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# Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies



**A report by  
Class Size Matters  
October 2019**



## Acknowledgements

This report was written by Patrick Nevada, Leonie Haimson and Emily Carrazana. It benefitted from the assistance of Kaitlyn O'Hagan, former Legislative Financial Analyst for the NYC Council, and Sarita Subramanian, Supervising Analyst of the NYC Independent Budget Office.

Class Size Matters is a non-profit organization that advocates for smaller classes in NYC public schools and the nation as a whole. We provide information on the benefits of class size reduction to parents, teachers, elected officials and concerned citizens, provide briefings to community groups and parent organizations, and monitor and propose policies to stem class size increases and school overcrowding.

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Design by Patrick Nevada



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## Executive Summary

The NYC Department of Education (“DOE”) has spent hundreds of millions of dollars on providing space to charter schools and matching funds for public schools co-located with charter schools. We estimate that from FY 2014 to FY 2019, the total amount of public funds<sup>1</sup> spent from FY 2014 to FY 2019 on matching funds<sup>2</sup> for co-located public schools and for charter school leases and lease assistance<sup>3</sup> reached \$377.5 million. This total includes \$87.6 million in projected state reimbursements for charter lease subsidies.<sup>4</sup>

The annual projected public spending for both matching funds and lease assistance has risen sharply each year, from \$33.2 million in FY 2014 to \$125.2 million in FY 2019, and this amount is likely to continue to grow. Last fiscal year, DOE spent about \$25 million last year on matching funds to public schools co-located with charter schools, and more than \$100 million on providing subsidies for charter school private space. *This includes \$14.8 million since FY 2015 to help pay rent for eight charter schools whose Charter Management Organization, affiliated foundation or LLC owns the building.*

In 2010, the New York state law was amended to require the DOE to provide matching funds to any public school co-located with a charter school, if the charter school spends funds for facility upgrades in excess of \$5000.<sup>5</sup> According to data supplied to us by DOE, the total spent between FY 2014 and FY 2019 on matching funds to public schools co-located with charter schools has been approximately \$131.6 million.

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<sup>1</sup> “Public funds” include spending by New York City Department of Education and New York State for charter school lease assistance costs.

<sup>2</sup> “Charter matching funds” data from New York City Department of Education Charter Matching Trackers FY 2014-2019 retrieved through a Freedom of Information Law (“FOIL”) request and from the New York City Council via email. For FY 2019, these reporters are posted here <https://council.nyc.gov/budget/fy2019/> under “Department of Education - Charter Matching Report (1 of 2)” and “Department of Education - Charter Matching Report (2 of 2)” which appear to be identical to each other and to the spreadsheet we received.

<sup>3</sup> “Rental Assistance” or “Lease Assistance” to charter schools in private spaces includes both “direct leases”, which are DOE held leases for any private buildings that house charter schools (includes buildings co-located with DOE schools and other charter schools), and “lease subsidies” which are per student subsidies to be spent on rent provided to charter schools that prevail on appeal during the facility access process outlined in New York Education Law § 2853(3)(e). More on this below. Full text of the law here: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>. Annual data on rental assistance is from Checkbook NYC. Analysis for individual schools and CMOs for lease subsidy costs are from DOE’s “Charter Lease Reports” which we received through FOIL requests and from the City Council. See Appendix A for the history of our Freedom of Information requests and the various discrepancies in reporting by DOE.

<sup>4</sup> State reimbursement only covers lease subsidies for charter schools, but not costs for leases held directly by DOE for charter schools according to New York Education Law Section 3602(6)(g). Link to law here: <https://www.nysenate.gov/legislation/laws/EDN/3602>. More on this issue is discussed on page 4 of this report. Annual state reimbursement data for FY 2017 and FY 2018 from New York State Allocation reports, available here: <https://eservices.nysed.gov/publicsams/> FY 2019 projected state reimbursement available here: <https://www1.nyc.gov/assets/omb/downloads/pdf/exec19-rfpd.pdf> (pg. 157).

<sup>5</sup> Charter matching funds law found in New York Education Law § 2853(3)(d). See: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>

Yet in analyzing this data, we also discovered that during that period, about \$22.1 million in charter school expenditures on facility upgrades were **not** matched in the public schools that shared their buildings, a shortfall of about 14 percent.<sup>6</sup> From FY 2014 to FY 2016 the DOE provided full matching funds to only about half of co-located public schools eligible for such funds. By FY 2019, only one third of co-located DOE schools received their full complement of matching funds.<sup>7</sup> We cannot explain this discrepancy.

The two schools which appeared to be most underpaid from FY 2014 to FY 2019 were both District 75 schools that serve students with serious disabilities: Mickey Mantle School (M811), located in two sites in Harlem, lacked \$1.5 million, and P.S 368 (K368), located in two sites in Brooklyn, lacked about \$1.2 million. Mosaic Preparatory Academy or P.S. 375 (M375) in East Harlem lacked about \$913,000 over this period. All three were co-located with various branches of Success Academy charter schools. In fact, the 18 public schools which lacked the most in matching funds were all co-located with Success Academy charter schools.

In 2014, the state amended the charter law once again to require that DOE provide public school space or leased private space for all new charter schools or those expanding in grade levels. If the city refused to offer such space, or the space provided was deemed unacceptable to the charter schools, they could file an appeal with the State Education Department. If the charter schools prevailed on appeal, then DOE would have to provide them with a substantial per student subsidy to cover the cost of renting their own space, with part of that cost reimbursed by the state.

This subsidy for space has increased over time from 20 percent to 30 percent of the average per student operating expenses received by the charter school, which when combined with the increase in per student funding has led to an increase of 72 percent in the per student amount for charter rent subsidies since FY 2017.

The DOE currently holds leases for 12 private buildings that house 15 charter schools, with a cost to the city of \$17.1 million during FY 2019 alone.<sup>8</sup> The costs of these for leases between FY 2015 to FY 2019 amounted to \$62.2 million, none of which are reimbursable by the state, since these charter schools did not go through any appeal process.<sup>9</sup> Thus by voluntarily

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<sup>6</sup> Class Size Matters (CSM) analysis of DOE Charter Matching Trackers FY 2014 to FY 2019. A co-located school that did not receive full matching funds when their “DOE match obligation” indicated in the matching tracker did not match the co-located charter school’s charter project expenditure. The difference between the match obligation and the charter project expenditure would be considered “missing match funds”.

<sup>7</sup> The sum of differences for all schools for each fiscal year indicated in Figure 3, page 7 of this report. Appendix B of this report lists specific DOE schools and the amount of missing matching funds.

<sup>8</sup> According to New York Education Law §3602 (6-g), state aid only covers charter schools that prevail on appeal during the charter facility access process outlined in New York Education Law §2853(3)(e). Costs for leases held by DOE for FY 2019 are found in DOE Lease Report FY 2019 (available here: <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/02/Department-of-Education-Lease-Report.xlsx>) and Checkbook NYC. We included in our calculations any private space that housed charter schools.

<sup>9</sup> N.Y. Education Law §3602 (6)(g).

renting these spaces for charter schools, we estimate the city has sacrificed about \$36 million in state reimbursements over this period.<sup>10</sup>

There are 88 charter schools which prevailed on appeal and receive a “lease subsidy” equivalent to the lesser of either 30 percent of the per pupil payments (“per pupil subsidy”) or the total cost of the base rent of the private space they had located.<sup>11</sup> The law specifies that the state is obligated to reimburse 60 percent of the costs for these payments incurred after DOE had spent a cumulative \$40 million in lease subsidies, an amount reached in FY 2017.<sup>12</sup> In FY 2019, DOE was projected to spend about \$83.6 million in lease subsidies for charter schools, with an estimated \$50 million of that reimbursed by the state.<sup>13</sup>

As mentioned above, the city is subsidizing the cost of leasing buildings for eight charter schools, even though they are housed in seven buildings owned by related parties of these schools, that is, their Charter Management Organization or an affiliated LLC or foundation. The total spent by DOE is about \$14.8 million since FY 2015, with the costs likely to increase as enrollment grows in these schools.<sup>14</sup>

For example, DOE is providing lease subsidies of \$2.2 million for two Success Academy charter schools located at 500 West 41<sup>st</sup> Street in FY 2019 in the Hudson Yards complex on the west side of Manhattan, reportedly the most expensive real estate development in United States history.<sup>15</sup> This is despite the fact that Success Academy Charter Management Company purchased the space for \$68 million in 2016, in the base of a Hudson Yards residential tower.<sup>16</sup>

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<sup>10</sup> This estimate is based on calculation that assumes New York state was obligated to cover 60 percent costs of the costs incurred after DOE had spent a cumulative \$40 million in lease subsidies *and* direct lease costs from FY 2015 to FY 2019.

<sup>11</sup> Number of schools receiving lease subsidies in DOE Charter Lease Report FY 2019. Available here: <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/02/Department-of-Education-Charter-School-Lease-Report.xlsx>. Lease subsidies refer to DOE assistance to charter schools that prevailed on appeal and receive a subsidy for the charter school’s lease equivalent to either a per-student subsidy over the state-mandated amount for tuition or total base rent costs. New York Education Law § 2853 (3)(e)(5) states that charter schools that prevail on appeal will receive a subsidy equivalent to the lesser of the total base rent cost or per pupil subsidy, the amount given will be the product of 30 percent charter school’s basic tuition and the “positive difference of the charter school’s enrollment in the current school year minus the charter school’s enrollment in the school year prior to the first year of the expansion.”

<sup>12</sup> New York Education Law §3602 (6)(g).

<sup>13</sup> FY 2019 DOE lease subsidy cost from Checkbook NYC. State reimbursement estimate for FY 2019 from OMB’s NYC Executive 2020 Revenue book, available here: <https://www1.nyc.gov/assets/omb/downloads/pdf/exec19-rfpd.pdf> (page 157).

<sup>14</sup> CSM analysis of DOE Lease Report FY 2015-2019 and Checkbook NYC.

<sup>15</sup> Aria Bendix, Hudson Yards is the most expensive real estate development in US history. Here’s what its \$25 billion future could look like. *Business Insider*, 2019. <https://www.businessinsider.com/inside-hudson-yards-most-expensive-real-estate-development-in-us-2018-9>

<sup>16</sup> More information on building here: <https://www.nydailynews.com/new-york/success-academy-boss-buys-68m-classroom-space-midtown-tower-article-1.2912470>

In another case, the city is paying \$461,965 in lease subsidies in FY 2019 towards the rental costs of Beginning with Children II charter school, despite the fact that the Beginning with Children Foundation bought this Brooklyn building for only ten dollars in 2017 from the Pfizer Corporation.<sup>17</sup> More examples are provided below, in the section entitled *DOE Lease Assistance for charters in buildings owned by the CMO or other related organization*.

New York City has more than 500,000 students in overcrowded public-school buildings, according to DOE data, as well as class sizes far higher on average than classes in the rest of the state.<sup>18</sup> New York City also has the highest real estate costs in the state. Yet DOE is the only district in the state obligated to cover the cost of private space for charter schools or offer them space in public school buildings.<sup>19</sup>

If the same \$125 million in public funds expended in FY 2019 on charter matching funds and lease assistance was instead spent by the city on annual payments for bonds to finance school construction, that would pay for approximately 26,550 additional school seats in the five-year school capital plan, a nearly 50 percent increase in seats to alleviate overcrowding.<sup>20</sup>

The cost of providing space for charter schools in private buildings has risen sharply over the last five years. If the current trend continues, the amount spent annually may soon exceed the cost of the payments that the city spends to finance new public school construction.

In the final section, we propose that these anomalies and inequities should be further investigated by independent auditors, and that New York City's obligation to cover the cost of rent for charter schools should be amended. If the Governor and the State Legislature want to continue the trend of subsidizing the acquisition of private space by charter schools, perhaps the state should cover the entire amount.

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<sup>17</sup> Building sale listed on page 447 here: [https://www1.nyc.gov/assets/finance/downloads/pdf/rolling\\_sales/annualized-sales/2017/2017\\_brooklyn.pdf](https://www1.nyc.gov/assets/finance/downloads/pdf/rolling_sales/annualized-sales/2017/2017_brooklyn.pdf). Deed for property here: [https://www1.nyc.gov/assets/finance/downloads/pdf/rolling\\_sales/annualized-sales/2017/2017\\_brooklyn.pdf](https://www1.nyc.gov/assets/finance/downloads/pdf/rolling_sales/annualized-sales/2017/2017_brooklyn.pdf)

<sup>18</sup> Data from NYSED 2016-2017.

<sup>19</sup> More information on district and state facility assistance here: [https://www.publiccharters.org/sites/default/files/migrated/wp-content/uploads/2016/09/DistrictFacilitiesSnapshot2016\\_FINAL.pdf](https://www.publiccharters.org/sites/default/files/migrated/wp-content/uploads/2016/09/DistrictFacilitiesSnapshot2016_FINAL.pdf)

<sup>20</sup> This estimate is from Sarita Subramanian of the Independent Budget Office, email to Leonie Haimson on June 25, 2019. In the 2020-2024 February 2019 Capital Plan amendment, the average cost per seat for new capacity projects is \$129,565. Assuming a 6.0 percent interest rate over 30 years, \$125 million would pay for annual payments on a \$3.44 billion bond, given the state reimbursement rate for school capital projects of 50 percent. The 2020-2024 capital plan includes about 57,000 new school seats; see [https://dnnhh5cc1.blob.core.windows.net/portals/0/Capital\\_Plan/Capital\\_plans/11012018\\_20\\_24\\_CapitalPlan.pdf?sr=b&si=DNNFileManagerPolicy&sig=UoDzgbPdHYLWX6MumIqH2i2ZkmoX9No%2BpGs6g%2FAZZoY%3D](https://dnnhh5cc1.blob.core.windows.net/portals/0/Capital_Plan/Capital_plans/11012018_20_24_CapitalPlan.pdf?sr=b&si=DNNFileManagerPolicy&sig=UoDzgbPdHYLWX6MumIqH2i2ZkmoX9No%2BpGs6g%2FAZZoY%3D)

## Cost of Facility Upgrades by Charter Schools and Missing DOE Matching Funds

In 2010, the charter cap was raised by the Legislature to 260, with 114 of the newly available openings in New York City.<sup>21</sup> In addition, the law was amended to require that matching funds be provided to any NYC public school whose building was also occupied by a charter school, if the charter school spent over \$5,000 on capital improvements or facility upgrades.<sup>22</sup>

This amendment represented an attempt to address widespread criticism that many public school students experienced glaring “separate but unequal” conditions in their buildings, when co-located charter schools with private funding spent considerable funds improving their equipment and spaces.<sup>23</sup>

Yet the charter amendment did not identify which organization or agency would be responsible for providing these matching funds, whether the charter school making the improvements or the DOE itself. In September 2010, the NYC Charter Center noted:

*The law does not specify the source of funds. So far, the NYC Department of Education has indicated that it will seek to provide funds for this mandate—and has provided quick approval and matching funds for the vast majority of projects proposed for this summer. The Charter Center will continue to advocate for City funding, and against turning this provision into a one-sided and unfunded mandate for charter schools.*<sup>24</sup>

As it was quickly revealed, DOE took responsibility for covering the matching funds, even though this was not clearly specified in the law.

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<sup>21</sup> See: [https://www.nyccharterschools.org/sites/default/files/resources/guide\\_to\\_new\\_charter\\_law\\_updated\\_092910\\_0.pdf](https://www.nyccharterschools.org/sites/default/files/resources/guide_to_new_charter_law_updated_092910_0.pdf)

<sup>22</sup> Education Law §2853(3)(d), passed in 2010: (d) “Notwithstanding any other provision to the contrary, in a city school district in a city having a population of one million or more inhabitants, the chancellor must first authorize in writing any proposed capital improvements or facility upgrades in excess of five thousand dollars, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public-school building. For any capital improvements or facility upgrades in excess of five thousand dollars that have been approved by the chancellor, regardless of the source of funding, made in a charter school that is already co-located within a public school building, matching capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of such improvements or upgrades” Full text available here: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>.

<sup>23</sup> See for example, Leonie Haimson and Diane Ravitch, The Education of Michael Bloomberg, *The Nation*, April 17, 2013. <https://www.thenation.com/article/education-michael-bloomberg/>

<sup>24</sup> NYC Charter School Center, “Changes to the State Charter Schools Law: A Guide for NYC Charter Schools,” UPDATED September 29, 2010. [http://www.nyccharterschools.org/sites/default/files/resources/guide\\_to\\_new\\_charter\\_law\\_updated\\_092910\\_0.pdf](http://www.nyccharterschools.org/sites/default/files/resources/guide_to_new_charter_law_updated_092910_0.pdf)

The law did make clear that none of the expenditures made by the charter school for facility enhancements were allowable without prior written approval from the DOE Chancellor: *“the chancellor must first authorize in writing any proposed capital improvements or facility upgrades in excess of five thousand dollars, regardless of the source of funding.”*<sup>25</sup> Yet as we shall see, there is no evidence that any DOE chancellor has ever refused a charter school’s request to spend funds on renovating its space.<sup>26</sup>

On March 26, 2016, Class Size Matters filed a Freedom of Information Law (FOIL) request to the DOE for data regarding matching funds provided to public schools for FY 2014 to FY 2017. More than a year later, after filing an appeal on June 5, 2018 we received two spreadsheets, which according to the FOIL office were provided by the DOE’s Division of Operations and the Office of School Design and Charter Partnerships.<sup>27</sup>

One of the spreadsheets which tracked charter matching funds for FY 2014 to FY 2017 had columns entitled “Charter Project Estimate” and “Potential DOE Cost” rather than actual expenditures. We had to file several appeals to receive data on actual expenditures. Though we never received complete information, we did receive data that purported to show actual spending. We subsequently received additional spreadsheets containing data specifying DOE matching funds for FY 2018 and FY 2019 from the City Council staff. (For more on the lengthy and difficult process we experienced in obtaining expenditure data from DOE, see Appendix A.)

According to the data we received from DOE and via the City Council, during Fiscal Years 2014 to 2019, the DOE provided charter matching funds to 255 public schools, co-located with a total of 115 charter schools.<sup>28</sup> Both the cost of renovation expenditures made by charter schools and the amount DOE spent to match those funds varied by year. Annual charter expenditures increased from \$9.9 million in FY 2014 to \$17.0 million in FY 2019. DOE matching funds for public schools totaled \$20 to \$25 million per year between FY 2014 and FY 2019.

From FY 2014 to FY 2019, approximately \$81.1 million in total was spent by charter schools on these upgrades, while \$131.6 million was spent by the DOE in matching funds, as there was often more than one public school in these buildings.<sup>29</sup>

***Yet in none of these years did the DOE appear to fully match the amount that charter schools spent on facility upgrades in all of the co-located public schools.*** Figure 1 below shows the difference between the amount that DOE would have spent if they had fully matched the funds for each co-located public school, compared to the amount that was

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<sup>25</sup> Education Law §2853(3)(d).

<sup>26</sup> Cathie Black, Dennis Walcott, Carmen Fariña and now Richard Carranza have been Chancellors over this period.

