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TESTIMONY OF THE NEW YORK CIVIL LIBERTIES UNION

before

THE NEW YORK CITY EDUCATION COMMITTEE

June 4, 2009

Council Member Jackson and members of City Council: the New York Civil Liberties Union respectfully submits the following testimony regarding our recommendations for Mayoral Control of New York City schools.

The NYCLU does not take a position on the continuance of mayoral control of public schools in New York City in that our recommendations apply regardless of who appoints a majority of the Panel for Educational Policy and/or the Chancellor. We submit this testimony to articulate our concerns with certain aspects of the current system, with the admonishment that they are not unique to mayoral control. The issues we emphasize—transparency, accountability, and public involvement—are basic democratic ideals applicable to any form of school governance. Our recommendations are as follows:

1. Clearly delineate the position of the DOE within the existing structure of city government.

The DOE cannot continue to operate as its own autonomous agency, even if mayoral control is extended. The DOE takes the position that it is not a “city agency” and is therefore not bound by laws that govern the conduct of city agencies. This allows the DOE to escape laws governing the authority of the Independent Budget Office, the legislative authority of the City Council and the investigatory powers of the public advocate and comptroller. The State Legislature must clarify that the DOE is a city agency subject to the City Administrative Procedures Act and other laws that provide for agency transparency and oversight. Moreover, the State Legislature must clarify that the City Council has jurisdiction over non-curriculum education matters, such as school safety and military recruitment policies.

2. Increase public oversight by an empowered board of education.

While the NYCLU does not take a position on whether to extend the mayor’s authority to appoint the chancellor and a majority of the Panel for Educational Policy (PEP), it is in the interest of students, parents and educators to have an empowered panel that debates education policy matters. We recommend that the State Legislature put in place mechanisms to ensure meaningful debate and decision-making regardless of whether mayoral control is renewed. The Education Law should be strengthened to pose an affirmative obligation on the chancellor to submit for PEP approval all new citywide policies and practices that are related to educational achievement and student

performance. The chancellor must be prohibited from executing such policies and practices without PEP approval. The authority to appoint members to the PEP should be distributed among all citywide elected officials, who like the mayor have a stake in education matters, and to the city's legislative body. Priority should be given to appointing members with a background in education and to individuals who attended a New York City public school or who have children in the city's public education system. In order to avoid undue influence on panel members and to encourage thoughtful debate on the PEP, panel members should serve fixed terms, and while the mayor may continue to have sole appointing authority over the schools chancellor who will continue to act as the chief executor of education policies, the PEP should vote for its own chair who will be provided with a stipend and staff.

3. Strengthen the parental voice in policymaking.

The Community District Education Councils(CECs) and citywide councils must be given responsibilities and authority that ensure parental involvement in the setting of school education policies. The CECs' and citywide councils' authority should be expanded to include approval of district school safety plans, the opening and closing of schools and other district-specific policies.

4. Bring school safety practices in line with education policy.

The NYPD plays a unique and expansive role in the city's education system. At the same time that the number of police personnel in the schools has increased to a whopping 5,200 agents, the ability of educators to oversee school safety and student discipline has

decreased. Principals complain that they are unable to control the conduct of School Safety Agents and are limited in their ability to strike the right balance between school security and a supportive educational environment. Therefore, NYPD personnel who work in schools must be subject to oversight by educators who have an expertise in maintaining a nurturing school environment. The New York State Education Department and the DOE must be granted clear authority to investigate and oversee all school safety practices, including the activities of NYPD personnel in city schools.

5. Institute practices to allow for public engagement in the decision-making process.

The DOE must abide by basic requirements of open government in the policymaking process. All Chancellor's Regulations must be subject to a public comment period. The PEP must also open its policymaking and adjudication process to the public, and ensure that the public is welcomed at its meetings and informed of its activities.

6. Mandate transparency of data.

The DOE must end its practice of withholding from the public raw data on student performance, student safety and the education budget, and the DOE must meet its statutory obligation to provide the public with access to records. In order to allow for an independent assessment of the DOE's data, the Independent Budget Office must be provided with statutory authority to report on the DOE's performance, as it does on other city agencies.

7. Create a DOE inspector general.

In order to promote the integrity and effectiveness of the DOE, the State Legislature should create an Office of Inspector General within the DOE to conduct independent audits and investigations into DOE practices. The inspector general will investigate systemic problems that impact the educational environment and will not be responsible for investigating individual acts of fraud and corruption by employees (the responsibility of the special commissioner of investigations). The duration of the appointment of the inspector general should be fixed and last longer than the mayor's term.

8. Allow the law to sunset again in seven years.

The debate over the appropriate school governance structure for New York City has led to passionate discussions among policymakers and the public and a renewed interest in city schools and the people who run them. The State Legislature should ensure that whichever system it chooses for New York City, such a system expires in seven years, thus allowing for a continuous public debate.