

**Bill Intro 420:** This bill was introduced by City Council Member Mark Levine to address the serious problem in NYC of the effects of construction noise on children in school. As the New York City Council noted in their Committee report<sup>1</sup> on this bill: “Noise continues to be the number one quality of life issue in New York City.”<sup>2</sup> As currently formulated, the proposed law provides that a:

noise mitigation plan shall provide that noise shall not exceed 45 dB(a) during normal school operating hours in any receiving classroom in any public or private preschool or primary or secondary school on lots that are within seventy-five feet from the construction site, and that noise levels at such schools sites shall be continuously monitored during normal school operating hours.

**History:** Following its introduction to the NYC City Council in July 2014, the bill was assigned to the Environmental Protection Committee (the “Committee”), during which time 24 of the 51 city council members have already (as of September 2015) sponsored the bill. The Committee conducted a hearing on the bill on June 25, 2015, during which it received testimony containing recommendations on the bill and how this legislation could be improved if at all.

The hearing took place to a packed room with hundreds of participants and over three hours of oral testimony, as described below.

**Testimony:** The hearing began with a statement from Environmental Protection Committee Chair Donovan Richards, who described the problem that noise pollution presents in NYC. Mr. Richards described its many adverse health impacts, noting that during 2014, the city received 45,584 noise complaints. He stated that it is understood that construction must take place, but described studies that have shown that significant noise pollution at a school has a demonstrably negative impact on reading comprehension levels as well as generally on the physical, mental, and, emotional health of students and teachers. He closed by stating “protecting the environmental quality in schools so that children can learn is a paramount responsibility of this committee.”

The committee then invited the advice of a panel of doctors from the Children’s Environmental Health Center at Mount Sinai Medical Center. These experts noted numerous scientific studies that have established the tremendous negative effects of noise on vulnerable children. They cited a number of studies, including one that found that “for every 5 dBA increase in ambient noise measured during daytime hours on the exterior surfaces of school buildings, grade-school aged children experienced a one to two month delay in reading comprehension.” They further noted other studies concerning the increased vulnerability of children with ADHD and other special needs, to noise.

<sup>1</sup> <http://legistar.council.nyc.gov/View.ashx?M=F&ID=3839130&GUID=992DCA36-11FB-4AEC-AFB9-F4E7DFE3D079>

<sup>2</sup> New York City Department of Environmental Protection, webpage on “Noise Codes & Complaints,” accessed on 6/15/2015 at <http://www.nyc.gov/html/dep/html/noise/index.shtml>; see also USA Today, “Noise is No. 1 quality of life complaint in NYC,” article available at <http://www.usatoday.com/story/news/nation/2014/01/18/noise-life-quality-complaint/4635273/>

Regarding noise standards for schools, the panel of medical experts stated: “For children with normal speech processing, maximum classroom ambient noise should remain below 40 dBA for children older than 12 years, 39 dBA for children 10 to 11 years, 34.5 dBA for children 8 to 9 years, and 28.5 dBA for children 6 to 7 years old. For vulnerable groups (children suspected of delayed speech processing in noise), maximum classroom ambient noise should remain below 21.5 dBA for 6 to 7 years old.”<sup>3,4</sup> They also noted that, for the same reasons as above, the World Health Organization’s recommendation is that background noise during the course of a teaching session should not exceed 35 dBA on average.<sup>5</sup>

Manhattan Borough President Gale Brewer’s strong endorsement included the statement: “The right to a quality, safe, supportive, healthy, and effective education for the students of New York City must be protected. Rejection of Intro 420-2014 will be profoundly detrimental to this right and the physical, physiological, and psychological health of our students.”

Angela Licata, the Deputy Commissioner for Sustainability at the NYC Department of Environmental Protection made a statement that the “DEP supports the intent of this legislation, which is clearly aimed at providing a quiet learning environment for our City’s school children.” She did present some “technical questions about the legislation’s implementation,” requesting clarification on exactly which sound levels would be used and how the monitoring would take place. The statement ended by a reiteration of the DEP’s support for the proposed legislation.

The NYC Department of Education and the NYC School Construction Authority (SCA) explained that they closely consult with schools when construction takes place and were concerned that this legislation would impede their ability to build at schools. In particular, for instance, they were concerned that the bill did not distinguish between occupied and unoccupied schools. It appeared that they were requesting that there be an exemption of SCA from this legislation, and given the direct accountability of SCA to the city and their already mandatory consultation with schools it is our belief that such an exemption is warranted.

Ryan Baxter, a senior policy analyst for The Real Estate Board of New York, contributed testimony in which they conceded “We agree that the City needs a mechanism to prevent construction sites from unnecessarily disturbing classrooms throughout the City.” He then went on to express some concerns about the bill, but the concerns were predicated on an incorrect understanding of the bill. In particular, NYREB’s interpretation was that the 45 dBA cap was at the construction site, whereas the bill clearly states that the noise cap is as received in the classroom, thus

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<sup>3</sup> Etzel R, Balk S, eds. Pediatric Environmental Health. American Academy of Pediatrics Council of Environmental Health, 2011. Pages 479-490.

<sup>4</sup> Picard M, Bradley JS. 2001. Revisiting speech interference in classrooms. *Audiology*; 40(5): 221-44.

<sup>5</sup> Berglund B, Lindvall T, and Schwela DH, eds. 1999. Guidelines for Community Noise. World Health Organization. Accessed on May 27, 2015 at: <http://www.who.int/docstore/peh/noise/guidelines2.html>

allowing the significant attenuation of sound obtained both by the distance from the construction site and by the noise attenuation of the walls of the classroom. It is reasonable to make the bill more clear on this point, if this is actually ambiguous, so that it cannot be used as a cover for a baseless attack on the bill.

Testimony was also given by a number of others in strong support of the bill, including teachers, parents, and administrators from schools throughout the city including PS 51, PS 61, PS 75, PS 163, The School of the Future, Fieldston, and Calhoun.

The full transcript<sup>6</sup> and testimony<sup>7</sup> from the hearing are both available online.

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<sup>6</sup> <http://legistar.council.nyc.gov/View.ashx?M=F&ID=3853061&GUID=4DF299F6-F321-4360-8788-60738E679A76>

<sup>7</sup> <http://legistar.council.nyc.gov/View.ashx?M=F&ID=3860413&GUID=9168BD9D-F28C-4B8C-9A37-FCEE8A4123FC>