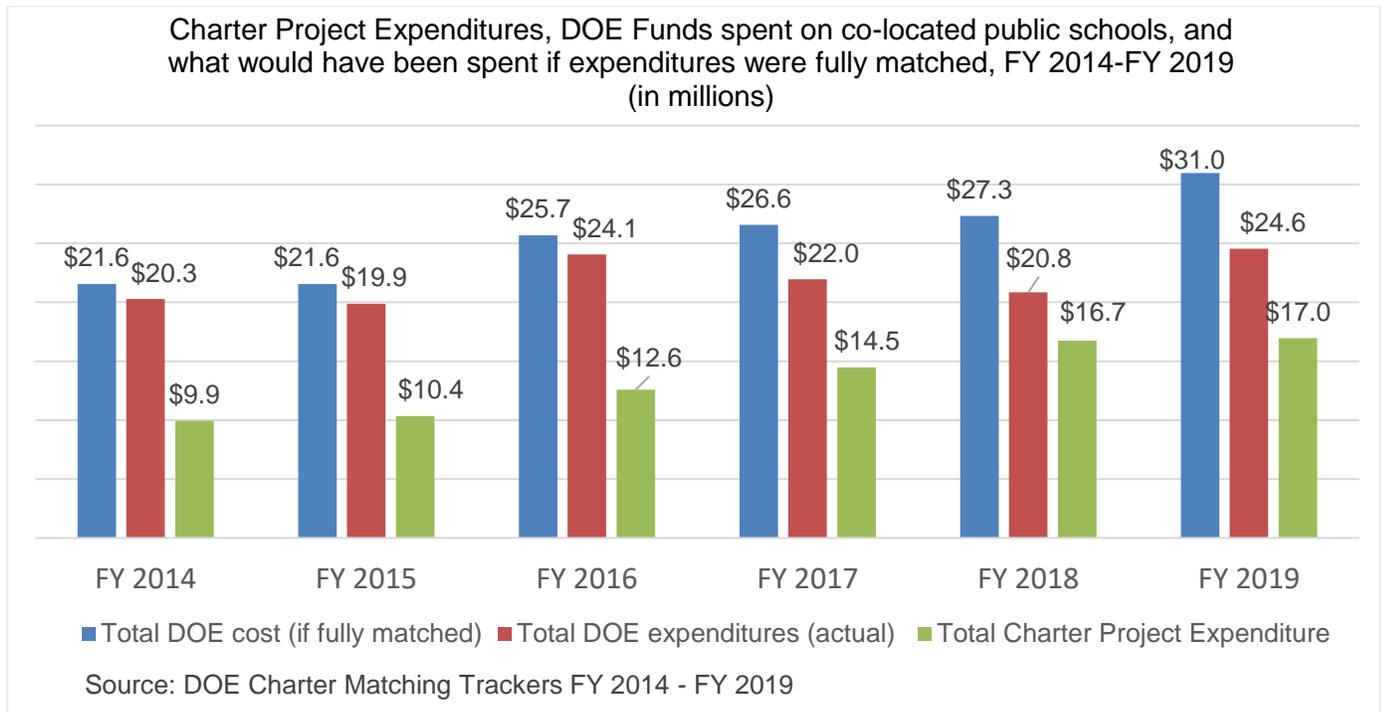
<sup>27</sup> FOIL record found here: <https://a860-openrecords.nyc.gov/request/view/FOIL-2016-040-00032>

<sup>28</sup> NYC DOE Charter Matching Trackers FY 2015-FY 2019

<sup>29</sup> Ibid.

actually spent, according to the data we received.

**Figure 1. Charter Project Expenditures, DOE Funds spent on Co-located public schools, and what would have been spent if expenditures were fully matched, FY 2014-FY 2019 (in millions)**



## Missing Matching Funds

According to our analysis, 175 NYC public schools were denied nearly \$22.1 million they would have received if the amount spent by charter schools was fully matched between Fiscal 2014 and Fiscal 2019. A chart showing which public schools lacked the full amount and by how much, along with the names of their co-located charter schools, is provided in Appendix B.

The two schools which appeared to be most underpaid from FY 2014 to FY 2019 were both District 75 schools, which serve students with serious disabilities.

- Mickey Mantle School (M811) lacked a cumulative \$1.5 million in matching funds from FY 2014 to FY 2019. The school is located in two sites in Harlem, one in district 3, and another in district 4.<sup>30</sup> The school located in district 3 was missing about \$588,000 in matching funds while the school in district 4 was missing \$913,000. The Mickey Mantle School enrolls students with multiple disabilities, including autism, emotional/behavioral

<sup>30</sup> According to DOE Charter Matching Trackers, district 3 location in 34 West 118th Street, and district 4 is located at 141 East 111 Street.

difficulties and/or significant language and communication disorders, according to InsideSchools.<sup>31</sup>

- P.S 368 (K368) is another District 75 school that is located in two sites in Brooklyn, one in Bedford Stuyvesant and the other in Cobble Hill. The school serves K-12th graders with autism and emotional disturbances.<sup>32</sup> The locations in Cobble Hill and Bedford Stuyvesant failed to receive about \$393,000 and \$805,000 respectively, amounting to approximately \$1.2 million in missing matching funds for the school over this period.<sup>33</sup>
- Third highest on the list of schools which did not receive its full complement of matching funds was Mosaic Preparatory Academy or P.S. 375 (M375), a zoned elementary school in an East Harlem; its students reside in a neighborhood that includes three large public housing complexes. Mosaic lacked more than \$913,000 in matching funds from FY 2014 to FY 2019.<sup>34</sup>

All three schools, sited across five buildings, are co-located with Success Academy charter schools.<sup>35</sup> In fact, all 18 public schools which lacked the most in matching funds were co-located with Success Academy charter schools, which likely reflects the high level of annual spending by Success to renovate its facilities.

From FY 2014 to FY 2016, the DOE fully matched spending for only about half of the co-located public schools that were eligible for such funds. The percentage of public schools receiving equal matching funds further decreased to 33 percent in FY 2019.<sup>36</sup> Figure 2 below demonstrates this pattern.

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<sup>31</sup> Information on Mickey Mantle School (M811) found here: <https://insideschools.org/school/75M811>

<sup>32</sup> According to DOE Charter Matching Trackers, Bedford Stuyvesant location in 70 Tompkins Avenue, and Cobble Hill location is in 284 Baltic Street.

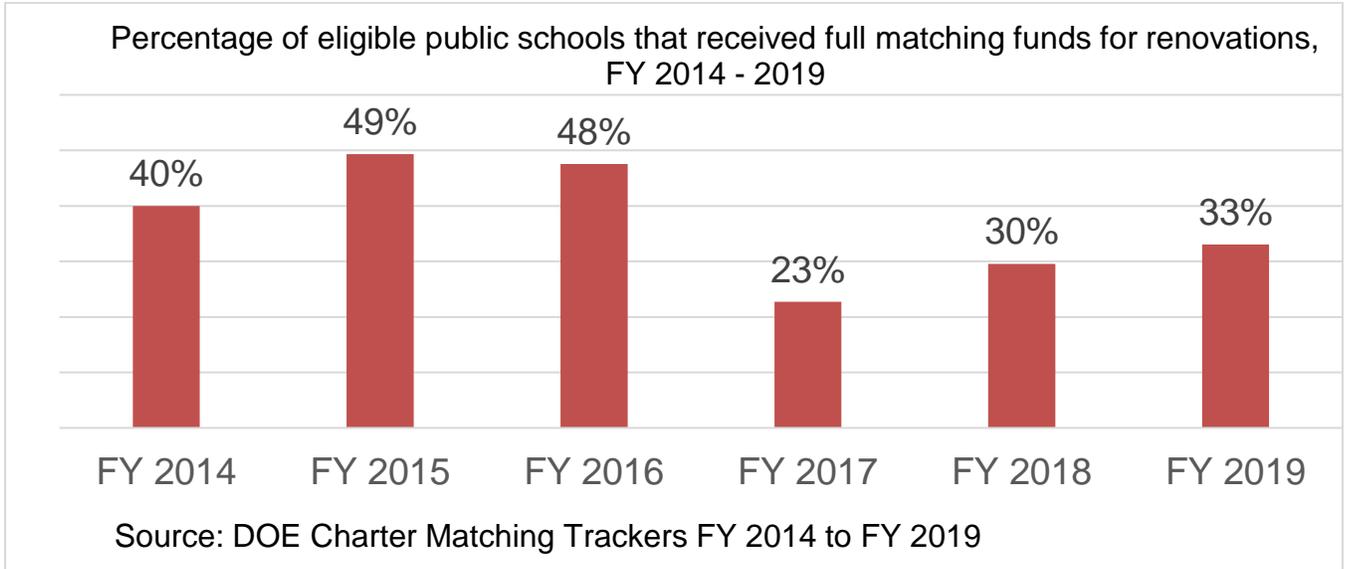
<sup>33</sup> Information on PS 368 (K368) found here: <https://insideschools.org/school/75K368>

<sup>34</sup> Information on PS 37 M375) found here: <https://insideschools.org/school/04M375> and read about the founding principal of Mosaic Preparatory Academy's recruitment strategy here: <https://www.dnainfo.com/new-york/20160731/east-harlem/this-harlem-principal-spends-her-mornings-on-street-recruiting-kids>

<sup>35</sup> For example, P.S. 368 is co-located in a building with Success Academy Bed-Stuy 1 and is missing \$608,182.27 in matching funds for FY 2018. The school is also co-located in another building with Success Academy Cobble Hill and is missing \$221,962.50 for the same fiscal year. The sum of both missing matching funds for both locations amounts to \$830,144.77 for FY 2018, the highest non-match for a school in a single fiscal year between FY 2014 to FY 2019.

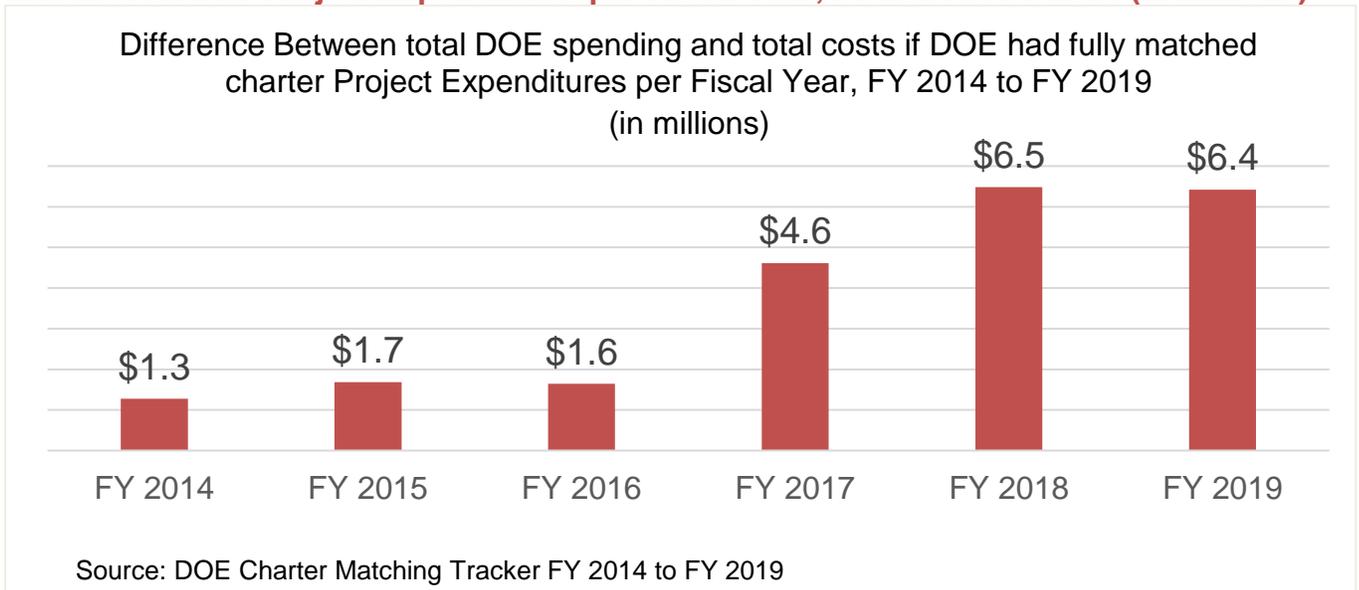
<sup>36</sup> NYC Charter Matching Trackers FY 2014 to FY 2019. The missing matching funds were calculated by finding the difference between the amount a co-located public school was paid, according to DOE matching tracker spreadsheets, and the amount its respective co-located charter school paid for its renovation. Annual missing matching funds is an aggregate sum of the missing matching funds calculated for each co-located DOE public school for FY 2014-2019.

**Figure 2. Percentage of eligible public schools that received full matching funds for renovations, FY 2014- FY 2019**



If DOE had fully matched the funds spent by charter schools for facility upgrades in every co-located public school, the total amount spent would have been about \$153.7 million dollars, according to the spreadsheets, a difference of \$22.1 million compared to what was actually spent. Figure 3 below shows the differences between actual DOE spending and obligations if every co-located public school had received full matching funds.

**Figure 3. Difference Between total DOE spending and total costs if DOE had fully matched charter Project Expenditures per Fiscal Year, FY 2014 to FY 2019 (in millions)**



It is unclear why the DOE has not fully matched the expenditures that charter schools spent on facility upgrades. In email correspondence with former City Council Financial Analyst Kaitlyn O'Hagan, we were informed that DOE claims that "*there are exceptions to certain expenditures DOE does not match and the cost of those line items are reduced.*" These adjustments include: individual projects costing less than \$5,000, equipment purchases, computers, smartboards, shared space enhancements, and re-painting/re-carpeting areas previously upgraded within five years.<sup>37</sup>

Yet some of these exceptions appear to violate the Chancellor's regulation A-190 that enacted these provisions in the charter law, which specifically state that painting and the replacement of floor coverings require matching funds.<sup>38</sup>

There are only a few brief explanatory notes on the DOE spreadsheets that specify the use of the funds in the case of charter school facility upgrades. In some of these examples, the stated exceptions also appear to contradict the Chancellor's regulation.

For example, while the regulation specifically states that the installation of air conditioners require matching funds, there is a note on Charter Matching Tracker FY 2016 that the \$17,000 spent on air conditioners and installation by New Visions Charter High School for the Humanities 3 (K739) was not equally matched, with a shortfall of \$10,000.<sup>39</sup>

The relevant state law, Education Law Section 2853, says this:

*For any capital improvements or facility upgrades in excess of five thousand dollars that have been approved by the chancellor, regardless of the source of funding, made in a charter school that is already co-located within a public school building, matching capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of such improvements or upgrades.*<sup>40</sup>

The Chancellor's regulation matches this language exactly.

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<sup>37</sup> Email correspondence on February 21, 2019 with NYC Council's Financial Analyst Kaitlyn O'Hagan.

<sup>38</sup> According to the A-190 Chancellor's Regulations, "Capital improvement or facility upgrade" is defined as: *An addition or alteration to an existing building, which is permanent and is intended to increase a building's value, beauty, or utility, or to adapt the building for a new purpose. Such addition or alteration becomes part of the existing building or is intended to be permanently affixed to the existing building so that removal would cause material damage to the building or article itself. In addition to the foregoing, the following is a non-exhaustive list of additions or alterations that shall constitute facility upgrades: painting; the replacement of floor covering(s); the installation of electrical or computer network wiring; and the addition of window unit air conditioners. The Chancellor retains final authority to determine whether a given proposed project qualifies as a facility upgrade.* Full text of regulations available here: <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-190-significant-changes-in-school-utilization-and-procedures-for-the-management-of-school-building-housing-more-than-one-school>

<sup>39</sup> The note reads: "Approval for letter for AC units and installation totals \$17,050. Our match obligation for install only is \$7,650"

<sup>40</sup> Education Law Section 2853: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>

Perhaps the DOE is interpreting the law to mean that they only have to match those individual projects or components of an overall renovation plan undertaken by the charter school that cost under \$5000, even if the upgrades made by the charter school total more than \$5000 in one year. But this does not appear to be what is signified by the language in the law or the regulations, which speak of matching funds being obligated by “*capital improvements or facility upgrades in excess of five thousand dollars*” in the plural rather than singular.

Instead, the language more likely means that if the total amount spent in any one year by a charter school is over \$5000 on renovations and/or facility upgrades that amount must be matched in each of the co-located public schools.<sup>41</sup>

Even if DOE is interpreting the law to signify that there is no obligation to match renovation costs if a separate individual project undertaken by a charter school costs under \$5000, this still does not account for some of the huge disparities involved.

For example, since the Mosaic Preparatory School lacked \$662,315.17 in matching funds for FY 2019 alone, that would have to mean that the co-located Success Academy charter school must have had to commission at least 132 separate renovation projects, each costing less than \$5,000, to account for all the missing matching funds.

There are other examples where the notation on the files indicate that a specific match has not been made because a single charter school project cost under \$5,000 – but no explanation is provided of a much larger amount that went unmatched.

For example, Success Academy Harlem 4 (M386) spent \$39,625.10 for upgrades in FY 2019 which did not trigger any matching funds for the co-located public-school STEM Institute Manhattan (M241). A note reads, “No Match: proportion of the project that was CM eligible was under 5K (\$2,354).” Even if the “proportion of the project” that cost \$2,534 did not require matching funds, there is no explanation as to why the rest of the nearly \$35,000 in expenditures were not provided to the public school.<sup>42</sup>

In any case, in the vast majority of cases, there is no explanation on the spreadsheets offered for the disparity in matching funds between the amount spent by the co-located charter school and the funds provided by DOE to their co-located public schools.<sup>43</sup>

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<sup>41</sup> See New York Education Law §2853(3)(d), available here: <https://codes.findlaw.com/ny/education-law/edn-sect-2853.html>

<sup>42</sup> Source: DOE Charter Matching Tracker FY 2018. In a similar example is how Success Academy Crown Heights (K741) spent \$59,140, but the co-located school P.S 161 The Crown School (K161) was not listed as receiving any matching funds. A note reads “Non-Match – Project under 5K (\$1752.50)”. Citizens of the World Crown Heights 2 Charter School (K689) was estimated to have spent \$29,000 in charter project expenditures in FY 2018 but the co-located DOE school, J.H.S. 126 John Ericsson Middle School (K126) did not receive any matching funds. The only offered explanation with note that reads “PBX work: under 5K, no match required.”

