24	Q128	P.S. 128	New Construction	509	Jun-09
27	Q273	P.S. 273 (ECC)	New Construction	350	Jun-09
18	K366	P.S. / I.S. 366	New Construction	506	Jun-09
20	K712	PROJECT #7	Lease	484	Jun-09
19	K798	PS/IS 630 @ JAMAICA AVE	New Construction	700	Jul-09
KHS	K564	SUNSET PARK HS	New Construction	1,650	Jul-09
02	M972	PROJECT #2	Lease	412	Jul-09
20	K797	PROJECT #5	Lease	630	Aug-09
KHS	K445	NEW UTRECHT HS	New Construction	442	Aug-09
27	Q711	PROJECT #1	Lease	441	Sep-09
02	M971	THE BEEKMAN SCHOOL	New Construction	630	Sep-09
28	Q758	PROJECT #5	Lease	630	Oct-09
02	M910	PROJECT @ P.S. 51	New Construction	630	Dec-09
10	X095	P.S. 95 ADDITION	New Construction	765	Jan-10
QHS	Q695	NEW GATEWAY HS	New Construction	805	Jan-10
28	Q719	PROJECT #3	Lease	630	Feb-10

Proposed Five-Year Capital Plan Amendment
Fiscal Years 2005 - 2009
Capacity Projects

District	Bldg ID	School	Project Type	Forecast Capacity	Actual / Est. Compl
08	X187	PROJECT #1 (ECC)	New Construction	440	Mar-10
25	Q275	PROJECT #1(ECC)	New Construction	189	Mar-10
32	K386	PROJECT #1(ECC)	New Construction	441	Mar-10
15	K739	PROJECT #2 (ECC)	New Construction	441	Mar-10
09	X854	PROJECT #1	New Construction	574	Apr-10
10	X079	P.S. 79 ADDITION	New Construction	672	Apr-10
26	Q818	PROJECT #1	New Construction	441	Apr-10
QHS	Q746	PROJECT #1	Lease	963	Apr-10
QHS	Q747	PROJECT #1	New Construction	1,652	May-10
11	X498	PS/IS @ VAN NEST AVENUE	New Construction	560	Jun-10
QHS	Q167	I.S./ H.S. 167	New Construction	920	Jun-10
QHS	Q686	HIGH SCHOOL @ METROPOLITAN AVE	New Construction	1,000	Jun-10
27	Q741	PROJECT #4	New Construction	646	Jun-10
20	K351	PROJECT #2 (ECC)	New Construction	453	Jun-10
20	K795	PROJECT #3	Lease	630	Jun-10
02	M059	P.S. 59 (TANDEM A&D HS)	New Construction	380	Jun-10
02	M973	PROJECT #3	Lease	411	Jun-10
10	X797	PROJECT #7	Lease	355	Jul-10
30	Q738	PROJECT #2	New Construction	630	Jul-10
27	Q712	PROJECT #2	New Construction	303	Jul-10
15	K791	PROJECT #1	Lease	630	Jul-10
09	X240	PS/IS NEW SETTLEMENT SCH	New Construction	686	Aug-10
XHS	X281	MS/HS NEW SETTLEMENT SCH	New Construction	410	Aug-10
28	Q717	PROJECT #2	New Construction	546	Aug-10
XHS	X790	MOTT HAVEN CAMPUS	New Construction	1,767	Aug-10
10	X361	ECC 361	New Construction	428	Sep-10
31	R863	PROJECT #3	New Construction	438	Dec-10
20	K796	PROJECT #4	New Construction	610	Jun-11
11	X794	PROJECT #4	New Construction	402	Jul-11
20	K724	PROJECT #8	New Construction	837	Aug-11

Appendix C: Report to Assemblyman Lafayette on Building Aid Project Approvals
Report from the NYS Department of Education Office of Facilities Planning
Approved New Building or Additions with a Cost of at Least $2.5 million
from July 1, 2001 to March 2, 2007 by Contract Award Date

Borough & District	Building Type and Name (if available)	Contract Award Date	Rated Capacity	Estimated Cost Millions)
Manhattan				
2	leased	Oct-06	300	$5.5
5	leased Thurgd Marshall	Feb-02	638	$58.6
6	lease PS 18	Aug-01	1,388	$8.5
6	construction PS IS 93	Apr-05	503	$45.2
H.S.		Nov-06	618	$49.1
Bronx				
10	construction IS 368	Sep-01	1,104	$99.7
11	PS IS 189	Jun-05	916	$69.3
H.S.	IS HS 362	Aug-05	1,818	$95.5
H.S.				
H.S.		Jun-06	1,333	$81.5
H.S.	244 East 163rd St.	Sep-01	672	$81.9
H.S.		Jun-06	125	$36.6
H.S.	Bronx Aerospace	Apr-05	618	$13.1
H.S.	Bathgate H S	Jun-05	1,313	$71.6
H.S.	Southern Blvd	Jan-05	553	$28.9
Brooklyn				
20	PS IS 237	Jun-06	1,356	$103.2
22	PS IS 375	Sep-01	1,000	$81.0
22	Leased PS St. Aquinas	May-06	402	$8.0
22	Leased	May-06	839	$2.7
H.S.	Sunset Park	Jun-06	1,922	$121.9
H.S.	Leased	Jun-06	165	$3.5
H.S.	Interior Mod Flatbush	May-05	977	$37.8
H.S.	Leased Bedford Acad.	Dec-04	310	$12.3
Queens				
24	Roosevelt Ave.	Jun-05	996	$72.9
27	PS 253	Feb-02	650	$59.5
27	PS 254	Feb-02	650	$64.8
27	PS 262 ECC	6/28/06	466	$33.1
27	leased	5/16/05	500	$5.2
28	leased PS 182	7/8/05	580	$7.0
29	222-2 Jamaica Ave	6/27/05	630	$60.4
30	leased	6/21/05	41	$3.1
Special Schls	leased	6/13/05	120	$39.7
H.S.	Frank Sinatra	11/2/05	1,044	$109.3
H.S.		2/19/04	1,167	$62.6
H.S.	Leased	1/27/05	763	$34.8
Queens Col	PS IS 499	2/22/02	650	$66.1
Staten I.				
31	IS 43	9/19/05	1,941	$120.0
31	R829 Old IS	6/28/06	466	$31.4
31	Old PS 44AX	6/28/06	962	$71.4