



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

nyc.gov/law

For Immediate Release

**APPEALS COURT UNANIMOUSLY DISMISSES CHALLENGE
TO CLASS SIZE EXPENDITURES**

***FINDS THAT COURT SYSTEM IS NOT THE RIGHT VENUE FOR INITIAL REVIEW OF THIS ISSUE;
UFT PRESIDENT MICHAEL MULGREW, NAACP AND OTHERS HAD BROUGHT THE CASE***

Contact: Kate O'Brien Ahlers, Communications Director, NYC Law, (212) 788-0400, media@law.nyc.gov

Albany, July 28, 2011 – A mid-level appeals court has unanimously ruled in favor of New York City and found that the court system is not the proper venue for determining whether state funds earmarked for class size reduction were properly used.

In an opinion by Justice David Saxe, the Appellate Division, First Department, dismissed a suit brought by United Federation of Teachers (UFT) President Michael Mulgrew, the National Association for the Advancement of Colored People (NAACP) and others, noting that the State Legislature intended “to give the State Education Commissioner original jurisdiction” over concerns about how class size funds were used (page 11 of the decision).

Ruling 4-0 this morning, the Court found that the proper venue for the petitioners’ complaint is the State Education Department. The Department has the best information and expertise to make an informed decision.

“We are pleased with the Court’s ruling as we have continually said that we firmly believed this case was without merit,” said Schools Chancellor Dennis Walcott. “As evidenced by the State’s approval of our C4E [Contracts for Excellence] class size reduction plan every year the law was in effect, we’ve remained committed to minimizing the growth of class size in all of our schools.”

“We are pleased that the Court properly recognized that complex questions about education budgeting should first be addressed by the officials entrusted with administering education programs before individuals who are unhappy resort to the courts,” said Corporation Counsel Michael A. Cardozo of the New York City Law Department, whose office litigated the case on behalf of the Department of Education.

Appeals Division Senior Counsel Alan Krams handled the case, with input from Department of Education attorney Robin Singer. Emily Sweet and Jesse Levine of the Law Department’s General Litigation Division handled the lower court case and assisted with the appeal. (Mr. Levine has since retired.)

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top largest law offices in New York City and one of the largest public law offices in the country. Tracing its roots back to the 1600’s, the Department has an active caseload of 90,000 matters and transactions in 17 legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department’s 650 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. For more information, please visit nyc.gov/law.

###