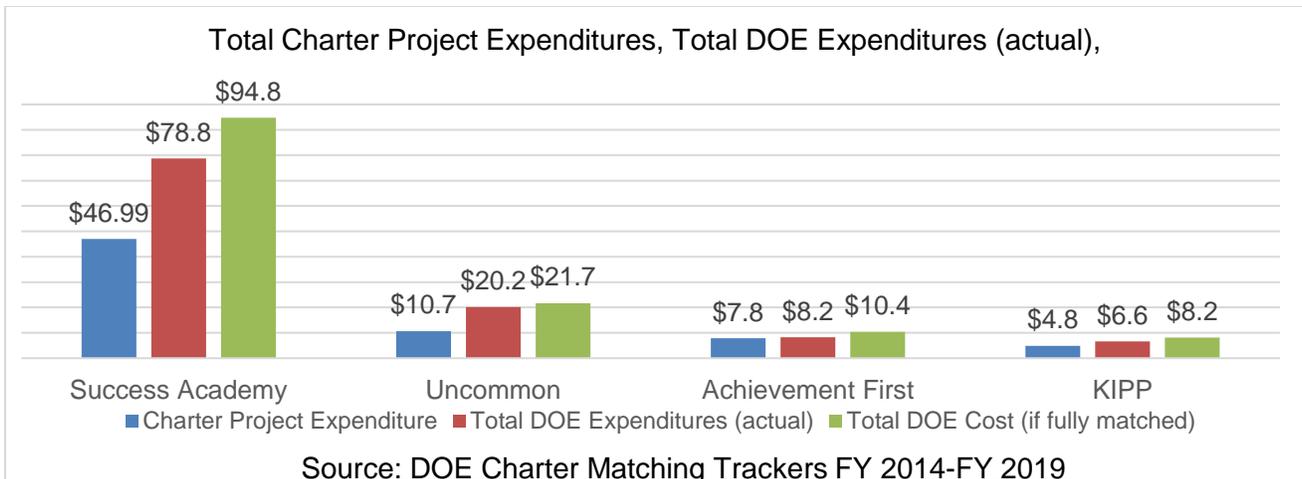
<sup>43</sup> DOE’s FY 2018 Charter Matching Tracker has a “Charter Match Satisfied” column, where a co-located school can receive “YES”, “Partial”, or “N/A”, however, the tracker indicates “YES” in cases where there is clearly no match. For example, Success Academy Charter School – Harlem North West (M384) is spending \$545,092 in charter project expenditure’s and

## Spending on Facility Upgrades by CMO and DOE Matching Funds

Although Success Academy charter schools comprise approximately 22 percent of all co-located charter schools that triggered matching funds for FY 2014 to FY 2019,<sup>44</sup> they spent a disproportionately high \$47 million dollars in charter renovation spending from FY 2014 to FY 2019, which was 58 percent of all charter school expenditures on facility upgrades over the same period.<sup>45</sup> This is because Success Academy schools renovated their spaces annually, with 96 percent of their schools spending considerable funds every year over this period. The only CMO that renovated more frequently was KIPP, with 100 percent of its charter schools renovating every year. As mentioned above, beginning in 2014, the law required that the DOE Chancellor must provide prior approval to any charter school renovations that cost more than \$5,000. Yet given that Success Academy and KIPP charters were allowed to renovate nearly every one of their charter schools every single year, there is no evidence that the DOE has ever turned one of their requests.<sup>46</sup>

Figure 4 below shows the charter project expenditures by CMO from FY 2013 to FY 2019, along with the DOE matching funds these renovations should have triggered and did. We limited our analysis to the top four CMOs in charter project expenditures.

**Figure 4. Total Charter Project Expenditures, Total DOE Expenditures (actual), Total DOE Cost (if fully matched) by CMO, FY 2014-2019 (in millions)**



each of their co-located school received a “YES” under the “Charter Match Satisfied” column despite the fact that each of the co-located schools is only receiving \$209,577.97 (less than half of the charter expenditures) in matching funds.

<sup>44</sup> According to spreadsheets, there are 25 Success Academy charter schools out of 115 charter schools that trigger matching funds.

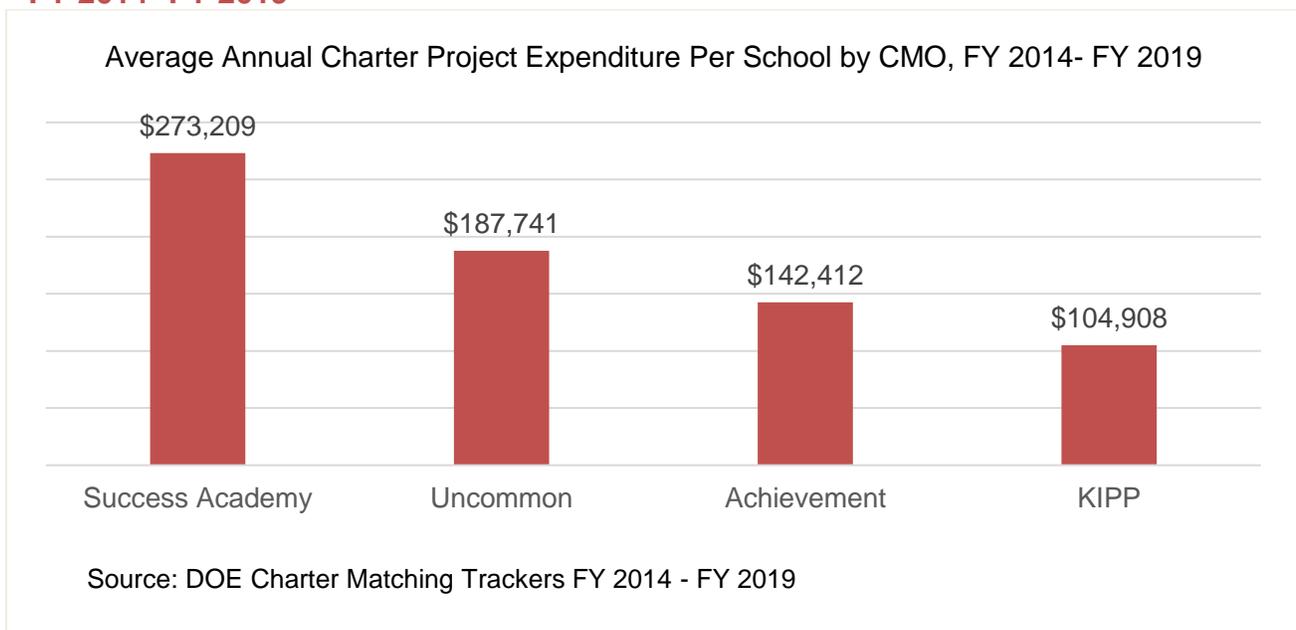
<sup>45</sup> Total charter project expenditures from FY 2014 to FY 2019 was \$81 million.

<sup>46</sup> NYC DOE Charter Matching Tracker FY 2014 to FY 2019.

The amount spent by DOE on schools co-located with Success Academy charters dwarfs all others: \$78.8 million from FY 2014 to FY 2019, approximately 60 percent of total city’s matching funds of all co-located charter schools from FY 2014 to 2019 FY. This still led to a shortfall of \$16.0 million compared to the amount that would have been allotted to these co-located public schools if they had received fully matching funds.<sup>47</sup>

The amount spent by each Success Academy charter school renovation averaged \$273,209 from FY 2014 to 2019.<sup>48</sup> Uncommon Charter Schools spent the second highest average at \$187,441 per year.<sup>49</sup> The figure below shows the average charter project expenditure per school renovation by CMO.

**Figure 5. Average Annual Charter Project Expenditure Per School by CMO, FY 2014- FY 2019**



More details about spending by Success and other CMOs, including their renovation rates and renovation costs are in Appendix C.

## DOE spending on leases for Charter schools

As mentioned above, in 2014, the New York state charter law was amended to grant a subset of NYC charter schools with the right to facilities assistance. Charter schools that were newly opened or adding grade levels could demand they be provided either with space in a public-school building or a privately-owned building at DOE expense.

<sup>47</sup> Ibid.

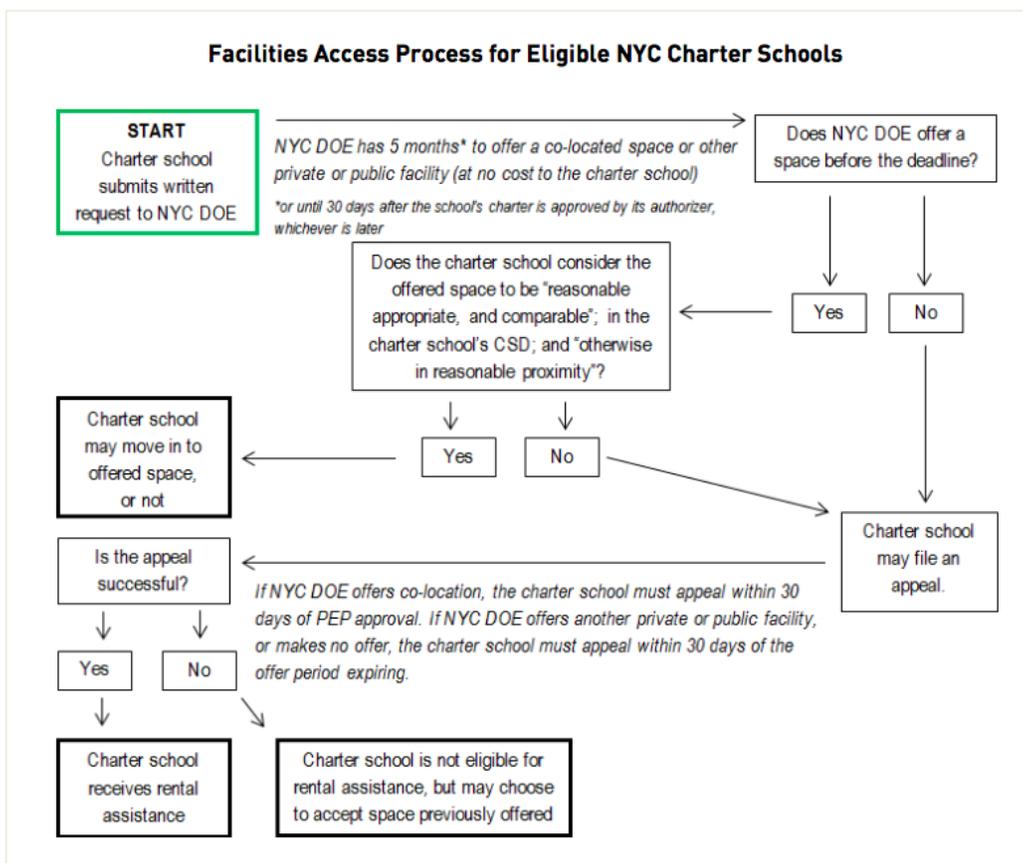
<sup>48</sup> The average was calculated by the total CMO amount spent on charter expenditures from FY 2014 to FY 2019 divided by the number of renovations made by the CMO in that period.

<sup>49</sup> DOE “Charter Matching Trackers” FY 2014 to FY 2019.

If the DOE refused to provide such space, or if the charter schools believed the space offered was inadequate, they could appeal to the State Education Department. If they won their appeals, DOE was obligated to pay a lease subsidy of 20 percent of their per student funding towards the “actual rent cost” of a private building of their choice.<sup>50</sup> This obligation was imposed by the state only in NYC and in no other school district.<sup>51</sup> In the 2016-17 school year, the 20 percent per student subsidy amounted to \$2,805.40 per student.

The table below, provided by the NYC Charter School Center, demonstrates the way charter schools can request space from DOE, either in private or public-school buildings, and the appeal process that follows if their request is not granted.

**Figure 6. Facilities Access Process for Eligible NYC Charter Schools**



Source: NYC Charter School Center Facility Access Guide New York City Charter Schools.<sup>52</sup>

<sup>50</sup> See NYC Charter School Center, Facility Access Guide New York City Charter Schools, December 6, 2017. <https://www.nyccharterschools.org/sites/default/files/resources/Facilities-Access-Guide-for-NYC-Charter-Schools.pdf>

<sup>51</sup> Russ Simnick, State Policy Snapshot: School District Facilities and Public Charter Schools. National Alliance for Public Charter Schools, April 2015. [https://www.publiccharters.org/sites/default/files/migrated/wp-content/uploads/2015/04/facilities\\_snapshot\\_web.pdf](https://www.publiccharters.org/sites/default/files/migrated/wp-content/uploads/2015/04/facilities_snapshot_web.pdf)

<sup>52</sup> NYC Charter School Center, Facility Access Guide New York City Charter Schools at: <https://www.nyccharterschools.org/sites/default/files/resources/Facilities-Access-Guide-for-NYC-Charter-Schools.pdf>

In March 2016, the law was amended once again so that eligible charters would be provided with either a per pupil subsidy or the actual cost of the lease identified by the charter school, whichever amount was lower. The following year, in April 2017, the maximum amount of rental assistance increased from 20 percent of the per pupil subsidy to 30 percent, to approximately \$4,350 per pupil during the 2017-18 school year.<sup>53</sup>

The statutory formula for per student funding was raised in April 2018, so that the per-student amount that charters received for their operating expenses was \$15,307.<sup>54</sup> At 30 percent per pupil subsidy, we estimate that per student lease subsidy was approximately \$4,728 per pupil during the 2018-2019 school year.

In April 2019, per pupil funding for NYC charter schools once again increased to \$16,154 for the 2019-2020 school year so that the student lease subsidy is approximately \$4,846 per pupil for this school year.<sup>55</sup> Thus, the per pupil subsidy for charter rental assistance in New York City has increased by nearly 72 percent since FY 2017.

As of FY 2019, there were 88 charter schools that received lease subsidies in private buildings, estimated to cost the DOE about \$83.6 million.<sup>56</sup> According to the law, the state is obligated to pay 60 percent of charter lease subsidy costs after total expenses to the city exceeded \$40 million, which occurred in FY 2017. Thus, the state is expected to reimburse about \$50 million of that \$83.6 million. State reimbursement only covers payments to charter schools that prevailed on appeal.<sup>57</sup>

In our analysis of the 132 NYSED Commissioner decisions on charter school facility appeals made from FY 2015 to FY 2019, only five were dismissed.<sup>58</sup> In 2015, the appeal of Boys Preparatory Charter School (X465) was turned down because the addition of a pre-K class was not deemed equivalent by the Commissioner to the “grade level” expansion required to meet the criteria of “new and expanding” charter schools.<sup>59</sup> The appeals of Coney Island

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<sup>53</sup> Summary of legislative changes in 2018-2019 New York state budget affecting charter schools here: <https://www.nyccharterschools.org/sites/default/files/resources/Charter-Center-Memo-on-2018-State-Budget.pdf>

<sup>54</sup> 2018-19 charter school basic tuition information here: [https://stateaid.nysed.gov/charter/html\\_docs/charter\\_1819\\_rates.htm](https://stateaid.nysed.gov/charter/html_docs/charter_1819_rates.htm)

<sup>55</sup> Summary of legislative changes in 2019-20 New York state budget affecting charter schools here: <https://www.nyccharterschools.org/sites/default/files/resources/Charter-Center-Memo-on-2019-State-Budget.pdf>

<sup>56</sup> New York State Allocation Reports and NYC 2020 Executive Budget Revenue Book.

<sup>57</sup> New York Education Law § 3602(6)(g)

<sup>58</sup> In our attempt to find all the appeals existing regarding this facility process, we searched every charter school currently operating and to slated to open on the Commissioner’s decisions website. We found 132 appeals regarding lease assistance. Some schools successfully appealed more than once as they added more grade levels. We used the “Decisions of the Commissioner” database to find the schools available here: [http://search.its.ny.gov/search?q=&site=nysed\\_com\\_decisions\\_collection&btnG=Search+Decisions&site=&client=nysed\\_com\\_decisions\\_frontend&proxystylesheet=nysed\\_com\\_decisions\\_frontend&output=xml\\_no\\_dtd](http://search.its.ny.gov/search?q=&site=nysed_com_decisions_collection&btnG=Search+Decisions&site=&client=nysed_com_decisions_frontend&proxystylesheet=nysed_com_decisions_frontend&output=xml_no_dtd)

<sup>59</sup> Commissioner decision (2015) here: <http://www.counsel.nysed.gov/Decisions/volume55/d16788>

Preparatory Public Charter School<sup>60</sup> (K744) and New Dawn Charter High School (K486)<sup>61</sup> were also dismissed, in FY 2019 and FY 2015 respectively, because these schools were planning to expand their enrollment within existing grade levels rather than adding more grade levels.<sup>62</sup>

The appeal of Harlem Children's Zone Promise Academy's (M284) was dismissed in FY 2016 because the school could not prove that the space the charter school currently occupied<sup>63</sup> would be insufficient to serve the expanding grade 12 class.<sup>64</sup> Finally, the appeal made by South Bronx Classical Charter School II (X364) was dismissed in March 2018 because the grade level expansion had not yet been authorized.<sup>65</sup> Yet in two of the five cases that were initially dismissed, the charter school filed another appeal that subsequently prevailed.<sup>66</sup>

There are 18 new or expanding NYC charter schools that prevailed on appeal and will receive per student subsidies for space this year. Five of those schools are Success Academy charter schools.<sup>67</sup> In the near future, 24 additional charter schools already have been authorized and will open in New York City between 2020 and 2023, some of which have already won appeals and all of them likely to do so, unless they are provided space inside public schools or have buildings directly leased for them by DOE. Of these 24 new charter schools, seven are Success Academy charters.<sup>68</sup>

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<sup>60</sup> Commissioner decision (2019) here: <http://www.counsel.nysed.gov/Decisions/volume58/d17636>

<sup>61</sup> Commissioner decision (2015) here: <http://www.counsel.nysed.gov/Decisions/volume54/d16709>

<sup>62</sup> Coney Island Preparatory Public Charter had already won an appeal and had been receiving lease subsidies for grade level expansion in FY 2015. Commissioner decision (2015) here: <http://www.counsel.nysed.gov/Decisions/volume54/d16741>

<sup>63</sup> According to the appeal, the school is located at a "Charter Partnership Building" funded by New York City Department of Education's Charter Facilities Matching Grant Program. The fact that DOE helped pay for the building was not part of the decision. Full appeal (2016) available here: <http://www.counsel.nysed.gov/Decisions/volume55/d16909>.

<sup>64</sup> Moreover, the school previously served 12<sup>th</sup> grade and removed the grade level before FY 2014. In this way the school was only reinstating the 12<sup>th</sup> grade level again after the facility access process was established and the Commissioner did not consider their reinstatement a grade level expansion.

<sup>65</sup> Commissioner decision (2018) here: <http://www.counsel.nysed.gov/Decisions/volume57/d17350>

<sup>66</sup> South Bronx Classical Charter School II (X364) subsequently had their grade level expansion authorized and then filed another appeal which was sustained on October 2018, only a few months after their initial appeal that was turned down. See Commissioner decision (2018) here: <http://www.counsel.nysed.gov/Decisions/volume58/d17525> Boys Preparatory Charter School (X465), which had lost its initial appeal because the Commissioner's office did not consider "Pre-K" a grade level expansion, now argued that the school was eligible for lease assistance on the grounds that it had commenced instruction the 2014-2015 school year, and therefore was a "new" school. The commissioner ruled in favor of this claim and sustained the appeal in March 2016. Commissioner decision (2016) here: <http://www.counsel.nysed.gov/Decisions/volume55/d16889>. Curiously, for Boys Preparatory Charter School's initial appeal, the commissioner rejected the school's claim that the co-located space would be insufficient for grade level expansion. During the second appeal, the Commissioner stated that the "record indicates that the space allocated to petitioner in Building X107 does not meet the requirements of the Footprint, DOE's standard for the usage of space in DOE's buildings."

<sup>67</sup> As of FY 2019, only SA – Union Square and SA – Hudson Yards have received DOE lease subsidies. SA – Union Square Commissioner Decision available here: <http://www.counsel.nysed.gov/Decisions/volume56/d17059>. SA – Hudson Yards Commissioner Decision available here: <http://www.counsel.nysed.gov/Decisions/volume56/d16947>.

<sup>68</sup> List of charter schools slated to open: <http://www.p12.nysed.gov/psc/csdirectory/CSLaunchPage.html>.

Many more charter schools are relatively new and will continue to expand grade levels, and thus will also be eligible for additional funding.

