



## Public Comment Analysis

Date: May 28, 2014

Topic: The Proposed Extension and Expansion of the Temporary Co-location of the Middle School Grades of Harlem Prep Charter School (84M708) with M.S. 224 Manhattan East School for Arts & Academics (04M224), Renaissance Charter High School for Innovation (84M433), and Success Academy Charter School – Harlem 3 (84M385) in Building M099 through the 2014-2015 School Year

Date of Panel Vote: May 29, 2014

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## Summary of Proposal

In an Educational Impact Statement (“EIS”) and Building Utilization Plan (“BUP”) posted on February 28, 2014, the New York City Department of Education (“DOE”) proposed to extend the co-location of Harlem Prep Charter School (84M708, “Harlem Prep”) in building M099 (“M099”), located at 410 East 100<sup>th</sup> Street, New York, NY 10029 in Community School District 4 (“District 4”), until the conclusion of the 2014-2015 school year. Harlem Prep is co-located in M099 with M.S. 224 Manhattan East School for Arts & Academics (04M224, “Manhattan East”), an existing middle school that serves students in sixth through eighth grade; Academy of Environmental Science Secondary High School (04M635, “AES”), an existing high school that currently serves students in twelfth grade and is in its last year of phase-out; Renaissance Charter High School for Innovation (84M433, “Innovation”), an existing public charter high school that currently serves students in ninth through twelfth grade; and Success Academy Charter School – Harlem 3 (84M385, “HSA 3”), an existing public charter school that currently serves students in kindergarten in M099 and is phasing into the building to serve students in kindergarten through fourth grade. A “co-location” means that two or more school organizations are located in the same building and may share common spaces like auditoriums, gymnasiums, and cafeterias. Harlem Prep is an existing public charter school that currently serves students in kindergarten through seventh grade. Harlem Prep serves its students in kindergarten through fifth grade in private space, building MADR (“MADR”), located at 240 East 123rd Street, New York, NY 10035 in District 4. Harlem Prep currently serves its students in sixth and seventh grade in M099.

Due to a construction delay which impacts a related co-location, the building to which Harlem Prep was to be re-sited beginning in the 2014-2015 school year will not have sufficient available space to accommodate Harlem Prep’s middle school students until the 2015-2016 school year. Therefore, the DOE proposes to extend the co-location of Harlem Prep in M099 until the conclusion of the 2014-2015 school year.

If this proposal is approved, Harlem Prep will serve students in sixth through eighth grade in M099 in the 2014-2015 school year.



On April 26, 2012, the Panel for Educational Policy (“PEP”) approved a proposal, described in an EIS and BUP originally published on March 5, 2012 and revised on March 16, 2012, to temporarily co-locate the middle school grades of Harlem Prep in M099 for the 2012-2013 and 2013-2014 school years.

Subsequently, on November 29, 2012, the DOE published an EIS describing a proposal to re-site and co-locate Harlem Prep with existing school P.S. 38 Roberto Clemente (04M038) in building M121 (“M121”) beginning in the 2014-2015 school year. That proposal was approved by the PEP on January 16, 2013. Harlem Prep’s move from M099 to M121 was predicated on the re-siting of another school currently located in M121, DREAM Charter School (84M332, “DREAM”), to a non-DOE operated facility prior to the beginning of the 2014-2015 school year. However, because of construction delays, DREAM will not be able to occupy its facility in time for the 2014-2015 school year.

Civic Builders, Inc., which is constructing DREAM’s permanent facility, has advised the DOE that the facility will be completed for student occupancy by August 2015. The School Construction Authority (“SCA”) will continue to visit the construction site periodically to observe and confirm the progress on the facility’s construction.

Therefore, the DOE proposes that DREAM remain in M121 for one additional year, Harlem Prep remain in M099 for one additional year, and that the re-siting of Harlem Prep from M099 to M121 be delayed until the 2015-2016 school year, once DREAM has moved out of M121. The proposal to extend DREAM’s co-location at M121 for the 2014-2015 school year and to re-site Harlem Prep from M099 to M121 in the 2015-2016 school year is available at <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2013-2014/SchoolProposalsMay62014PEP>.

For the purposes of this proposal to extend the co-location of Harlem Prep in M099 for the 2014-2015 school year, it is assumed that the proposal to extend DREAM’s co-location at M121 for the 2014-2015 school year and to re-site Harlem Prep from M099 to M121 in the 2015-2016 school year will be approved by the PEP. However, if that proposal is not approved, the DOE will revise the proposal for M099 as necessary.

If the proposal for M099 and the related proposal to extend DREAM’s co-location at M121 for the 2014-2015 school year and to re-site Harlem Prep from M099 to M121 in the 2015-2016 school year are both approved, Harlem Prep will serve its students in sixth through eighth grade in M099 in the 2014-2015 school year and in M121 in the 2015-2016 school year.

M099 also houses a community-based organization (“CBO”), Support Children Advocacy Network. This proposal is not expected to impact the siting of the CBO.

The details of this proposal have been released in an EIS and BUP. Both proposal documents can be accessed here: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2013-2014/SchoolProposalsMay62014PEP>. Copies of the EIS and BUP are also available in the main offices of Manhattan East, AES, Innovation, Harlem Prep, and HSA 3.

## **Summary of Comments Received at the Community Meeting and Joint Public Hearing**

A walkthrough of the M099 building was conducted by Deputy Chancellor Kathleen Grimm of the Division of Operations on March 31, 2014. Following the walkthrough, a community meeting regarding this proposal was held at building M099 on March 31, 2014. At that meeting, interested parties had an opportunity to provide input on and ask questions about the proposal. Among those present at the meeting were District 4 Superintendent Alexandra Estrella; District 4 Community Education Council (“CEC 4”) Member Elender Foxe; Lillian Sarro, principal of Manhattan East; Kim Dacres, Campus Director of Harlem Prep; Stephen Falla-Riff, Executive Director of the Renaissance Charter High School for Innovation; a representative of City Council Speaker Melissa Mark-Viverito; Jennifer Peng and Drew Patterson from the Office of District Planning (“District Planning”). A joint public hearing regarding this proposal was held at building M099 on April 3, 2014. At the joint public hearing, interested parties also had the opportunity to provide input on the proposal. Approximately 116 members of the public attended the hearing, and 45 people spoke. Present at the meeting were District 4 Superintendent Alexandra Estrella; CEC 4 Member Elender Foxe; Citywide Council on High Schools (“CCHS”) Member Noah Kaufman; Principal Sarro; Dr. Robert Kane, principal of AES; Campus Director Kim Dacres; Executive Director Stephen Falla-Riff; a representative of City Council Speaker Melissa Mark-Viverito; Jennifer Peng and Drew Patterson from District Planning.

The following comments and remarks were made at the community meeting and joint public hearing:

1. Deputy Chancellor Grimm asserted that:
  - a. The library room of M099 will be upgraded.
  - b. Certain rooms for Individualized Education Program (“IEP”) services cannot be increased in size but they can be made more pleasant and accommodating for staff and students.
2. Elender Foxe, CEC 4 member, asserted the following:
  - a. Overcrowding interrupts instruction.
  - b. Where there are too many students in a building, students lose out.
  - c. Shared scheduling becomes a problem if a building is overcrowded and early lunch times are concerning.
  - d. Students of all kinds need as many resources as possible and these decisions have been made without meaningful consultation.
3. Dr. Robert Kane, principal of AES, asserted that AES is in its last year of phaseout and is not impacted by this proposal.
4. Manhattan East Principal Lillian Sarro asserted the following:
  - a. Manhattan East thrives with students from four boroughs. The school teaches students to set goals and meet benchmarks.
  - b. The DOE should adhere to the proposal to re-site Harlem Prep to M121 that was approved at the January 2013 PEP vote.