It should also be noted that in FY 2019, the DOE spreadsheet cited 39 charter schools out of 88 which were projected to receive lease subsidies amounting to more than the listed base rent on the document, despite the fact that the charter law states that the amount offered must be the lesser of the two amounts.<sup>69</sup> The DOE spreadsheet offers no explanation for this. Among schools that are receiving lease subsidies above their base rent, the total amount of lease subsidies provided above the base rent is \$22.8 million in FY 2019 alone.<sup>70</sup>

## Cost of buildings that DOE directly leases for charter schools

In addition to providing per-student lease subsidies for charter schools, DOE has leased 12 private buildings directly that house 15 charter schools, which cost the city \$17.1 million in FY 2019 alone. None of these expenditures are eligible for state reimbursement because these schools did not receive the space through any appeal process. Of the 15 charter schools, nine of them are Success Academy schools.

Six of these charter schools share their buildings with DOE schools; the other nine have entire privately leased buildings for themselves. We estimate that if the DOE spending since FY 2015 on these leases were eligible for state reimbursement, the city would have saved an additional \$36 million.<sup>71</sup>

After the charter law was changed in 2014, obligating DOE to provide space for new and expanding charter schools, Success Academy Washington Heights, Success Academy Rosedale, and Success Academy Harlem 4 were the first three schools to receive space in private buildings, leased directly by DOE. This occurred after a highly publicized battle between Success Academy CEO Eva Moskowitz and Mayor de Blasio, begun when the Mayor rejected three Success public school co-locations which had been previously agreed to by Mayor Bloomberg, on the basis that they would displace public school students with special needs. According to the account in Politico:

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<sup>69</sup> For schools with more than one leased building, we added the leases together and compared that sum to the projected payment.

<sup>70</sup> DOE Charter Lease Report FY 2019. Among all schools receiving lease subsidies for FY 2019, the total amount being paid in lease subsidies is \$14.1 million below the sum base rent of all schools.

<sup>71</sup> This calculation was based on the hypothetical situation in which state reimbursements covered DOE held leases for private buildings housing charter schools and lease subsidies. For this calculation, we added both annual lease subsidy costs and costs for direct leases for private spaces housing charter schools for FY 2015 to FY 2019. With that sum, we subtracted 40 million and multiplied that difference by 0.6 (60 percent of total amount over \$40 million). The result of this product would be the total state reimbursement if state reimbursements covered both spending on lease subsidies and direct lease costs from FY 2015 to FY 2019, which comes out to \$127.6 million, \$36 million more than what DOE is expected to receive over this time period.

*After the new mayor reversed the city's approval of the co-locations of three Success Academy charter schools on February 27, Moskowitz, Success's combative C.E.O., went into battle mode, accusing the mayor of evicting low-income children from their schools and organizing massive rallies that ultimately garnered the support of the governor.*<sup>72</sup>

Following a press conference organized by Eva Moskowitz on April 23, the Mayor's office hurriedly signed leases costing \$5.4 million for three buildings in Manhattan and Queens, belonging to the New York Archdiocese and the Brooklyn Diocese, to house these three new charter schools, at an average cost of about \$11,000 per student, according to the Daily News – far above what any lease subsidy would have provided, then or now.<sup>73</sup>

In addition to the three charter schools mentioned above, DOE has provided space in private buildings to six other Success Academy schools since FY 2014, in each case without going through any appeal process. The total cost for these schools in FY 2019 is \$2.9 million. Four of these Success Academy schools have entire privately-owned buildings to themselves -- not including SA – East Flatbush, which has an entire DOE-owned building to itself.

Because these schools were not required to go through any appeal process, the city has sacrificed millions of dollars of state reimbursement for lease costs. It was not until FY 2019 that the DOE required any Success Academy charter school go through an appeal process. In those cases, their schools were housed in a Hudson Yards building, which as we will see, is owned by the Success Academy CMO.<sup>74</sup>

Three of 15 charter schools in buildings that DOE has been paying rent for directly were neither new as of the 2014-2015 school year nor had they expanded grade levels. Thus, the DOE is voluntarily covering these expenses.<sup>75</sup> Renaissance Charter Schools, New Visions

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<sup>72</sup> Eliza Shapiro, Emails show administration's 2014 charter scramble. Politico, April 9, 2015 at: <https://www.politico.com/states/new-york/city-hall/story/2015/04/emails-show-administrations-2014-charter-scramble-000000>

<sup>73</sup> Eliza Shapiro, Moskowitz sounds an alarm, to the puzzlement of city and state officials, Politico, April 23, 2014 at: <https://www.politico.com/states/new-york/city-hall/story/2014/04/moskowitz-sounds-an-alarm-to-the-puzzlement-of-city-and-state-officials-012439> The \$5.4 million amount in rent did not include the unreported cost of renovations to these schools, which the DOE also agreed to cover. As described in Politico, Moskowitz's demands included "air conditioners, 18,000 square feet of recreational space including a soccer field, basketball court, and track, and an additional 3,200 square feet for a "play equipment zone" including "standard play equipment, including, but not limited to, slides, climbing nets, swings, rock equipment, spinners, large play structures, and a Merry-Go-Round" and "13,000 square feet for a "free play/adventure play zone." Also see: Ben Chapman, City to pay \$11G per student in three Success Academy charter schools booted from public space by Mayor de Blasio, NY Daily News, May 29, 2014 at: <https://www.nydailynews.com/new-york/education/city-pay-11g-student-charter-schools-booted-public-space-article-1.1810843>.

<sup>74</sup> More on this in the section entitled "DOE Lease Assistance for charters in buildings owned by their CMO or other related organizations."

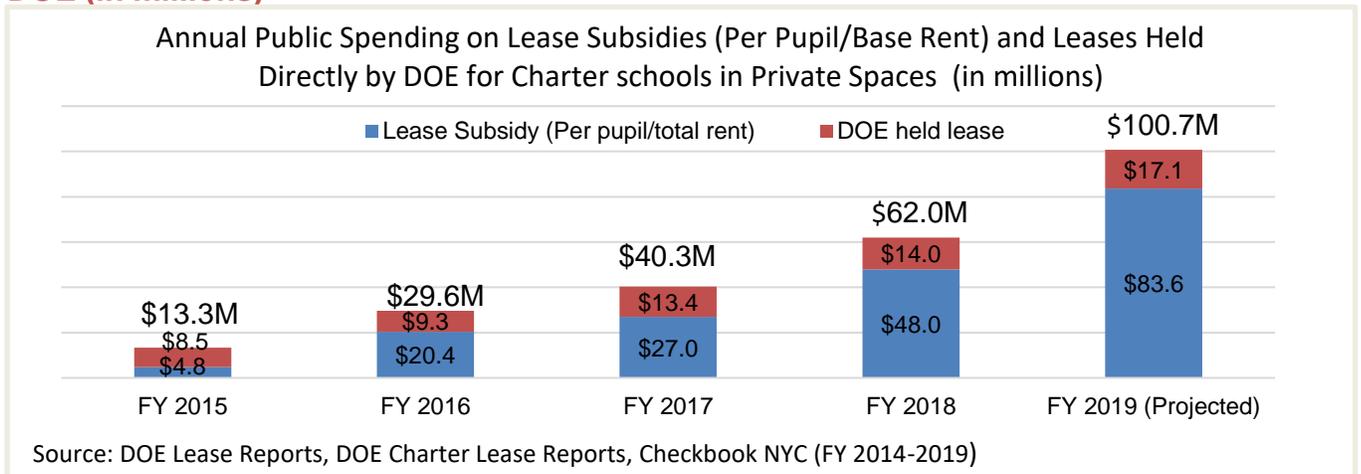
<sup>75</sup> In addition, though Success Academy Harlem 4 started in 2008, and expanded initially in grade levels, by the 2018-2019 school year, it had contracted grade levels, serving grades K-8 in 2017-2018 but only K-4 as of FY 2018-2019 with no diminution the amount DOE paid for its rent. According to the SA-Harlem 4's SUNY page, the school is expected to remain K-4 grades by the end of the charter term in 2021 contrary, to their 2016 renewal report stating it is expected to be K-10 and 12 by the end of the term in 2021. Link to SUNY page here: <http://www.newyorkcharters.org/suny-authorized-schools/success-academy-charter-school-harlem-4/> and <http://www.newyorkcharters.org/wp-content/uploads/Success-Harlem-4-Renewal-2016.pdf>

AIM Charter High School, and New York Center for Autism Charter School are all in buildings leased by DOE before the charter facility law was passed in 2014.<sup>76</sup> New Visions AIM Charter High School and New York Center for Autism share their leased buildings with public schools. Renaissance Charter School has its own leased building, with rent paid for by DOE. In FY 2019, the city paid \$5.8 million to rent the three buildings that house these schools.

## DOE-Held Lease Spending vs Lease Subsidies

The table below demonstrates the annual actual and projected amount spent by DOE for charter schools in private spaces for both lease subsidies (Per Pupil/Base Rent) and DOE-held leases during the period FY 2015 to FY 2019.<sup>77</sup> The annual amount spent has rapidly escalated from \$13.3 million in FY 2015 for 26 charter schools to more than \$100 million for 106 charter schools in FY 2019.<sup>78</sup>

**Figure 7. Annual Public Spending on Charter Lease Subsidies and Leases Held by DOE (in millions)**



<sup>76</sup> Renaissance Charter School has been at 35-59 81st Street since 2000. See <https://eportfolios.macaulay.cuny.edu/siegel2014/2014/03/13/jackson-heights/>. New Visions AIM Charter High School (formerly ROADS Charter School 1) has been at the 1495 Herkimer Street in Brooklyn since its opening in 2012. <http://www.newyorkcharters.org/wp-content/uploads/ROADS-CS-1-First-Year-School-Visit-2013.pdf>. The New York Center for Autism Charter opened in the same public school building in 2005 where it is currently operating. Emma Daly, Manhattan Charter School to Serve the Autistic, *The New York Times*, May 4, 2005. <https://www.nytimes.com/2005/05/04/nyregion/manhattan-charter-school-to-serve-the-autistic.html>.

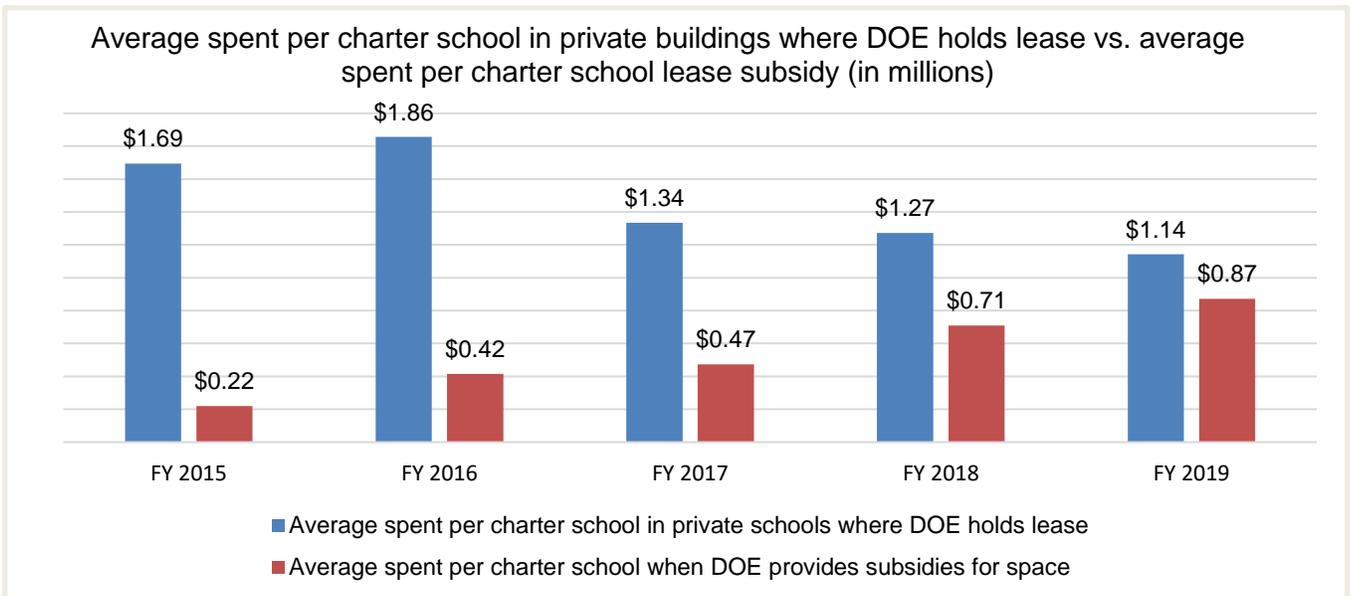
<sup>77</sup> Our findings of charter lease payments of \$40.3 million for FY 2017 are larger than some previous reporting, including an estimate made by Chalkbeat, which reported \$27 million for FY 2017 in that year; see <https://www.chalkbeat.org/posts/ny/2018/03/02/new-york-city-charter-school-rent-costs-to-jump-63-percent-this-year/>. The spreadsheet we received on June 5, 2018 showed \$27 million spent on charter lease payments in FY 2017, but this did not include DOE's direct lease costs for any of the private buildings that house charter schools. After an appeal, we received another spreadsheet that included direct lease costs, totaling \$37.5 million for FY 2017. There was still missing information for some schools which we obtained through Checkbook NYC, which brought our total estimate to \$40.3 million. NYC Council's report stated \$41.2 million in rental assistance payments to charter schools for FY 2017, close to our figure. See Working Group on School Planning and Siting, "Planning to Learn: The School Building Challenge," New York City Council, March 2018, p. 26. <https://council.nyc.gov/land-use/wp-content/uploads/sites/53/2018/03/Planning-to-Learn-3.16.2018-high-resolution.pdf> We learned from Kaitlyn O'Hagan that the \$41.2 million figure was actually the projected figure. More on the history of discrepancies in DOE reporting on facility costs is in Appendix A.

<sup>78</sup> Checkbook NYC, "DOE Charter Lease Report" FY 2014 to FY 2019, and "DOE Lease Report" FY 2015-2019.

In addition to not being reimbursable by the state, the average projected costs when DOE holds the lease directly for charter schools has been generally higher than when the city provides the per student subsidy, though these costs appears to be converging over time. The average projected amount spent per school via the per student subsidy has increased from about \$220,000 in FY 2015 to approximately \$880,000 to FY 2019.

The convergence between both averages is likely attributed to the increased enrollment in the charter schools over time for which the per-student subsidy is being paid, as well as the higher per student amount. The figure below shows this trend.

**Figure 8. Average spent per charter school in private buildings where DOE holds lease vs average spent per charter school lease subsidy (in millions)**



Source: DOE Lease Reports, DOE Charter Lease Reports, Checkbook NYC (FY 2014-2019)

DOE held leases for eight private buildings that house nine charter schools that are not co-located with any public school in FY 2019. If the DOE had provided these schools with subsidies for space after they went through an appeal process, instead of leasing the buildings directly, the city would have spent \$3.7 million in lease assistance, after accounting for state subsidies. This is \$9.5 million less than what DOE was expected to spend for FY 2019 in rental costs for these same schools, as demonstrated in the figure below.

**Figure 9. Hypothetical Lease Subsidy vs. DOE-held lease for charter schools in their own private buildings, FY 2019**

School Name	Year of Occupation**	Org ID	Bldg. ID	Eligible Enrollment for Hypothetical per pupil Assistance *	Base Rent FY 19	Hypothetical Per Pupil Subsidy after appeal process (\$4,727.70 per eligible student)
Success Academy Charter School - Harlem 6	2017	M357	M389	70	\$1,341,028.00	\$330,939.00
Success Academy Charter School - Harlem 4	2014	M386		n/a***		
Success Academy Charter School - Rosedale	2014	Q337	Q374	265	\$1,120,664.00	1,252,840.50**
Success Academy Charter School - Washington Heights	2014	M265	M387	312	\$3,362,001.00	\$1,475,042.40
Success Academy Charter School - South Jamaica	2016	Q374	Q781	135	\$668,965.66	\$638,239.50
Success Academy Charter School - Bushwick	2016	K882	K677	200	\$1,079,260.00	\$945,540.00
Success Academy Charter School - Flatbush	2016	K886	K884	171	\$1,050,000.00	\$808,436.70
KIPP Freedom Charter School	2018	X598	X859	186	\$1,005,417.08	\$879,352.20
Renaissance Charter School	2000	Q705	Q885	n/a***	\$3,586,329	\$0.00
				<b>Total</b>	\$13,213,664.67 (DOE current spending for FY 2019)	\$6,198,213.80 (Hypothetical Lease Subsidy)
						<b>Cost for DOE after State Subsidy for Hypothetical Lease Subsidy: \$3,718,928.28</b>

Source: Calculations based from enrollment figures from charter school's annual reports and enrollment via NYC school portal. Base rent costs are from are from Checkbook NYC and DOE Lease Report FY 2019.

\* New York Education Law § 2853 (3)(e)(5) states that charter schools that prevail on appeal and receive a per pupil subsidy, the amount given will be the product of 30 percent charter school's basic tuition and the "positive difference of the charter school's enrollment in the current school year minus the charter school's enrollment in the school year prior to the first year of the expansion."

\*\* In this case, the total base rent cost is lower than 30 percent per pupil amount therefore the total base rent cost for this school is included in the total hypothetical lease subsidy costs for FY 2019.

\*\*\* As mentioned previously in this report, Success Academy Harlem 4 and Renaissance Charter Schools are not expanding enrollment and therefore we cannot do an analysis on a hypothetical per pupil subsidy for these schools.

\*\*\*\*SA - Rosedale, SA - Washington Heights, SA – Harlem 4 received their building in 2014 from the DOE according to New York Daily News: <https://www.nydailynews.com/new-york/education/city-pay-11g-student-charter-schools-booted-public-space-article-1.1810843>. SA – South Jamaica, SA – Bushwick, SA – Flatbush, SA – Bushwick, KIPP Freedom charter school opened in the building the DOE is leasing directly according to annual reports. All of those reports can be found here: <http://www.newyorkcharters.org/suny-authorized-schools/new-york-city/>. Renaissance Charter School has been in 35-59 81st Street since 2000 (Source: <https://eportfolios.macaulay.cuny.edu/siegel2014/2014/03/13/jackson-heights/>

In the Appendix D, there is an estimate of the direct lease costs to DOE of the six charter schools that share space in private buildings with public schools.

## **DOE Lease Assistance for charters in buildings owned by their CMO or other related organization**

After analyzing the audited financial statements, annual reports, and property records of charter schools, we discovered that there were eight charter schools housed in seven private buildings for which DOE is providing considerable per-student rental subsidies, despite the fact that the charter school's CMO or an associated LLC or foundation appears to own the building.<sup>79</sup> Since FY 2015, the DOE has spent about \$14.8 million in lease subsidies for these eight charter schools.

All eight of these schools filed appeals and won subsidies, with none of the Commissioner's decisions mentioning the fact that the city would be helping to pay for the space in a building is owned by the charter school's CMO or related party. Whether this practice complies with the original intent of the Legislature is unclear, since the state law anticipates the subsidy going towards "actual rent costs" rather than helping to pay the mortgage of a building owned by the CMO or a related organization.<sup>80</sup>

Perhaps the most glaring example is the city's expenditure of \$2.2 million in FY 2019 to help pay for the space housing two Success Academy charter schools: Success Academy – Hudson Yards (M358) and Success Academy (M174) – Union Square, both located in Hudson Yards at 500 West 41st Street. Hudson Yards is a mixed-used luxury condominium development that has been reported to be the most expensive real estate project, not just in New York City, but in the history of the United States.<sup>81</sup> DOE subsidies have been provided to these charter schools, although the Success Academy Charter Management Organization purchased the space for \$68 million in 2016, in the base of a residential tower.<sup>82</sup>

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<sup>79</sup> Property records from Department of Planning through their New York City Map Tool, available here: <http://gis.nyc.gov/doitt/nycitymap/>.