- c. It previously was stated that DREAM would be responsible for finding temporary space.
  - d. The DOE should stick to what was previously said.
  - e. If there had been some natural disaster, Manhattan East would welcome any student. But this is a building construction problem, one that is very predictable. The DOE should have foreseen this delay in construction.
5. Harlem Prep Campus Director Kim Dacres asserted the following:
  - a. Harlem Prep has shared many spaces here at M099.
  - b. Harlem Prep has consistently been a great neighbor and while it expected to be at M099 only two years, it has built great relationships: Innovation's seniors volunteered at Harlem Prep's Halloween party, Manhattan East and Harlem Prep's kids play basketball together, etc. Harlem Prep wants to maintain the friendships and relationships that it has built in the M099 building.
  - c. Harlem Prep is shrinking its middle school program next year.
6. Stephen Falla-Riff of Innovation asserted the following:
  - a. Innovation is a good neighbor in the building. This is a model co-location in many ways.
  - b. The issue is that the building council was not consulted before the BUP was published and the EIS written. The process did not work for this proposal. The DOE should have sent people to the building before the BUP was published. The information required to make a rational decision was not obtained before the DOE made its decision.
  - c. Innovation serves 440 students this year and the school is packed in.
  - d. We are counseling in closets and in stairwells for lack of space. The focus must be on the impact this has on students and on special needs students.
  - e. Innovation does not have an art program, and does not have a large enough music program.
  - f. Our charter provides for a full-scale enrollment to 500 students. Innovation did not enroll students to full enrollment this year because there was not enough space and we were planning on more space next year.
  - g. Per the new state's budget law, BUPs cannot be changed without consent of the schools. It will be difficult for Innovation to provide consent. We should all work together to arrive at a positive solution for all.
  - h. The DOE applied a formula. They took total square footage of the building, divided by the number of students, and did this agnostic to the culture of the building. The DOE should re-evaluate this plan.
7. A representative for City Council Speaker Melissa Mark-Viverito asserted the following:
  - a. Speaker Mark-Viverito is a strong supporter of Innovation.
  - b. She believes in local, community-based schools.
  - c. She is opposed to the proposed modifications to the M099 BUP. Innovation has a high-needs student population, with a percentage of students with special needs that is the highest of any high school in District 4. Innovation

- should not lose rooms, as this will impact their ability to serve students. Innovation was promised more space for self-contained, English Language Learner, music, and art programming.
8. Norah Cooney, director of advocacy for Success Academy Charter Network, asserted the following:
    - a. Every school in M099 will lose rooms under this proposal.
    - b. This proposal will harm the schools.
    - c. Some schools would lose up to 7 rooms.
    - d. The DOE needs to find another solution.
  9. A school leadership team (“SLT”) member of Manhattan East asserted the following:
    - a. This proposal should be withdrawn because the impact is too large for any group of students.
    - b. DREAM knew in November 2012 that they would need to look for space in the event that their facility wasn’t ready in time. DREAM says that they’ve looked for space and they’ve only been given one year to look for it, but DREAM has had since November 2012.
  10. The assistant principal of Manhattan East asserted the following:
    - a. There are positive relationships in the building, and this might be working against the schools since it will be easier to co-locate without strife and drama.
    - b. Initially, DREAM said its permanent facility would be ready by January 2015, but now she has just heard that the building will be delayed until August 2015. It is concerning that there is already another delay. What if there is another delay? Now that this BUP has been changed once, we know that the BUP might not be implemented if there is another delay.
    - c. What if something changes during the summer and a proposal needs to happen?
  11. Terence Joseph, principal of Innovation, asserted the following:
    - a. He knows what the space needs are for actual coursework in classes. The main concern is to talk about the proposed BUP and the proposed numbers. It is frustrating that Innovation’s space is changing based on a formula, when his thoughts are for the faces and names of his students. Innovation will not be able to provide the formula that the school knows works for the students. Nineteen sections do not give you a clear sense of what happens in rooms day-to-day. This proposal shifts the services they were planning on providing.
    - b. The original BUP for this building must be implemented.
  12. The director of special education at Innovation asserted the following:
    - a. In Innovation’s first year, 41% of the school’s population was special education. Now 35% of the school has IEPs. Students were impacted by not having the space they needed. Students are not receiving the services they are legally mandated to receive because the school does not have the space.
    - b. People used to wonder how Innovation’s students would graduate, but Innovation’s model has worked. Small group instruction classes have helped students reach their goals.

- c. Giving students emotional support is a huge part of Innovation’s program. Counselors have been counseling students in closets this school year, and with 3 counselors to serve 102 mandated students, there is not enough space to counsel the school community.
  - d. She wants to make sure the classes don’t end up with 32 students, since it is known throughout America that large class sizes are bad.
13. The director of community engagement for Innovation asserted the following:
- a. In 2010, Innovation opened and had 100% of its enrollment from East Harlem. In the same year, the United Federation of Teachers lawsuit stalled the phase-out of AES. In 2012, Harlem Prep and HSA3 were proposed to come into the building.
  - b. Two days before this most recent plan was released, we received a call from the DOE saying that Innovation could no longer build out, but that this was not a problem in the eyes of the DOE, since we did not have any expansion plans. This is not the case. Innovation kept enrollment purposefully low because the school did not have the full space.
  - c. To have the deputy chancellor do a walkthrough after the plan has been created is problematic.
  - d. Every single one of the M099 schools is hurt. There must be contingencies and for this plan to hurt everyone in the building is unacceptable.
14. Noah Kaufman, CCHS representative, asserted the following:
- a. We are here tonight talking about four schools fighting over space. The Office of Portfolio Management is not known for planning communities, but rather for planning portfolios.
  - b. This is the Margaret Knox school, M099, but there is no longer a junior high school 99. Who was Ms. Knox? Perhaps she was a principal. Even though we are in the Knox building, there is not a Knox school here.
  - c. There is a public school in this building, and he wonders if the public school is the school carrying the weight of this building’s co-location.
  - d. He would say to the Chancellor that it is important that the DOE consider the allocation of public school resources in a way that favors the public school. As featured in the newspapers of the past several weeks, there seem to be two different accounting systems, one in which state tuition provided to charter schools passes straight through, and another in which our public schools have cost taken for facilities management, custodial services, nutrition services, and security operations. Equity is important.
  - e. There are two questions before us. The first question: the allocation of space based not on the Blue Book, but on the Footprint. If the DOE uses the Footprint, then each school must receive ten administrative rooms. The second question: what is a school? There is a school building with a number and four or five different programs in the building. It is not clear what the school is or what is meant by school programming. On the flip side, if there is a school with multiple locations, that is unclear as well.

- f. He requests from the DOE a list of all the school facilities that are leased by the DOE, Board of Education, Division of School Facilities, and the New York City School Construction Authority so that it is known what buildings or properties are not owned by the public.
  - g. The Chancellor should make available to the public a list of public school buildings that are owned by the DOE, Board of Education, Division of School Facilities, and the New York City School Construction Authority but are leased to some other entity. He contended that is difficult for the public to find that information.
15. Four students from Innovation asserted the following:
  - a. The joint public hearing is a positive effort to get students the necessary resources.
  - b. Students sometimes receive counseling in closets, hallways, or staircase rooms. The privacy and comfort of those spaces are not adequate.
  - c. The hallways and classrooms are crowded.
16. Two Harlem Prep students asserted that they were here to support Harlem Prep receiving a one-year extension in M099. Democracy Prep has supported students in going to college and changing the world.
17. An HSA3 student asserted that she was here to support her little brother who also attended HSA 3, and would need more space for science and art class next year.
18. Eight parents at HSA 3 asserted the following:
  - a. This proposal needs to be revised, the DOE should work with DREAM to find a better solution. How is the private contractor for DREAM being held accountable for the delay of DREAM's facility?
  - b. Their children are thriving at HSA 3.
  - c. The DOE is squeezing these students. It is already overcrowded, so how will it work next year?
  - d. You cannot expect students to do well on tests if they are not getting the space to learn.
  - e. The school leaders have been getting together to make a plan for how the co-location should work and the current co-location, although temporary, works for now.
  - f. The DOE has failed to plan. They are saying there is no impact, but there is an impact.
19. Seven Harlem Prep parents asserted the following:
  - a. This delay is a circumstance beyond anyone's control.
  - b. Their children are succeeding at Harlem Prep.
  - c. Harlem Prep has always been a good neighbor and will continue to be a good neighbor.
  - d. This proposal will still allow all schools and students in M099 to work together and succeed.
20. An art teacher at HSA 3 asserted that this proposal will have a negative impact on HSA 3 students because this would necessitate that art and science continue to share a room. Without additional space, she will have to push into 6 different classrooms to