<sup>80</sup> According to the NYC Charter School Center Facility Access Guide, rental assistance only applies to "actual rent costs", not construction of a new building. The charter center also argues for a wider interpretation of "actual rent cost" which may include "maintenance, costs of capital improvements, costs of occupancy, security, insurance and real property taxes" but notes that this interpretation has been subject to debate. It does not appear to allow for these subsidies to pay for the mortgage costs of a privately-owned site. Facility guide found here: <https://www.nyccharterschools.org/sites/default/files/resources/Facilities-Access-Guide-for-NYC-Charter-Schools.pdf>

<sup>81</sup> Aria Bendix, Hudson Yards is the most expensive real estate development in US history, Business Insider, March 15, 2019. <https://www.businessinsider.com/inside-hudson-yards-most-expensive-real-estate-development-in-us-2018-9>

<sup>82</sup> Success Academy also signed a 15-year \$30 million lease in 2013 for an office space in the Financial District. More information here: <https://www.politico.com/states/new-york/city-hall/story/2016/05/internal-documents-lay-out-threats-to-the-success-academy-model-101592>

At the time of purchase, the new space was to house an elementary school, a middle school, and an educator training center for Success teachers and principals.<sup>83</sup> In November 2017, the space was named the Robertson Center after Julian Robertson, the financier, whose Foundation gave Success \$20 million to help create a state-of-the-art training facilities for educators and Success Academy's first K-8 lab school.<sup>84</sup> The year before, in 2016, Robertson had donated \$25 million to Success, as announced during their annual fundraiser.<sup>85</sup>

In 2016, when Success CMO first purchased the space in Hudson Yards, *"the Education Department said Success Academy has not requested reimbursement for the space, and company officials would not say if they will,"* according to an article in the Daily News.<sup>86</sup> Clearly, Success Academy decided to do so, via an appeal to the State Education Department, and as these schools are still expanding in enrollment, the amount paid by taxpayers is likely to increase over time.

Since FY 2015, the DOE has also provided per-student lease subsidies of nearly \$3.2 million<sup>87</sup> to Harlem Village Academy – West (M335) for an elementary school located on 74 West 124<sup>th</sup> Street.<sup>88</sup> The building was purchased in 2012 by "HVA 124 LLC" for \$13 million according to property records, before the charter amendment was passed.<sup>89</sup> Jonathan Gray, President and Chief Operating Officer of the global real estate group Blackstone<sup>90</sup> donated

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<sup>83</sup> As of FY 2019, the building currently houses students from grades K-2 with planned grades to go up to fourth grade, according to the Success Academy website. According to annual report for 2017-2018, it also houses students from grades five and six that are enrolled in "Success Academy-Union Square". There is no information available on whether there are any more grades in the building as of 2018-2019.

<sup>84</sup> Success Academy press release, Robertson Foundation gives \$20 million to Success Academy's first K-8 lab school, Nov. 15, 2017. <https://www.successacademies.org/press-releases/legendary-investor-julian-robertson-announces-new-20-million-gift-to-accelerate-sharing-out-of-success-academys-innovations/>

<sup>85</sup> Success Academy press release, Robertson Foundation donates additional \$25 million to Success Academy, April 12, 2016. <https://www.successacademies.org/press-releases/success-academy-receives-25-million-gift-from-the-robertson-foundation-to-expand-system-of-top-tier-public-charter-schools/>

<sup>86</sup> Ben Chapman, Barred from public schools: Success Academy charter boss drops \$68M on classroom spaces in luxury Midtown building. New York Daily News, Dec. 16, 2016. <https://www.nydailynews.com/new-york/success-academy-boss-buys-68m-classroom-space-midtown-tower-article-1.2912470>

<sup>87</sup> FY 2015 to FY 2019 DOE Charter lease reports indicate that one Harlem Village school, "Harlem Village Academy – East" (M709), has been receiving per pupil subsidies. However, this information is inconsistent with independently audited financial statements. Financial statements and annual reports suggest that "Harlem Village Academy - West" (M335) (Formerly "Harlem Village Academy") has been the school receiving lease subsidies instead of Harlem Village Academy – East. Financial statements are available here: <http://www.p12.nysed.gov/psc/csdirectory/HarlemVillageAcademyCharterSchool/home.html>

<sup>88</sup> Lease subsidy costs from DOE Charter Lease Reports FY 2015 to FY 2019. Annual reports show that Harlem Village Academy – East (M335) is located at 74 West 124<sup>th</sup> St where they are housing a new and expanding elementary school.

<sup>89</sup> Property records for building here: [https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentDetail?doc\\_id=2012040500536001](https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentDetail?doc_id=2012040500536001). Purchase agreement available here listed under Exhibit E, page 57 of the PDF: [https://www.omnimgt.com/CMSVol/CMSDocs/pub\\_46342/283639\\_154.pdf](https://www.omnimgt.com/CMSVol/CMSDocs/pub_46342/283639_154.pdf)

<sup>90</sup> Biography of Jonathan Gray, President and Chief Operating Officer of Blackstone. <https://www.blackstone.com/the-firm/our-people/person?person=1000334>

\$10 million for the purchase of the building<sup>91</sup> and gave an additional \$15 million for building renovations.<sup>92</sup> Part of the renovation costs were also paid by federal New Market Tax credits. According to the Harlem Village Academy financial statements, “HVA 124 LLC” is a limited liability company in which the HVA CMO is the sole member.<sup>93</sup>

Since FY 2015, the DOE has provided approximately \$2.1 million in lease subsidies to Harlem Children's Zone Promise Academy II Charter School (M341) in a building on 35 East 125th Street.<sup>94</sup> According to city records, this building has been owned by “Rheedlen 125<sup>th</sup> Street LLC” since 2000,<sup>95</sup> which is a subsidiary of the Harlem Children Zone network and their sole member.<sup>96</sup>

Beginning with Children Charter School II (K037) is located in two sites, with its middle grades housed at 11 Bartlett Street in Brooklyn, which receives lease subsidies.<sup>97</sup> For many years, Pfizer had leased the building to “Beginning with Children Charter School 1”<sup>98</sup> for one

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<sup>91</sup> Tom Acitelli, On the rise in central Harlem. Crain's New York Business, Jul 25, 2018.

[https://www.crainsnewyork.com/article/20180725/REAL\\_ESTATE/180729946/on-the-rise-in-central-harlem](https://www.crainsnewyork.com/article/20180725/REAL_ESTATE/180729946/on-the-rise-in-central-harlem)

<sup>92</sup> Ade Andeiji, Why is This Private Equity Billionaire Helping Build Charter Schools in Harlem? *Inside Philanthropy*. Jan. 23, 2015. <https://www.insidephilanthropy.com/wall-street-wallets/2015/1/23/why-is-this-private-equity-billionaire-helping-build-charter.html>

<sup>93</sup> According to page 10 of their 2014 Financial statement: “On April 4, 2012, HVA 124 LLC, a limited liability company in which the Network is the sole member, closed on the purchase of the former Rice High School building on West 124th Street. Renovations of the building were substantially completed in August 2013. The elementary school started the 2013-14 school year in the newly renovated facility. Renovations on the building were partially funded through New Markets Tax Credit loans to HVA 124, LLC which leases the building to the School. The School pays rent monthly as stipulated in the lease agreement.” Source:

<http://www.p12.nysed.gov/psc/csdirectory/HarlemVillageAcademyCharterSchool/HarIVAARCnR.pdf>

<sup>94</sup> DOE Charter Lease Report FY 2018 - FY 2019

<sup>95</sup> Rheedlen Centers for Children and Family was the original name of Harlem Children Zone when it first began in 1970. According to property records, Rheedlen 125<sup>th</sup> LLC has maintained ownership of the building since 2000. Copy of the deed is available here: [https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc\\_id=FT\\_1360007266736](https://a836-acris.nyc.gov/DS/DocumentSearch/DocumentImageView?doc_id=FT_1360007266736)

<sup>96</sup> According to a HCZ financial audit in 2017, “During fiscal 2015, the Organization entered into a five year lease agreement with Promise Academy II Charter School (“School II”) for School II’s use of the space located at 35 East 125th St, New York, New York, a property owned by the Organization. Pursuant to the terms of this lease, the Organization received \$1,721,177 and \$1,671,000 in rent revenue from School II during fiscal 2016 and 2015, respectively, which is included in rental income on the accompanying consolidated statement of activities.” Financial statement available here: <https://hcz.org/wp-content/uploads/2017/01/Harlem-Children-Zone-Inc.-and-Sub-6-30-16-FINAL.pdf>. According to a business plan document, the Harlem Children had purchased the land and built and constructed a building. It is unclear when and how much was spent. See Harlem Children Zone Business Plan document: <https://www.bridgespan.org/bridgespan/Images/articles/harlem-childrens-zone-business-plan/HCZ-Business-plan-April-02.pdf>

<sup>97</sup> Charter School Information found here:

<http://www.p12.nysed.gov/psc/csdirectory/BeginningWithChildrenIICharterSchool/BegChild2AR1718.pdf>. See also the school website at <https://www.bwccs2.org/>

<sup>98</sup> More information on the history of the school and building in this article:

<https://www.nytimes.com/1991/11/21/nyregion/after-2-years-couple-can-give-new-york-a-school.html>

dollar a year.<sup>99</sup> In return, Pfizer received \$46 million in tax breaks over fifteen years, according to Gothamist.

The Beginning with Children Charter School 1 closed in 2016.<sup>100</sup> In 2017, the building was purchased for ten dollars from Pfizer by an LLC with a deed<sup>101</sup> signed by the Beginning with Children Foundation.<sup>102</sup> Now the foundation charges rent to the Beginning with Children II charter school, amounting to \$910,000 for FY 2019, increasing to \$1,014,000 in FY 2020 and FY 2021.<sup>103</sup> Of that amount, the DOE paid \$200,803.82 and \$461,965 in per pupil lease assistance in FY 2018 and FY 2019, which suggests that the foundation may be earning a considerable profit off the city's subsidies.

Family Life Charter Schools (FLACS) was founded in 2000 in partnership with the Latino Pastoral Action Center (LPAC), currently led by the president and founder of LPAC, Rev. Dr. Raymond Rivera.<sup>104</sup> According to GuideStar, LPAC was incorporated as a non-profit in 1997 and is headquartered in a building on 14 West 170 St. in the Bronx.<sup>105</sup> Property records show the building is owned by LPAC<sup>106</sup> and tax forms show that they receive rental income.<sup>107</sup> Rev. Rivera also currently serves on the Board of Trustees of Family Life Charter Schools.<sup>108</sup> Family Life Charter School II, which opened in 2012, was located in the same

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<sup>99</sup>The Gothamist article claimed that the school was in this location since the 1980's.

[http://gothamist.com/2007/01/28/pfizers\\_long\\_hi.php](http://gothamist.com/2007/01/28/pfizers_long_hi.php). Yet a history of the school in Chalkbeat reports that Beginning with Children was founded in 1992 and became a charter school in 2001. <https://www.chalkbeat.org/posts/ny/2016/02/12/city-moves-to-shutter-three-charter-schools-including-beginning-with-children/>

<sup>100</sup> Sam Roberts, Carol F. Reich, Charter School Innovator, Is Dead at 83. *The New York Times*, Feb. 13, 2019. <https://www.nytimes.com/2019/02/13/obituaries/carol-f-reich-dead.html>

<sup>101</sup> Building sale listed on page 447 here: [https://www1.nyc.gov/assets/finance/downloads/pdf/rolling\\_sales/annualized-sales/2017/2017\\_brooklyn.pdf](https://www1.nyc.gov/assets/finance/downloads/pdf/rolling_sales/annualized-sales/2017/2017_brooklyn.pdf). Deed for property here: [https://www1.nyc.gov/assets/finance/downloads/pdf/rolling\\_sales/annualized-sales/2017/2017\\_brooklyn.pdf](https://www1.nyc.gov/assets/finance/downloads/pdf/rolling_sales/annualized-sales/2017/2017_brooklyn.pdf)

<sup>102</sup> A deed for the 11 Bartlett St. Property, signed on December 2017, transferred ownership from Pfizer Inc. to "11 Bartlett Owner, LLC". Nancy Lewson Kurz, the executive director of Beginning with Children Foundation, signed the deed on behalf of "11 Bartlett Owner, LLC".

<sup>103</sup> Community Partnership Charter School Education Corporation Financial Statements and Combining Supplementary Information Years Ended June 30, 2018 and 2017 found here: [http://www.newyorkcharters.org/wp-content/uploads/Community-Partnership-Ed-Corp-Combined\\_2017-18-AFR.pdf](http://www.newyorkcharters.org/wp-content/uploads/Community-Partnership-Ed-Corp-Combined_2017-18-AFR.pdf), p.14.

<sup>104</sup> Evidence of potential conflicts of interest was reported in 2010 in the NY Daily News: "The school also pays rent to Rivera's nonprofit, the Latino Pastoral Action Center, for its W. 170th St. building. Last year, Family Life shelled out \$400,000." Meredith Kolodner, Rachel Monahan and Greg B. Smith, Nepotism, Conflict of Interest Find a Home at Charter Schools, NY Daily News, April 21, 2010 at: <https://www.nydailynews.com/new-york/education/nepotism-conflict-interest-find-home-charter-schools-article-1.165973>.

<sup>105</sup> Latino Pastoral Action Center summary found here: <https://www.guidestar.org/profile/13-3883350>

<sup>106</sup> NYC Department of Planning via. PLUTO data map.

<sup>107</sup> In 2016, LPAC received \$1,019,339 in rental income according to their 2016 Form 990. It is unclear where the money is coming from.

<sup>108</sup> LPAC leadership available here: <http://www.lpacny.com/leadership>. FLCS Board of Trustees roster here: [https://flacs3.flacsny.com/apps/pages/index.jsp?uREC\\_ID=287780&type=d&pREC\\_ID=661544](https://flacs3.flacsny.com/apps/pages/index.jsp?uREC_ID=287780&type=d&pREC_ID=661544)

building as LPAC in FY 2018 and received \$862,696 from DOE in lease subsidies that year.<sup>109</sup>

East Harlem Scholars Academy (M518) is located in 2050 Second Avenue, and has been receiving lease subsidies from DOE every year since FY 2016, amounting to \$3.1 million dollars.<sup>110</sup> The East Harlem Tutorial program, the management company of East Harlem Scholars Academy, agreed to lease a building to East Harlem Scholars Academy in 2015. Property records show that the building is owned by East Harlem Center, LLC which is “wholly owned subsidiary” of East Harlem Tutorial Program, the management organization of the charter school.<sup>111</sup> According to the Daily News, the building cost \$30 million dollars to construct, which was partially funded with a \$15 million donation from James Simons and his wife, Marilyn Simons, president of the Simons Foundation.<sup>112</sup>

Metropolitan Lighthouse Charter School is located at 180 W. 165<sup>th</sup> street in the Bronx. According to its financial statements, the school is the sole member of “180 W. 165<sup>th</sup> Street LLC”, a limited liability company created in June 14, 2017 to borrow bonds to purchase the building.<sup>113</sup> On December 1, 2017, the charter school obtained low-interest and tax-exempt financing of \$25,725,000 from Build NYC Resource Corporation, a local development corporation of the City of New York, to cover the purchase price of the building and make improvements.<sup>114</sup> In addition, the school has received \$2.6 million in lease assistance from DOE since that date.

The DOE paid lease assistance to DREAM Charter School for FY 2018, amounting to \$433,630 for a 9th grade level expansion<sup>115</sup> in a building at 1991 Second Avenue.<sup>116</sup> This is despite the fact that the city had already contributed \$32.5 million for the school’s

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<sup>109</sup> FLAC II is no longer in the LPAC owned building and is now located in a private building on 296 East 140 Street for the FY 2018-2019 where they continue to receive lease subsidies. According to the FY 2018 Financial Statement: “during the year ended June 30, 2018 a portion of the FLACS I facility was used for FLACS II students, therefore \$327,880 of this base rent was allocated to FLACS II for the year ended June 30, 2018.” Source: [http://www.newyorkcharters.org/wp-content/uploads/Family-Life-Academy-Charter-Schools-Combined\\_2017-18-AFR-1.pdf](http://www.newyorkcharters.org/wp-content/uploads/Family-Life-Academy-Charter-Schools-Combined_2017-18-AFR-1.pdf)

<sup>110</sup> East Harlem Scholars Academy Charter School Financial Statements Together With Independent Auditors’ Reports, June 30, 2018 at: <http://www.p12.nysed.gov/psc/csdirectory/EastHarlemScholarsAcademyCharterSchool/EHSAFS1718.pdf>

<sup>111</sup> Ibid, page 12. Financial records also show that the LLC paid for utility costs on behalf of the school, with a balance due for FY 2017 and FY 2018 totaling \$239,739 and \$133,917.

<sup>112</sup> Michael J. Feeney, East Harlem Tutorial Program ready for new \$30 million facility. *New York Daily News*, Jun 18, 2014. <https://www.nydailynews.com/new-york/manhattan/e-harlem-program-new-digs-article-1.1835292>

<sup>113</sup> Annual Report: <http://www.p12.nysed.gov/psc/csdirectory/MetropolitanLighthouseCharterSchool/MetroFS1718.pdf>

<sup>114</sup> Financial Audit for 2017-2018. Available here: [https://www.nycedc.com/sites/default/files/filemanager/Build\\_NYC/financial\\_and\\_public\\_documents/Official\\_Statement\\_-\\_Metropolitan\\_Lighthouse\\_Charter\\_School\\_-\\_Series\\_2017.pdf](https://www.nycedc.com/sites/default/files/filemanager/Build_NYC/financial_and_public_documents/Official_Statement_-_Metropolitan_Lighthouse_Charter_School_-_Series_2017.pdf)

<sup>115</sup> Commissioner’s decision on appeal available here: <http://www.counsel.nysed.gov/Decisions/volume55/d16906>

<sup>116</sup> [http://www.newyorkcharters.org/wp-content/uploads/dream-cs-nyc-chancellor\\_Redacted.pdf](http://www.newyorkcharters.org/wp-content/uploads/dream-cs-nyc-chancellor_Redacted.pdf)

construction, as reported in the 2010-2014 School Construction Authority capital plan.<sup>117</sup> According to city records, the building was constructed on land purchased from the New York City Housing Authority.<sup>118</sup> We could not ascertain through the charter school's financial statement if DREAM pays rent for the space.<sup>119</sup>

## Cost of DOE Expenditures for Lease Assistance and Matching Funds for each CMO

Of the 115 co-located charter schools that triggered matching funds for FY 2014 to FY 2019, seventy of these schools were operated by a “major” charter management organization (CMO), an organization with three or more charter schools that triggered matching funds or received lease assistance.<sup>120</sup>

We identified nine major CMOs that both triggered matching funds for co-located public schools and/or received lease assistance. Lease assistance consists both of lease subsidies and costs for leases held directly by DOE. The largest number was the Success Academy network, with 25 co-located charter schools that triggered matching funds and eleven schools receiving lease assistance. The second highest was Uncommon Schools, with 12 co-located charter schools. The figure below shows the number of co-located charter schools in each CMO that either triggered matching funds and/or received lease assistance.

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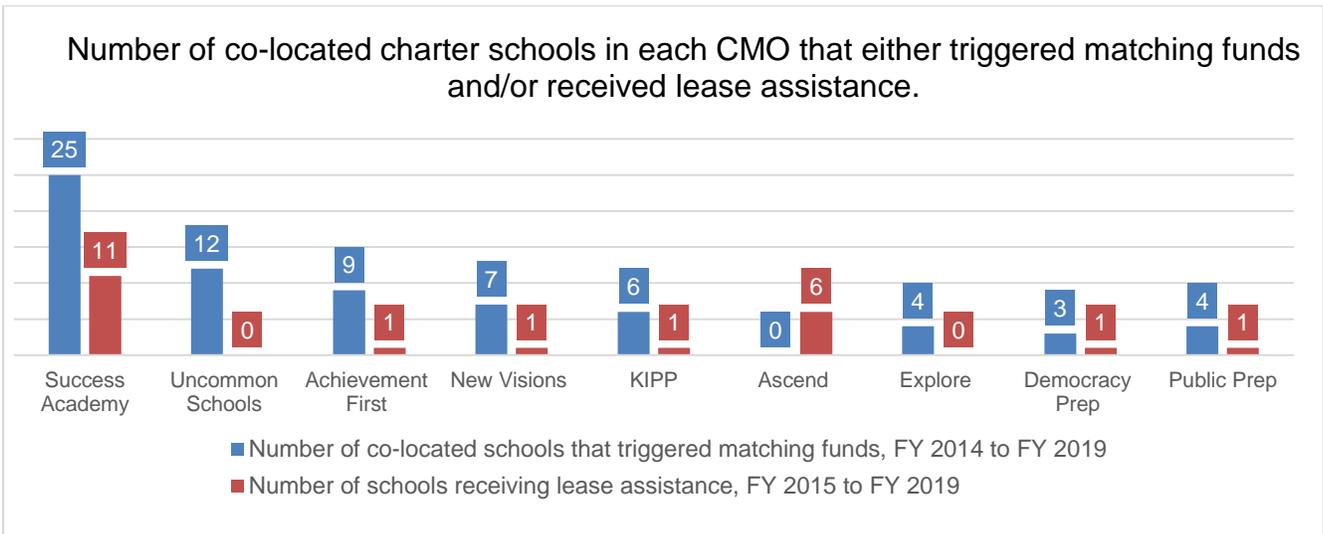
<sup>117</sup> Class Size Matters, *Space Crunch in New York City Public Schools: Failures in policy and planning leading to overcrowding in the city's schools*, June 2014 at: <https://www.classsizematters.org/wp-content/uploads/2014/06/SPACE-CRUNCH-Report-Final-OL.pdf>. This report showed that a school for 450 seats for DREAM charter schools was funded in the 2010-2014 Capital Plan. See also “The school, office space, and park were financed through a \$32.5 million grant from the School Construction Authority’s Charter Facilities Matching Grant Program and \$20 million raised by Harlem RBI.” Press release, NYC Housing Development Corporation, New York Yankee Mark Teixeira, Jazz Musicians Wynton Marsalis and Carlos Henriquez Join Congressman Charlie Rangel, HPD, HDC, Jonathan Rose Companies and Harlem RBI and DREAM Charter School Educators, Parents, Students and Partners to Celebrate New \$84 Million Development, Oct. 15, 2015. [http://www.nychdc.com/pr\\_10-15-2015](http://www.nychdc.com/pr_10-15-2015). More information on the building available here: <https://www.waltonfamilyfoundation.org/stories/k-12-education/dreaming-the-dream-in-harlem>

<sup>118</sup> Retrieved through the NYC Automated City Register Information System at <https://a836-acris.nyc.gov/CP/> for 1991 Second Avenue.

<sup>119</sup> In FY 2019, the school received \$900,772 in lease subsidies from DOE, however, the students that were eligible for lease subsidies (grades 9,10) moved into another private building on 439 East 115<sup>th</sup> Street for FY 2019. None of the students currently in 1991 Second Avenue are eligible for lease subsidies See: <http://www.p12.nysed.gov/psc/csdirectory/DreamCharterSchool/DREAMar1718.pdf>

<sup>120</sup> DOE Charter Matching Tracker FY 2014 to FY 2019

**Figure 10. Number of co-located charter schools in each CMO that either triggered matching funds and/or received lease assistance.**



Source: DOE Lease Reports, DOE Charter Lease Reports, Checkbook NYC, DOE Matching Funds Report (FY 2014-2019)

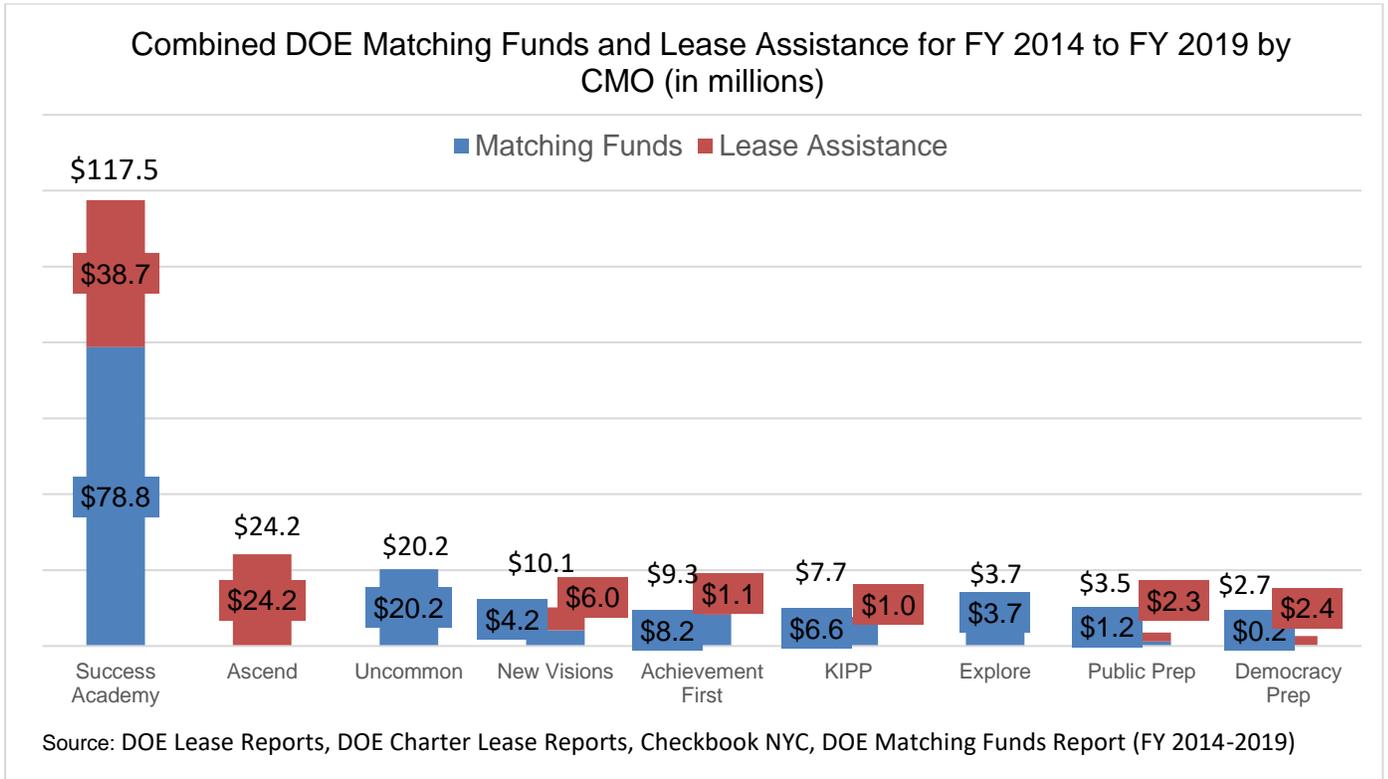
We also analyzed the total combined projected public spending on lease assistance and matching funds spent by DOE for each CMO from FY 2014 to 2019. Again, we find that the amount of public funds spent for Success Academy through facility lease assistance and matching funds for co-located schools far exceeds that spent on behalf of any other network.

The figure below shows a projected \$38.7 million public funds spent in direct leases and lease subsidies for Success Academy<sup>121</sup> and about \$78.8 million to match their renovation expenditures in their co-located buildings between FY 2014 to 2019<sup>122</sup>, for a total of \$117.5 million.

<sup>121</sup> NYC DOE Lease Report FY 2015 to FY 2019 and NYC DOE Charter Lease Report FY 2015 to FY 2019, Checkbook NYC.

<sup>122</sup> NYC Department of Education, Charter Matching Tracker FY 2014 to FY 2019.

**Figure 11. Combined DOE Matching Funds and Lease Assistance for FY 2014 to FY 2019 by CMO (in millions)**



Ascend Schools had the second highest total for lease assistance at \$24.2 million from FY 2014 to FY 2019.<sup>123</sup> This was spent entirely on per-student subsidies for private space, as there was no documented spending by Ascend on facility upgrades in their co-located schools. Total spending on facility upgrades and projected lease assistance on Uncommon, New Visions, and Achievement First charter schools followed.

### Proposed legislation dealing with the city’s obligation to provide charter schools with space

During the 2019 New York State Legislative session, at least two bills were introduced to amend the charter school law. One of these bills, Senate 4237, sponsored by Senator Brad Hoylman, dealt with many issues; among them the legal obligation of the public to pay for charter school space.<sup>124</sup>

The bill would require that any new or expanding charter approved by the 2014-2015 school year must first prove it lacked the financial capacity to afford rent at fair market value before

<sup>123</sup> DOE “Lease Assistance” and NYC DOE “Charter Lease Report,” FY 2015 to FY 2019.

<sup>124</sup> S4237 (Hoylman) 2019 legislative text found here: <https://legislation.nysenate.gov/pdf/bills/2019/S4237>

receiving lease assistance from DOE; it would also be eligible for free space or rent subsidies only for the first three years of its operations.

If a charter school or its “affiliates” had assets of over one million dollars, it would be ineligible to demand either rental assistance from DOE or co-location in a public school building. Affiliates were defined as “any entity that provides management, fundraising or other administrative support services to the charter school.”

This provision would likely rule out the city’s obligation to provide space or rent subsidies to any of the charter schools associated with the larger CMOs. A charter school could still be located in a public school if DOE voluntarily chose to provide it with the space, but only if it paid “fair market value” for it, and only if the school did not negatively impact class sizes in any public school housed in the same building .

## Conclusion and Policy Proposals

The NYC Department of Education (“DOE”) has spent hundreds of millions of dollars on providing space for charter schools and matching funds for public schools co-located with charter schools, with the amount increasing rapidly each year, from \$33.2 million in FY 2014 to \$125.2 million in FY 2019, for a total of \$377.5 million over the same period.

If the same \$125 million was instead spent on annual payments for bonds to finance school construction, this would cover the cost of nearly a 50 percent boost in the number of additional school seats to be built in the five-year school capital plan. This would substantially help alleviate the chronic overcrowding in our public schools.<sup>125</sup>

This report does not include an exhaustive list of the expenditures made by DOE for charter schools, either for those either co-located or in their own buildings. In many if not most cases, DOE is also paying for electricity, heating, food services, custodial, and school safety officers for charter schools co-located in public school buildings. There is also at least one charter school, Success Academy East Flatbush, that has an entire DOE building for itself, and we do not know the extent to which the city is still paying for its energy, labor and upkeep costs.

- **Policy proposal:** The NY State Legislature should consider if the law requiring the NYC Department of Education to subsidize the cost of private space for charter schools should be amended or entirely rescinded. New York City is the only school district in either the state or the nation required by law to cover the cost of private space for new and expanding charter schools, and the cost is rising fast and has now surpassed \$100 million per year.<sup>126</sup>

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<sup>125</sup> This estimate is from Sarita Subramanian of the Independent Budget Office, email to Leonie Haimson on June 25, 2019. In the 2020-2024 February 2019 Capital Plan amendment, the average cost per seat for new capacity projects is \$129,565. Assuming a 6.0 percent interest rate over 30 years, that would pay for annual payments on a \$3.44 billion bond, given the state reimbursement rate for school capital projects of 50 percent.

<sup>126</sup> The only other state which requires charter schools be provided space by the district is California where a district is legally required to provide space in public schools, but only where it is available, and even then, the charter school must

The proposals put forward last year in Senate Bill 4237 should be seriously considered for adoption, which would obligate DOE to provide space for charter schools only in the first three years of their operations, and only if the school or its affiliated organizations had assets of less than a million dollars.

The most startling of our discoveries relates to the amount of funding going towards the yearly “rent” for eight charter schools housed in seven buildings owned by their management organizations or related foundations or LLCs. Approximately \$14.8 million in per pupil lease assistance has been provided to these charter schools since FY 2015, and the amount is likely to increase substantially over time, as enrollment in some of these schools continues to expand.

In April 2019, the New Jersey Record published a series of exposes about how New Jersey taxpayers had spent millions of dollars to build and renovate charter school buildings that the public did not own. As Bruce Baker, a professor at Rutgers and an expert on school finance pointed out, “We’re putting a lot of public dollars into the acquisition of assets for private hands.”<sup>127</sup>

- **Policy proposal:** The State or City Comptroller or another independent auditor should analyze whether the State Legislature intended for taxpayer funds to be expended on covering the cost of buildings owned directly by a charter school’s CMO or related organization, and if not, what should be done. Officials should carefully analyze whether self-dealing is involved in any of these cases, and whether the charter school is paying more than fair-market value.

The amount spent by co-located charter schools on renovations has also increased sharply from \$9.9 million in FY 2014 to \$17.0 million in FY 2019. The DOE has provided a total of \$131.6 million over this period in matching funds for facilities upgrades to the co-located public schools. However, there is a shortfall of approximately \$22.1 million in matching funds, a gap that is increasing over time.

Some schools, including the six KIPP charter schools and 24 co-located schools in the Success Academy charter chain, engage in facility upgrades requiring matching funds each fiscal year since FY 2015. Success Academy spends an average of \$273,209 annually. The state law requires that the DOE Chancellor must authorize this spending, but there is no evidence so far that any Chancellor has disallowed any expenditures made by charters for this purpose.

- **Policy proposal:** The State or City Comptroller or another independent auditor should analyze the DOE spending of matching funds to public schools co-located with

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provide payments for the space. The majority of states grant districts the ability to make their own decisions about facilities. More information on differences in charter facility access laws here: <https://www.crpe.org/sites/default/files/crpe-opening-schoolhouse-door-access-space.pdf> (pp. 11-12)

<sup>127</sup>Jean Rimbach and Abbott Koloff, Millions of your tax dollars have disappeared into NJ’s flawed charter school experiment, North Jersey Record Apr. 10, 2019. <https://www.northjersey.com/in-depth/news/watchdog/2019/03/27/nj-charter-schools-nj-tax-money-disappearing/2139903002/>.

charters to determine if whether the expenditures are equitable and comply with the law, given the apparent shortfall of over \$22 million. They should also investigate whether it is true that the DOE rarely if ever refuses a request by a charter school to spend substantial amounts on renovating its space every year, and if so, why.

DOE total spending on charter lease subsidies and directly on leases for charter schools has been increased sharply from \$13.3 million for 26 charter schools in FY 2015 to \$100.7 million for 103 charter schools in FY 2019, totaling approximately \$246 million over this period. An additional \$87.6 million in state reimbursements over this amount is projected for charter lease subsidies for FY 2014 to FY 2019.

Yet there is no state reimbursement for these lease costs, unless the charter school has gone through an appeal process. Because \$62.2 million amount has been voluntarily spent by DOE to cover the cost of private leases of charter schools without requiring they appeal, the city has sacrificed about \$36 million in state funds over this period.

Even though the cap on the total number of charter schools authorized to open in New York City was reached in FY 2019, the cost of the city's lease subsidy is likely to continue to grow, because many charter schools already authorized have yet to open, others are still expanding in enrollment and the per student amount, linked to public school per student expenditures, will also increase over time.

According to the NYSED website, 28 additional charter schools were due to open in the city in the fall of 2019 and another 24 are slated to open between 2020 and 2023.<sup>128</sup> Of those schools, at least seven Success Academy schools have already been authorized by SUNY but do not plan to open until 2021 or 2022.<sup>129</sup>

- **Policy proposal:** The audit should verify whether the \$17.1 million DOE spends directly on leases for private spaces that house charter schools outstrips what they would have spent if the charter school went through the appeal process and received a lease subsidy, especially given state reimbursement for the latter. If so, the DOE should decide whether its practice of leasing private space directly for charter schools should continue. The Comptroller should also determine whether the level of rent subsidy that has increased by 72 percent through acts of the Legislature since FY 2017 is fair and appropriate.

In addition, in FY 2019, DOE spreadsheets reported that 39 charter schools were projected to receive lease subsidies, amounting to more than the listed base rent despite the fact that

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<sup>128</sup> List of charter schools operating and slated to open here: <http://www.newyorkcharters.org/suny-authorized-schools/new-york-city/>. Appeals of charter schools found in this database: [http://search.its.ny.gov/search?q=&site=nysed\\_com\\_decisions\\_collection&btnG=Search+Decisions&site=&client=nysed\\_com\\_decisions\\_frontend&proxystylesheet=nysed\\_com\\_decisions\\_frontend&output=xml\\_no\\_dtd](http://search.its.ny.gov/search?q=&site=nysed_com_decisions_collection&btnG=Search+Decisions&site=&client=nysed_com_decisions_frontend&proxystylesheet=nysed_com_decisions_frontend&output=xml_no_dtd)

<sup>129</sup> List of operating or authorized to open Success Academy Charter schools listed in this renewal report: [https://www.suny.edu/about/leadership/board-of-trustees/meetings/webcastdocs/IIIA6\\_Success%20BedStuy1\\_Success%20Upper%20West\\_2019RenewalRecommendationRpt.pdf](https://www.suny.edu/about/leadership/board-of-trustees/meetings/webcastdocs/IIIA6_Success%20BedStuy1_Success%20Upper%20West_2019RenewalRecommendationRpt.pdf)

NYC charter law states that the “lease subsidy” must be equivalent to whichever is lower: the per pupil subsidy or the total base rent. The spreadsheet offers no explanation for this anomaly.<sup>130</sup>

- **Policy proposal:** The audit should investigate whether these schools are receiving higher lease subsidies than legally required.

All in all, the onerous legal obligations inserted in the 2014 state budget requiring the city to provide space for charter schools at public expense has diverted hundreds of millions of dollars from DOE’s budget, while giving preferential treatment to charter schools at the same time as more than half a million public students are subjected to school overcrowding, according to the DOE statistics.<sup>131</sup>

The cost to the city to provide space for charter schools in private buildings has increased by more than six fold over the last five years and is now over \$100 million per year. If the current trend continues, the amount spent may soon exceed the city’s annual cost of payments to finance the capacity portion of the five-year capital plan for new school construction.

- **Policy proposal:** If the Governor and the State Legislature believe that the public should continue to pay for private space for NYC charter schools, then the state, not the city, should be required to cover the entire amount.

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<sup>130</sup> DOE Charter Lease report available on the City Council website <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/02/Department-of-Education-Charter-School-Lease-Report.xlsx>. For schools with more than one building, lease, we added the leases together and then compared that sum to the projected payment.