- teach art. Since she already teaches in the hallway and in shared space rooms, space next year will be critical.
21. A parent of a student attending school in M099 asserted that she was hurt that decisions were made that put others first, and that she was here today to fight for her child to get enough space to have a good future.
  22. Five parents at Manhattan East asserted the following:
    - a. It comes down to real estate, not students. This building will be even more overcrowded under this proposal. To make decisions before talking to the community is disrespectful.
    - b. The DOE said that DREAM would find temporary space if the school could not move in time. What steps has DREAM taken to find temporary space? The message the DOE is sending is to not pay attention to promises or to trust the DOE. This proposal contradicts the previous proposal.
    - c. How can organizations like DREAM with so much money not be able to find a building?
    - d. She would like to speak on behalf of the teachers, who will be blamed for poor test scores when the real reason is overcrowding.
    - e. Please do not impact Manhattan East.
    - f. The method used to calculate space is flawed.
  23. A counselor at Innovation asserted that the school needed more space because sometimes she could not provide students with appropriate spaces in order to make an evaluation.
  24. A testing coordinator at Innovation asserted that some of the rooms at Innovation that are larger can only accommodate 8 students during Regents testing. It will negatively impact the students to take space away from them.
  25. A teacher at Harlem Prep asserted her support for the proposal.
  26. A teacher at Innovation asserted the following:
    - a. The number one priority is to create a safe environment, and Harlem Prep remaining in M099 will only serve to crowd the building even more.
    - b. Three students are currently assigned to one desk in her classroom, so if all of her students attend class, she does not have a seat for every child.
    - c. This level of overcrowding is a fire hazard and there is nowhere to bring kids in order to accommodate those students with special needs.
  27. A teacher from Innovation showed a video of Innovation's current educational, resource, and administrative spaces, stating that Innovation currently uses every space available. He described the school's counseling spaces as sub-divided classrooms with cubicles that do not provide adequate privacy for students' counseling sessions. The video contained images of multiple empty Innovation classrooms with audio narrative describing the use of the classrooms; images of Innovation's hallways; resource rooms with subdividers; and an image of a room with exposed pipes.
  28. A public commenter asserted that this proposal was put forth due to business strategies that stemmed from the DOE not wanting to spend money on specific children.

**Summary of Issues Raised in Written and/or Oral Comments Submitted to the DOE regarding the proposal**

The DOE received 8 e-mails and 1 voicemail comment.

29. 7 emails and 1 voicemail:

- a. Expressed concern that another school would take over Manhattan East’s space and that this would reduce Manhattan East’s effectiveness. Given how different the cultures of each school are in M099, they asked that this not happen.
- b. Expressed dismay that the original date of the community meeting had to be rescheduled with limited notice to families.

30. Harlem Prep’s Board of Trustees submitted a letter in which it asserted the applicability of recent amendments to the NY Education Law which concern charter consent for the revision or withdrawal of an approved co-location proposal. Harlem Prep further indicated that it will consent to the M121 proposal contingent upon the approval of the M099 proposal.

**Analysis of Issues Raised, Significant Alternatives Proposed and Changes Made to the Proposal**

Comments 16, 19a-d, and 25 are in favor of the proposal and do not require a response.

Comments 6h, 14e and 22f relate to the process by which space is allocated to schools.