<sup>131</sup> NYC, Mayor’s Management Report FY 2019, FY 2018 school and student utilization figures in the DOE section posted here: <https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2019/doe.pdf>

## Appendix A. History of Freedom of Information requests and discrepancies in reporting by DOE

On March 26, 2016, Class Size Matters filed a Freedom of Information request for the DOE expenditures for charter school rental assistance and matching funds for facility upgrades to co-located public schools for the fiscal years 2014-2016. After waiting two years without a substantive response, we appealed the constructive denial on May 21, 2018 and updated our request, now asking for this information through FY 2017.

On June 5, 2018 we received two Excel files, which according to the FOIL office were provided by the DOE's Division of Operations and the Office of School Design & Charter Partnerships. Yet one spreadsheet had columns headed by "Charter Project Estimate" and "Potential DOE Cost," rather than actual expenditures.

Moreover, a spreadsheet entitled "Charter Partnerships" only included DOE assistance for charter leases from FY 2015 through FY 2017 and had no Success charter schools listed. Yet as we noted, there were at least five Success charter schools leased directly by DOE on their behalf as of FY 2017, according to a Success Renewal report posted on the SUNY Charter Institute website.<sup>132</sup> We eventually figured out this was because none of the expenditures made by DOE for leasing buildings directly for charter schools were included in this spreadsheet.

The "Charter Partnerships" spreadsheet also had major discrepancies regarding annual amounts being spent in lease subsidies for Family Life Academy schools. For FY 2016, the FOILED DOE lease report stated "Family Life Academy Charter School" and "Family Life Academy Charter School II" were given lease subsidies of \$785,373.46 and \$216,340.17 respectively.

According to independent financial audits for FY 2016, Family Life II and Family Life III were given lease subsidies of \$216,340.17 and \$491,043.00 respectively. For FY 2017, the FOILED DOE lease report stated "Family Life Charter School" received \$950,259.12. FY 2017 financial audits show that "Family Life Academy II" and "Family life Academy III" were given \$387,776 and \$356,239 respectively. Not only is the lease subsidy information different, it was unclear in the spreadsheets which Family Life Charter school are being paid a lease subsidy.

We appealed again on June 14, 2018, noting the omissions regarding Success Academy schools. On June 29, 2018, we received a new DOE spreadsheet that contained expenditures for matching funds for co-located charter schools, rather than projected costs. We also received another spreadsheet for direct costs of the leases DOE enters into for charter schools for FY 2015 through FY 2017 that included the five Success Academy

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<sup>132</sup> These are the schools omitted from the original spreadsheet: SA Bushwick, SA Flatbush, SA Rosedale, SA South Jamaica, and SA Washington Heights, SA Harlem 4 housed in "NYC DOE leased" buildings as of the 2016-2017 school year, according to a document produced by Success Academy and posted on the SUNY Charter Institute website at <http://www.newyorkcharters.org/wp-content/uploads/Success-Academy-Bronx-2-Renewal-Recommendation-2016-17.pdf> Pages AX 24-AX 26 and Checkbook NYC.

charter schools that had originally been omitted. Later, we discovered through Checkbook NYC there was yet another private building DOE leased to Success Academy Harlem 4 for FY 2015 through FY 2017 which was neither mentioned in the Renewal Report or any of the spreadsheets we received through FOIL.

We also received a spreadsheet “Lease Report 3.20.18” for Fiscal 2018 from the City Council with missing information regarding some additional Success Academy leases held by the DOE. Success Academy Harlem 1 and Success Academy Harlem 3 were listed in the “School Programs in buildings” spreadsheet tab but no lease costs were indicated for these schools in the spreadsheet. Success Academy Rosedale, Success Academy Washington Heights, Success Academy Harlem 4 were also missing in the spreadsheet, despite having their lease costs reported in the other lease report, dated January 2017.

The FY 2018 Charter Lease Report available through the City Council website also has missing lease subsidy information for Canarsie Ascend, which we eventually found in Ascend’s FY 2018 independently audited financial statement.

The lease cost information missing from these various spreadsheets were eventually retrieved through Checkbook NYC or from financial statements of charter schools conducted from an independent auditor. If there was conflicting information, we used the financial audits as the most authoritative source, followed by Checkbook NYC, DOE lease reports, and DOE charter lease reports.

## Appendix B. Total Missing Matching Funds by School

The table below lists the 175 co-located public schools that did not receive their full quotient of matching funds over the period FY 2014 to FY 2019, as well as how much they did not receive, and which co-located charter school’s spending should have triggered additional matching funds.

**Figure 12. Total Missing Matching Funds by School, FY 2014 to FY 2019**

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
75	M811	Mickey Mantle School	\$1,501,650.95	Success Academy Harlem 1 (M351), Success Academy Harlem 3 (M385)
14	K368	K368 Sped	\$1,199,824.26	Success Academy Bed-Stuy 1 (K367), Success Academy Cobble Hill (K129)
4	M375	Ps/Is 375	\$913,229.03	Success Academy Harlem 3(M101)
7	X168	X168 Sped	\$615,009.14	Success Academy Bronx 1 (X493), Equality Charter School (X488)
3	M149	P.S. 149	\$588,421.92	Success Academy Harlem 1 (M101)
7	X551	The Urban Assembly Bronx Academy of Letters	\$579,667.14	Success Academy Bronx 1 (X493)
13	K265	I.S. 265	\$521,853.34	Success Academy Fort Greene (K752)
5	M286	I.S 286 Renaissance Leadership Academy	\$474,566.60	Success Academy Charter School - Harlem North West (M384)
5	M369	Urban Assembly School for The Performing Arts	\$474,566.60	Success Academy Charter School - Harlem North West (M384)
5	M123	P.S. 123	\$436,124.05	Success Academy Harlem 5 (M482)
5	M367	I.S. 367	\$421,724.20	Success Academy Charter School - Harlem North West (M384)
15	K429	Digital Arts and Cinema Technology High School	\$393,961.99	Success Academy Cobble Hill (K129)
15	K497	School for International Studies	\$393,961.99	Success Academy Cobble Hill (K129)
4	M224	I.S. 224	\$356,751.85	Success Academy Harlem 3 Extension (M385)
2	M500	Unity High School	\$348,766.84	Success Academy Charter High School - Manhattan HS (M351)

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
2	M427	Manhattan Academy of Arts and Language -	\$348,766.84	Success Academy Charter High School - Manhattan HS (M351)
2	M432	Murray Hill Academy High School	\$348,766.84	Success Academy Charter High School - Manhattan HS (M351)
14	K050	J.H.S. 50	\$327,290.04	Success Academy Williamsburg (K182), Achievement First Brownsville ES (K626)
32	K347	I.S. 347	\$315,549.96	Achievement First University Prep (K358)
32	K349	I.S. 349	\$315,549.96	Achievement First University Prep (K358)
17	K354	M.S. 354	\$286,200.00	KIPP AMP Academy Charter School (K357)
21	K096	I.S. 96	\$269,281.16	Success Academy Charter School - Bensonhurst (NY 3(K772)
2	M393	The Business of Sports School	\$240,078.28	Success Academy Hell's Kitchen (M170)
2	M507	Urban Assembly Gateway School for Technology	\$240,078.28	Success Academy Hell's Kitchen (M170)
13	K140	K140 Sped	\$232,000.00	Leadership Prep Bedford Stuyvesant Elementary Academy Charter School (K517)
17	K138	P.S. 138	\$222,840.60	Success Academy Prospect Heights (K756)
18	K598	Middle School of Marketing & Legal Studies	\$215,550.00	Kings Elementary School (K608)
2	M139	Stephen T. Mather Building Arts & Craftsmanship High School	\$209,473.45	Success Academy Hell's Kitchen (M170)
2	M374	Gramercy Arts High School	\$207,835.18	Success Academy Hell's Kitchen (M170)
2	M533	H.S. 533	\$207,835.18	Success Academy Hell's Kitchen (M170)
2	M546	H.S. 546	\$207,835.18	Success Academy Hell's Kitchen (M170)
2	M399	The High School for Language and Diplomacy	\$207,835.18	Success Academy Hell's Kitchen (M170)

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
2	M438	International High School at Union Square	\$207,835.08	Success Academy Hell's Kitchen (M170)
5	M514	New Design Middle School	\$200,267.80	KIPP Infinity Charter School (M336)
5	M175	P.S. 175	\$192,681.68	Success Academy Harlem Middle School North Central (M482)
4, 5,6	M138	M138 Sped	\$177,643.00	KIPP NYC Washington Heights Academy Charter School (M068), Harlem Village Academy East (M335), Success Academy Harlem 2 (M384)
13	K553	Brooklyn Academy High School	\$176,250.00	Brooklyn East Collegiate charter School (780), Leadership Prep Bedford Stuyvesant Uncommon Prep Charter School (K517)
8	X131	I.S. 131	\$163,534.96	Success Academy Charter School (X464)
8	X448	Soundview Academy for Culture and Scholarship	\$163,534.96	Success Academy Charter School (X464)
17	K246	I.S. 246	\$152,972.00	Success Academy Ditmas Park (K741)
7, 8	X188	P.S. 188	\$151,160.00	Girls Prep Bronx Middle Charter School (X487), Kipp Academy Elementary School (X704)
22	K078	J.H.S. 078 Roy H. Mann School	\$146,174.06	Success Academy Charter School - Bergen Beach (K781)
17	K221	P.S. 221 Toussaint L'Ouverture	\$142,069.00	Ocean Hill Elementary School (K777)
9	X055	P.S. 55	\$133,630.02	Success Academy Bronx 2 (X055)
7	X548	Urban Assembly School	\$132,742.00	KIPP Academy Elementary School (X704)
7	X527	Bronx Leadership Academy II High School	\$132,742.00	KIPP Academy Elementary School (X704)
7	X547	New Explorers High School	\$132,742.00	KIPP Academy Elementary School (X704)
3	M402	The Urban Assembly School for Green Careers	\$132,582.42	Success Academy Upper West (M523)

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
3	M403	The Global Learning Collaborative	\$132,582.42	Success Academy Upper West (M523)
3	M404	Innovation Diploma Plus	\$132,582.42	Success Academy Upper West (M523)
3	M417	Frank McCourt High School	\$132,582.42	Success Academy Upper West (M523)
17	K161	P.S. 161 The Crown School	\$131,315.00	Success Academy Crown Heights (K471)
19	K654	Van Siclen Community Middle School	\$130,780.96	Achievement First Linden Elementary Charter School (K788)
3	M241	P.S. 241	\$123,380.96	Success Academy Harlem 4 (M113)
29	Q059	I.S. 059 Springfield Gardens	\$119,725.37	Success Academy Charter School - Springfield Gardens (Q339)
27	M053	M.S. 054 Brian Piccolo	\$119,609.75	Success Academy Charter School - Far Rockaway
27	Q319	I.S. 319	\$119,609.75	Success Academy Charter School - Far Rockaway
9	X323	I.S. 323	\$117,372.50	Success Academy Bronx 2 (East 167th)
9	X022	I.S. 22	\$117,372.50	Success Academy Bronx 2 (East 167th)
19	K292	J.H.S. 292 Margaret S. Douglas	\$115,770.00	K292 - UFT School (K359), Achievement First Apollo Middle School (K774)
18	K068	I.S. 68 Isaac Bildersee	\$114,811.44	Explore Excel Charter School (K379), Success Academy - Bergen Beach (K781)
12	X267	I.S. 267	\$111,510.00	Dr. Richard Izquierdo Health and Science Charter School (X482)
5	M030	Ps 30 J Hernandez/Hughes	\$111,147.00	Success Academy Harlem 2 (M384)
6	M115	P.S. 115	\$103,937.00	KIPP STAR Elementary Charter School (M726)
9	X328	I.S. 328	\$100,086.84	Success Academy Bronx 3 (M386)
9	X325	I.S. 325	\$98,583.40	Success Academy Bronx 3 (X380)
19	K202	P.S. 202 - Ernst S. Jenkyns	\$97,142.00	Achievement First Aspire ES (K680)
9	X004	P.S. 4	\$95,092.35	Icahn Charter School 6 (X133)

CSD	Org-ID	School Name	Total Missing	Co-located Charter School
5	M125	P.S. 125	\$94,378.00	KIPP STAR Middle Charter School (M726)
17	K394	I.S. 394	\$93,324.00	Explore Empower Charter School (K742)
18	K576	Victory Collegiate High School	\$93,320.00	Uncommon Charter High School #5 (K517)
18	K578	Brooklyn Bridge Academy	\$93,320.00	Uncommon Charter High School #6 (K517)
18	K637	Academy for Conservation and The Environment	\$93,320.00	Uncommon Charter High School #7 (K517)
6	M319	I.S. 319	\$90,637.00	KIPP NYC Washington Heights Academy Charter School (M068)
6	M324	I.S. 324	\$90,637.00	KIPP NYC Washington Heights Academy Charter School (M068)
8	X093	P.S. 93	\$90,395.73	Icahn Charter School 7 (X362)
8	X107	P.S. 107	\$89,101.65	X107 - Boys Prep Bronx Elementary Charter School (X456), Icahn Charter School 7 (X133)
12	X479	Bronx Career and College Preparatory High School	\$87,760.00	Dr. Richard Izquierdo Health and Science Charter School(X482)
19	K661	Vista Academy	\$87,002.75	Achievement First Apollo ES (K774)
19	K662	Liberty Avenue Middle School	\$87,002.75	Achievement First Apollo ES (K774)
32	K377	P.S. 377 Alejandrina B. De Gautier	\$86,956.00	Achievement First North Brooklyn Prep Charter School (K784)
32	K291	I.S. 291	\$81,376.50	Math, Engineering, and Science Academy (MESA) (K733)
32	K564	Bushwick Community High School	\$81,376.50	Math, Engineering, and Science Academy (MESA) (K733)
7	X031	P.S. 31	\$80,542.00	KIPP Academy Middle Charter School (X704)
7	X151	I.S. 151	\$80,542.00	KIPP Academy Middle Charter School (X704)
18	K566	Brooklyn Generation School	\$78,320.00	Uncommon Charter High School #3 (K517)
18	K567	Brooklyn Theatre Arts High School	\$78,320.00	Uncommon Charter High School #4 (K517)

Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
23	K401	Christopher Avenue Community School	\$72,850.00	Uncommon Leadership Prep Ocean Hill Elementary Academy (K775)
3	M860	J.H.S. 860	\$66,090.02	Success Academy Harlem West (Harlem 1)
3	M415	Wadleigh Arts High School	\$66,090.02	Success Academy Harlem West (Harlem 1)
13	K575	Bed-Stuyvesant Preparatory High School	\$65,900.00	Uncommon Collegiate Charter High School (K648)
17	K092	P.S. 92	\$64,982.11	Lefferts Garden Charter School (K796), Achievement First Voyager Middle School (K796)
14	K297	P.S. 297 - Abraham Stockton	\$62,900.00	Success Academy Myrtle Middle School (KTBA)
16	K025	P.S. 025 Eubie Blake School	\$62,435.00	Success Academy Bed Stuy 3 (K883)
23	K493	I.S. 493	\$62,357.78	Achievement First Brownsville ES (K626)
18	K211	I.S. 211 John Wilson	\$57,349.00	Leadership Prep Canarsie Elementary Charter School (K724)
19	K166	I.S. 166	\$56,321.00	Citizens of the World Crown Heights 2 Charter School
8	X301	I.S. 301	\$53,760.00	Girls Prep Bronx Middle Charter School (X487), Kipp Academy Elementary School (X704)
8	X217	3I.S. 217 - X	\$50,000.00	South Bronx Classical Charter School
5	M362	Columbia Secondary School	\$44,378.00	KIPP STAR Middle Charter School (M726)
2	M460	Washington Irving High School	\$41,951.98	Success Academy Union Square (M174)
6	M164	Community Math & Science	\$39,050.00	WHIN Music Community Charter School (M338)
17	K191	P.S. 191 Paul Robeson	\$38,550.00	Excellence Girls Middle Academy Charter School (K712)
14	K059	William Floyd	\$33,500.00	Success Academy Bed-Stuy 2 (K125)
13	K287	P.S. 287	\$33,125.00	Community Roots (K536)
7	X154	P.S. 154	\$32,511.25	South Bronx Classical Charter School II (X364)
27	Q400	August Marti	\$31,918.44	New Visions HS for Advanced Math and Science (Q320)

Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
29	Q176	P.S. 176	\$31,800.00	Success Academy Charter School - Springfield Gardens (Q339)
17	K141	K141 Sped	\$30,883.61	Explore Charter School (K704)
2	M625	High School of Graphic Comm. Arts	\$30,604.83	Success Academy Hell's Kitchen (M170)
2	M135	The Urban Assembly School for Emergency Management	\$30,604.83	Success Academy Hell's Kitchen (M170)
27	Q261	Voyages Prep - South Queens	\$30,418.44	New Visions HS for Advanced Math and Science IV (Q320)
28	Q752	Queens Transition Ce	\$30,418.44	New Visions HS for Advanced Math and Science IV (Q320)
14	K216	J.H.S. 126 John Ericsson Middle School	\$29,000.00	Citizens of the World Crown Heights 2 Charter School (K389)
12	X211	P.S. 211	\$27,800.00	The Children's Aid College Prep Charter School (X124)
21	K281	I.S. 281 Joseph B Cavallaro	\$27,525.00	New Visions HS for Advance Math and Science IV (Q320)
18	K588	Middle School for Art and Philosophy	\$26,464.00	Uncommon Kings Collegiate (K608)
19	K302	I.S. 302	\$26,402.75	Achievement First Apollo ES (K774)
17	K334	M.S. 334	\$25,200.00	KIPP AMP Academy Charter School (K357)
17	K722	New Heights Middle School	\$23,650.00	Achievement First Crown Heights Charter School (K356)
5	M410	The Urban Assembly Institute for New Technology	\$23,400.00	Success Academy Charter School - Harlem North West (M384)
7	X203	J.H.S. 203	\$21,850.00	Success Academy Bronx 1 (X493)
17	K167	P.S. 167	\$21,353.36	Success Academy Crown Heights (K741)
17	K532	New Brid	\$21,353.36	Success Academy Crown Heights (K741)
12	X318	I.S. 318	\$19,750.00	The Children's Aid College Prep Charter School (X124)
17	K002	I.S. 2	\$19,100.00	Explore Charter School (K704)
22	K495	Sheepshead Bay High School	\$17,964.44	New Visions Charter HS for the Humanities 3 (K739)
22	K611	Origins High School	\$17,964.44	New Visions Charter HS for the Humanities 3 (K739)
1	M094	M094 Sped	\$16,080.00	Girls Prep Lower East Side Elementary Charter School (M330)

Spending by NYC on Charter School Facilities: Diverted Resources, Inequities and Anomalies

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
1	M188	P.S. 188	\$16,080.00	Girls Prep Lower East Side Elementary Charter School (M330)
1	M450	Eastside Community High School	\$16,000.00	Girls Prep Lower East Side Middle Charter School (M330)
17	K352	M.S. 352	\$14,695.00	Explore Charter School (K333)
9	X593	South Bronx International Middle School	\$14,298.44	Success Academy Bronx 3 (X380)
9	X594	M.S. 594	\$14,298.44	Success Academy Bronx 3 (X380)
8	X146	P.S. 146	\$13,964.32	Success Academy Bronx 3 (X380)
23	K332	P.S. 332	\$13,150.00	Leadership Prep Ocean Hill Charter School (K775)
23	K284	P.S. 284 Lew Wallace	\$13,000.00	Leadership Prep Brownsville Middle Academy Charter School (K711)
32	K053	K053 Sped	\$12,323.70	Achievement First Bushwick Elementary Charter School (K538)
5	M157	The Urban Assembly School for Global Commerce	\$12,200.03	Harlem Children's Zone Promise Charter School (M341), Democracy Prep Harlem Elementary (M481)
4	M497	P.S. 497	\$12,117.17	East Harlem Scholars Academy (M518)
4	M013	I.S. 13	\$12,117.17	East Harlem Scholars Academy (M518)
4	M555	Central Park East High School	\$12,117.17	East Harlem Scholars Academy (M518)
14	K322	Foundations Academy	\$11,760.00	Success Academy Bed-Stuy 1 (K367)
14	K330	I.S. 330	\$11,760.00	Success Academy Bed-Stuy 1 (K367)
13	K044	P.S. 44 Marcus Garvey	\$11,700.00	Unity Preparatory Charter School
17	K375	P.S. 375 Jackie Robinson School	\$11,505.00	Explore Charter School (K333)
10	X475	John F. Kennedy High School	\$10,612.56	New Visions Charter High School for Advanced Math & Science (X539), New Visions Charter High School for the Humanities (X553)
18	K569	Kurt Hahn Exped Learning School	\$10,576.97	New Academy Charter School (K736)

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
5	M092	P.S. 92	\$10,529.52	Democracy Prep Charter High School (M350), St. Hope Charter School (M388)
18	K279	P.S. 279 Herman Schreiber	\$10,200.00	Leadership Prep Canarsie Middle Academy (K724)
16	K057	Jhs 57 Whitelaw Reid	\$10,101.40	Brooklyn Emerging Leaders Academy Charter School (KTBD)
2	M170	Hs Of Graphic Comm. Arts (Voc)	\$9,685.03	Success Academy Hell's Kitchen (SA Manh 2)
32	K562	I.S. 562	\$9,323.70	Achievement First Bushwick Elementary Charter School (K538)
4	M635	Environmental Sci Sec. School	\$7,875.00	Success Academy Harlem 3 Extension
16	K267	M.S. 267 Math, Science and Technology	\$7,500.00	Bedford Stuyvesant Collegiate Charter School (K648), La Cima Elementary Charter School (K649)
32	K383	I.S. 383	\$6,460.00	Achievement First Bushwick Charter School (K538)
22	K630	Professional Pathways High School	\$6,180.83	New Visions Charter HS for the Humanities 3 (K739)
18	K114	P.S. 114 Ryder Elementary School	\$5,750.00	Explore Excel Charter School (K379)
18	K629	Cultural Academy for The Arts and Sciences	\$5,626.97	New Academy Charter School (K736)
18	K563	It Takes A Village Academy	\$5,626.97	New Academy Charter School (K736)
23	K647	Metropolitan Diploma Plus High School	\$5,510.74	Uncommon Leadership Prep Brownsville Elementary (K711)
16	K688	The Brooklyn Academy of Global Finance	\$5,151.40	Brooklyn Emerging Leaders Academy Charter School (KTBD)
8	X302	I.S. 302	\$4,500.00	Girls Preparatory Charter School of the (X487)
04	M050	P.S. 50 Vito Marcantonio	\$4,238.18	DREAM Charter School (M382)
16	K243	P.S. 243	\$3,025.00	Launch Expeditionary Learning (K360)
9	X276	The Leadership Institute	\$3,000.00	ICAHN Charter School 6

CSD	Org. ID	School Name	Total Missing	Co-located Charter School
9	X145	I.S. 145	\$2,945.00	Success Academy Bronx 3 (X380)
23	K150	P.S. 150	\$2,000.00	Uncommon Brownsville Collegiate (K710)
5	M469	Choir Academy of Harlem	\$1,965.00	Harlem Children's Zone Promise Charter School (M341)
14	K016	P.S. 16	\$1,796.00	Williamsburg Collegiate Charter School
10	X213	Bx Engineering & Tech Academy	\$1,650.00	New Visions Charter High School for Advanced Math & Science (X539), New Visions Charter High School for the Humanities (X553)
12	X384	Entrada Academy	\$1,650.00	New Visions Charter High School for Advanced Math & Science (X539), New Visions Charter High School for the Humanities (X553)
10	X397	Ellis Preparatory Academy	\$1,650.00	New Visions Charter High School for Advanced Math & Science (X539), New Visions Charter High School for the Humanities (X553)
10	X477	Marble Hill International High School	\$1,650.00	New Visions Charter High School for Advanced Math & Science (X539), New Visions Charter High School for the Humanities (X553)
10	X546	Bronx Theater High School	\$1,650.00	New Visions Charter High School for Advanced Math & Science (X539), New Visions Charter High School for the Humanities (X553)

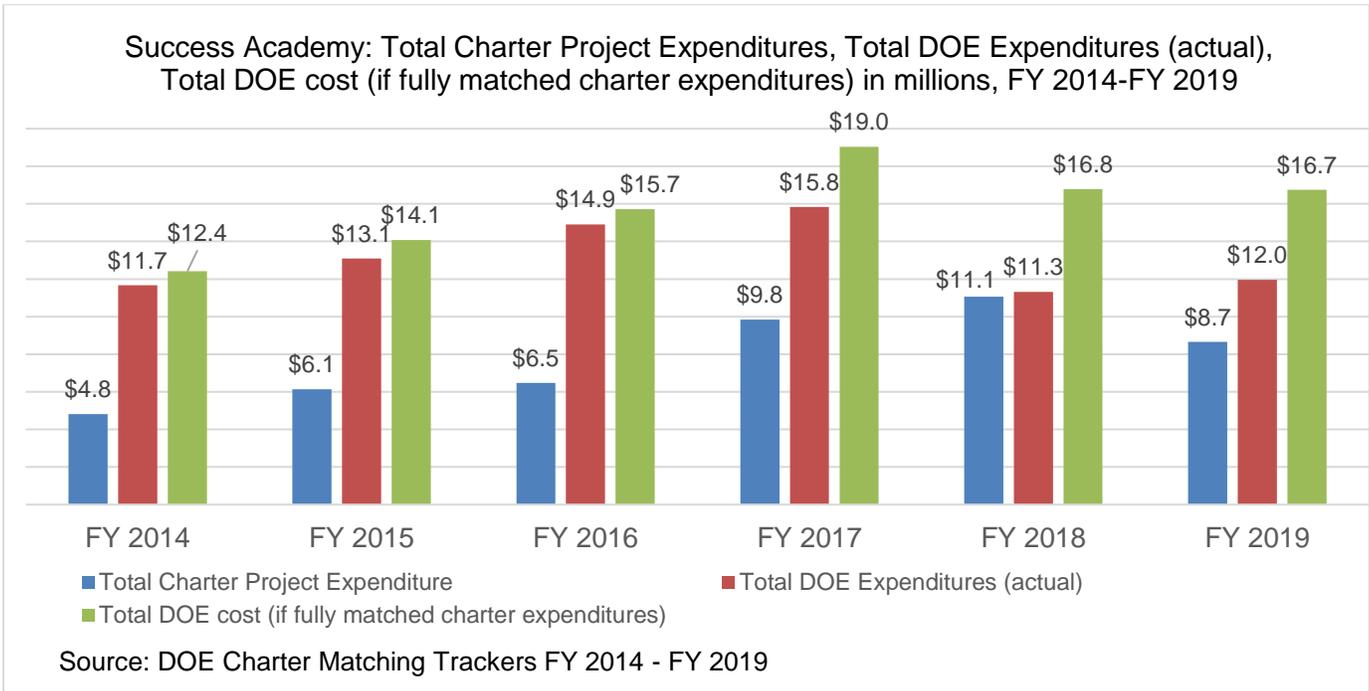
Source: DOE Matching Trackers FY 2014 - 2019

## Appendix C. Charter School Renovation Rates and Costs of First Four Renovations After Opening

Success Academy spent the most on charter project expenditures in nearly every one of its charter schools each year. In FY 2014, the CMO spent about \$4.8 million in facility upgrades; by FY 2018 that figure jumped to \$11.1 million. The figure below shows this pattern.

Consequently, DOE matching funds for public schools co-located with Success Academy charters have risen as well, from \$11.7 million in FY 2014 to \$15.8 million in FY 2017, falling to 12 million in FY 2019.<sup>133</sup> The chart below demonstrates this pattern. But 72 of the public schools co-located with Success Academy charters lacked \$16 million in matching funds over this period.

**Figure 13. Success Academy: Total Charter Project Expenditures, Total DOE Expenditures (actual), Total DOE cost (if fully matched charter expenditures) in millions, FY 2014-FY 2019**



<sup>133</sup> Ibid.

## Renovation Rates

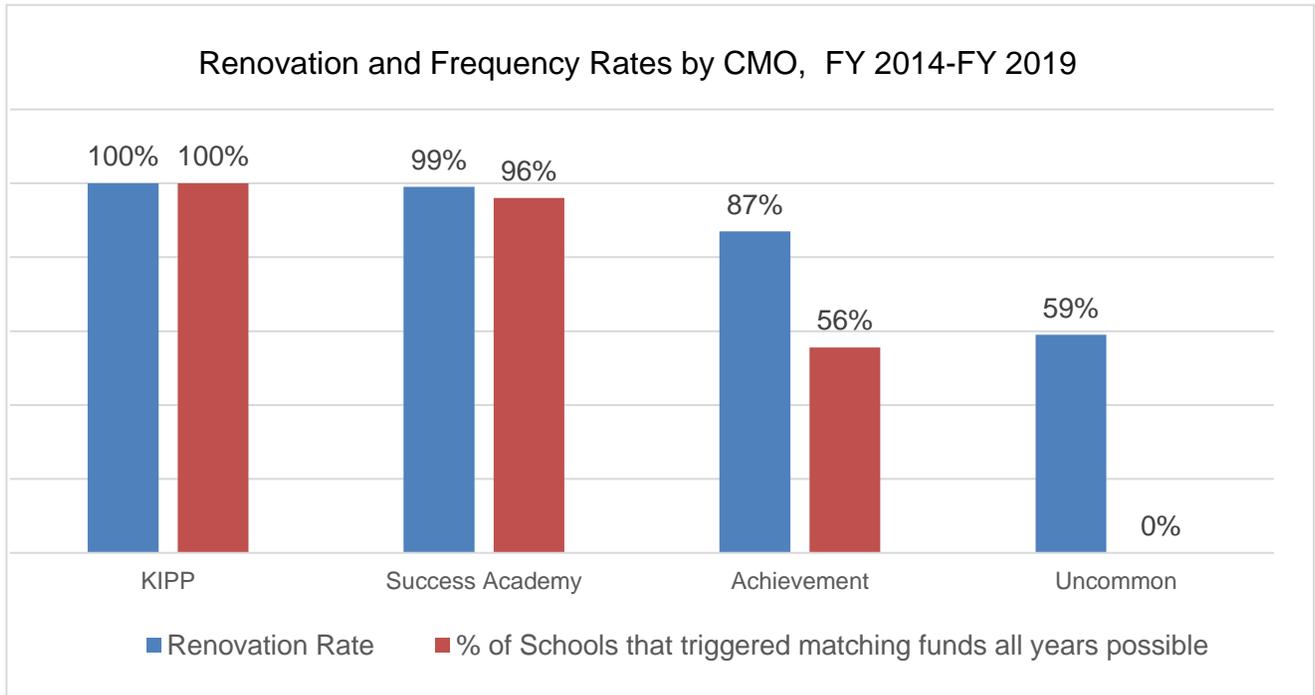
The renovation rate for a CMO was calculated by dividing the number times a CMO triggers matching funds from FY 2014 to FY 2019 by the number times the CMO has the opportunity to trigger matching funds over the same period.<sup>134</sup> The frequency rate is the percentage of charter schools managed by a given CMO that renovated every year over this period, or if a new school was established, every year possible.

KIPP CMO had the highest renovation rate at 100 percent, meaning at least one of their schools triggered matching funds every year. KIPP also had the highest frequency rate, with 100 percent of their schools renovating every year over this period, or if a new school was established, every year possible.

Success Academy CMO had the second highest renovation rate at 99 percent, and the second highest frequency rate, with 96 percent of their schools triggering matching funds for all fiscal years possible from FY 2014 to 2019.<sup>135</sup>

Figure 14 below shows the renovation and frequency rates by CMO.

**Figure 14. Renovation and Frequency Rates by CMO FY 2014-FY 2019**



Source: DOE Charter Matching Trackers FY 2014 - FY 2019

<sup>134</sup> DOE Charter Matching Trackers report one annual “charter project expenditure” per school. Therefore, each school has the opportunity to trigger matching funds at most once a year.

<sup>135</sup> DOE Charter Matching Trackers FY 2014 – FY 2019.

As mentioned above, the law requires that the DOE Chancellor must provide prior approval to the charter school for any renovations that cost more than \$5,000. Yet given that Success Academy and KIPP charters were allowed to renovate nearly every one of their charter schools every single year, there is no evidence that any Chancellor has ever turned one of their requests – at least since FY 2014.

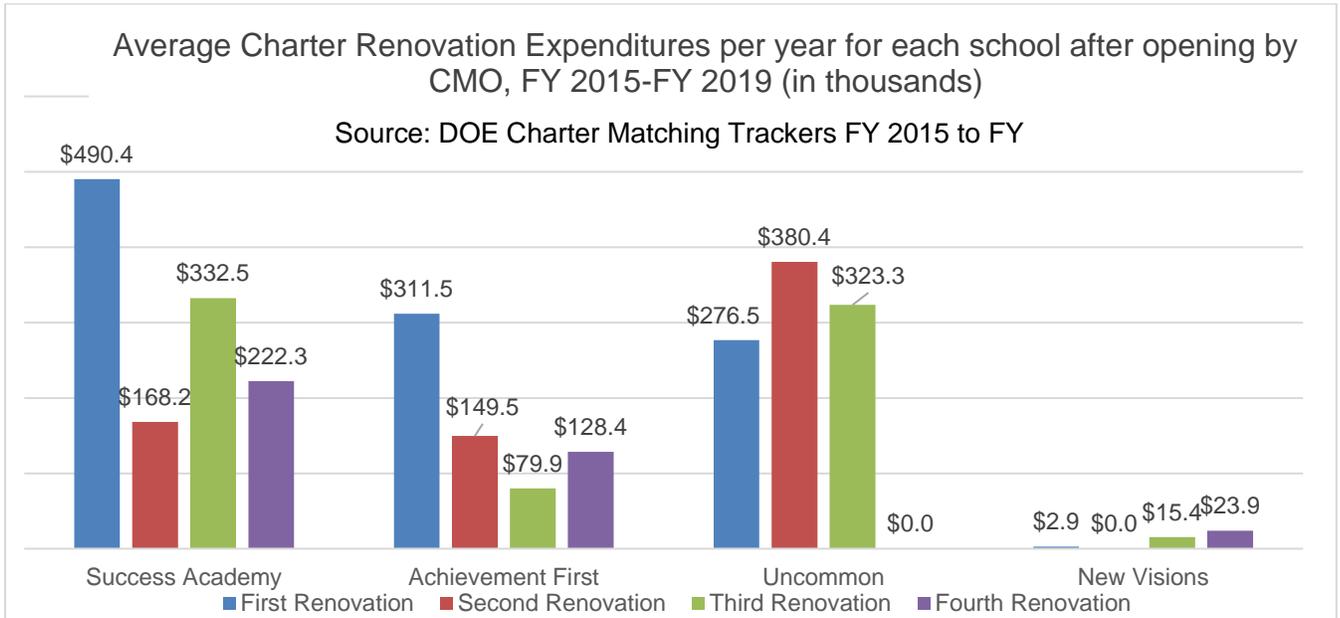
## Costs of First Four Renovations of Co-located Charter Schools After Opening

While one would think that a charter school's spending on renovations would tend to be highest in its first year, that is not always true. Average renovation costs a year after opening varied widely by CMO.

- Success Academy spent an average of \$490,000 on first year renovations for FY 2014 to FY 2019. The average spent dropped to \$168,000 for the second-year renovation costs and then increased again to \$332,000 for third year renovations.
- The cost of Uncommon Schools renovations rose from \$276,000 average in the first year to \$380,000 the second year. Achievement First averaged \$311,000 in the first year and declined thereafter. The figure below shows the average charter project expenditure and DOE costs for the first four years after a school opened, by CMO.+

Figure 15 shows the average project expenditures spent the year the charter school first opened and during the subsequent three years, by CMO.

**Figure 15. Average Charter Renovation Expenditures per year for each school after opening by CMO, FY 2015-FY 2019 (in thousands)**



Source: DOE Charter Matching Trackers FY 2014 - FY 2019

## Appendix D. Space Occupied by Co-Located Charter Schools in DOE-leased Buildings

DOE also holds the lease for four private buildings that house six charter schools and six public schools.

The figure below shows the proportion of the building taken by each charter school and public-school organization, based on their square footage as reported in the annual from Principal Annual Space Survey (PASS) for 2017-2018.

In two of the four school buildings in the Bronx (Buildings K894 and X972), charter schools take up the most space in the building. In building M620 in Manhattan, two Success Academy schools are co-located with three DOE schools and take up about 34 percent of the building. In building M050 in East Harlem, DREAM charter school is receiving rental assistance for 1,812 square feet, or three percent of the total building, for a Pre-K space. The figure below shows the proportion of total square feet taken by each school and the estimated rental cost per school based upon that proportion.

In FY 2019, DOE spent \$3.9 million in direct lease costs for private buildings that house both charter schools and DOE public schools. Of that total, an estimated \$1.8 million in rental costs was spent to provide space for charter schools, based on the relative amount of square footage the charter school occupies.

**Figure 16. Proportion of space taken by co-located charter schools (highlighted in orange) vs. public schools in private buildings where DOE holds the lease for the building**

Location Name	Org Code	Proportion of building taken by school	Estimated Cost Per School**	Building Code	Total Sq. Feet of building (includes CBO)
New Visions A.I.M. Charter High School I*	K395	57%	\$938,590.57	K894	35,395
LYFE (Aspiration Diploma HS)	M984	43%	\$710,114.80		
New York Center for Autism Charter School*	M337	13%	\$80,672.68	M050	64,625
DREAM Charter School	M382	3%	\$17,614.04		
Central Park East II	M964	76%	\$475,753.95		
CBO	CBO	9%	\$54,164.13		
Success Academy Charter School - Harlem 1	M351	30%	\$44,660.20	M620	166,776
Success Academy Charter School - Harlem 3	M385	4%	\$6,595.37		
MANHATTAN ACADEMY FOR ARTS & LANGUAGE	M427	17%	\$26,025.33		
Murray Hill Academy	M432	35%	\$53,089.47		
Unity Center for Urban Technologies	M500	12%	\$18,327.28		
CBO/School Based Health	CBO	1%	\$1,302.35		
Bronx Arena High School	X537	46%	\$680,580.87	X972	50,927
Bronx Charter School for the Arts	X730	49%	\$732,834.10		
CBO	CBO	5%	\$78,233.41		

Source: Co-location data and lease costs per private building from DOE Lease Report FY 2019. Square footage from Principal Annual Space Survey 2017-2018.

\* New Visions A.I.M. Charter High School I and New York Center for Autism Charter School are not new and expanding schools according to DOE Demographic snapshots.

\*\* Calculated by multiplying the proportion of square feet that is taken by the school by the total lease cost of the building.

\*\*\* According to DOE Lease Reports, DREAM charter school was in the building since 2016.