There are currently hundreds of schools in buildings across the city that are co-located; some of these co-locations involve multiple schools sharing space. The DOE seeks to fully utilize all its building capacity to serve students. In all cases, the Citywide Instructional Footprint (the “Footprint”) is applied to both DOE and public charter schools to ensure equitable allocation of classroom, resource and administrative space.

The Footprint is the guide used to allocate space to all schools based on the number of class sections they program and the grade levels of the school. The number of class sections at each school is determined by the principal based on enrollment, budget and student needs; there is a standard guideline of target class size (i.e., number of students in a class section) for each grade level. At the middle school and high school levels, the Footprint assumes every classroom is programmed during every period of the school day except one lunch period. The full text of the Instructional Footprint is available at [http://schools.nyc.gov/NR/rdonlyres/8CF30F41-DE25-4C30-92DE-731949919FC3/87633/NYCDOE\\_Instructional\\_Footprint\\_Final9210TNT.pdf](http://schools.nyc.gov/NR/rdonlyres/8CF30F41-DE25-4C30-92DE-731949919FC3/87633/NYCDOE_Instructional_Footprint_Final9210TNT.pdf)

As per the Footprint, a baseline allocation for high schools provides one full-size classroom for each General Education or Integrated Co-Teaching section, and a full-size or half-size classroom to accommodate each Self-Contained section served by the school.

The baseline Footprint also includes a number of baseline full-size equivalent (“FSE”) classrooms for student support services, resource rooms, and administrative space based on the grades a school serves and its enrollment.

Any spaces or rooms allocated to and used by a school above and beyond that school’s baseline Footprint are deemed excess space.

The revised proposed BUP details the number of class sections each school is expected to program each year through 2017-2018 and allocates the number of classrooms accordingly. The assignment of specific rooms and location for each in the building, including those for use in serving students with IEPs or special education needs, will be made in consultation with the principals of each school and the Office of Space Planning if this proposal is approved. The revised proposed BUP demonstrates that there is sufficient space in the building to accommodate the proposed extension of co-location.

Comments [6e](#), [8a](#), [8c](#), [17](#), and [20](#) assert that under this proposal, schools will “lose” rooms next year which will limit the provision of related services, arts, music, or science programming.

The DOE notes that every school’s baseline footprint in this current school year and in the next school year either remains the same for schools at full scale, such as Innovation and Manhattan East, or increases, for schools phasing in, such as Harlem Prep and HSA 3. As described in the proposed BUP, the extension of Harlem Prep’s co-location in M099 reduces the amount of excess space that was to be allocated to the co-located schools under the prior BUP approved by the PEP in April 26, 2012.

Comments [2a-b](#), [6c](#), [15c](#), [18c-d](#), [22a](#), [22d](#), and [26a](#) express concerns from parents at Manhattan East, HSA 3, and Innovation that building M099 is already overcrowded.

As indicated in the proposed EIS, the schools in M099 only enrolled 932 students in the 2013-2014 school year, though the building has a target capacity of 1,168 students, yielding a building utilization rate of 80% this current school year. Furthermore, the proposed BUP provides annual enrollment projections for each school and demonstrates that Manhattan East, HSA 3, and Innovation will receive at least their baseline footprint allocation of rooms in every year of this proposal.

[Comment 5c](#) concerns Harlem Prep’s enrollment in the 2014-2015 school year.

As discussed with Harlem Prep’s leadership prior to the issuance of the proposal, Harlem Prep will enroll fewer students than originally planned in the 2014-2015 school year to accommodate the proposed extension of the school’s co-location in M099. Harlem Prep is projected to return to its at-scale enrollment once it moves out of M099 into M121.

[Comment 2c](#) concerns shared space scheduling.

The proposed shared space schedule included in the BUP demonstrates that the shared spaces in the building can be allocated in a manner that is both equitable and feasible based on the projected enrollments for each co-located school, current space allocation plans, current lunch schedules, the total capacity of each shared space, the grades served and the number of sections served by each of the co-located schools, and the start and end times of the school day. Furthermore, where possible, the proposed schedule maintains schools' current allocations of time for each shared space to minimize disruption. It should be noted that under the proposed shared schedule, no school will serve lunch prior to 11 a.m.

The final shared space schedule will be collaboratively drafted by the Building Council if the proposed co-location is approved by the PEP.

Additionally, in buildings like M099 that house charter schools, there is also a Shared Space Committee, which meets at least four times per year. This committee monitors the implementation of the shared space schedule, and identifies areas of concern that can be addressed by the Building Council. According to Chancellor's Regulation A-190, the Shared Space Committee shall be comprised of the principal, a teacher, and a parent from each co-located school. With respect to a non-charter school's teacher and parent members, such Shared Space Committee members shall be selected by the corresponding constituent member of the SLT at that school.

Comments 11a and 27 concern the amount of space allocated to Innovation in the 2014-2015 school year.

Innovation will receive at least its baseline Footprint allocation of space based on its current and projected enrollment during the implementation of this proposal. The change in Innovation's baseline allocation between the March 16, 2012 BUP and the proposed revised BUP posted on February 28, 2014 is due to Innovation's lower than projected enrollment for the current school year and resulting lower projected enrollment for next school year. Beginning in the 2015-2016 school year, Innovation is expected to receive space in excess of its baseline Footprint allocation, consistent with the March 16, 2012 BUP.

Comments 6d, 7c, 12a, 12c, 15b, 23, 24, and 26c contend that this proposal does not allocate sufficient rooms to Innovation to serve its students with special needs or English Language Learners.

The Footprint allocates half-size spaces between 250 to 499 square feet to all schools, including Innovation, for counseling and pull-out services as part of each school's baseline allocation. This proposal does not require the delivery of any special education instruction in spaces that are not designed for student use. Guidance regarding the programming of spaces is available for principals through various experts including the Office of Space Planning, network leaders, and – in special circumstances – the Campus Squad.

Comment 24 concerns the impact of the proposal on testing accommodations for students with special needs.

City-wide, schools program space during testing periods in order to meet students' testing accommodations. All schools are tasked with scheduling their staff and students appropriately for the duration of testing and make-up days. Innovation currently has 20 full-size and 6 half-size rooms for non-administrative use, and next year the proposal would provide 19 full-size and 7 half-size rooms for non-administrative use. Therefore, in both the current school year and 2014-2015 school year, Innovation will have a minimum of 26 non-administrative rooms available for testing.

Comment 26c concerns the proposal's impact on fire safety procedures.

Every school has a fire safety plan which includes plans for fire drills and evacuations in case of emergencies. All schools work with the Office of Safety and Youth Development to address any concerns or modify the fire safety plan as needed. Additionally, pursuant to Chancellor's Regulation A-414, every school/campus is mandated to form a School Safety Committee, which is responsible for developing a comprehensive School Safety Plan that defines the normal operations of the site and what procedures are in place in the event of an emergency.

The School Safety Plan is updated annually by the Committee to meet the changing security needs, changes in organization and building conditions and any other factors; these updates could also be made at any other time when it is necessary to address security concerns. The Committee will also address safety matters on an ongoing basis and make appropriate recommendations to the principals when it identifies the need for additional security measures. Finally, several buildings in the city that are co-located with both district and/or charter schools have to make similar plans for fire safety in the face of stairwells, and other building configuration issues. The final decision on how to appropriately plan for these situations resides with the Building Council of M099.

Comments 6f and 13b concern the proposal's impact on Innovation's enrollment.

The comments assert that Innovation purposefully kept enrollment low in recent years and will not be able to expand to its authorized enrollment. According to its charter, Innovation is authorized to serve 500 students at full scale. Under this proposal, Innovation is projected to serve 420-535 students in the 2014-2015 school year. Therefore, this proposal does not prevent Innovation from serving its authorized enrollment.

The DOE builds variance into enrollment projections, for both charter and district schools. As the school's authorizer, NYCDOE permits an enrollment variance of 15% higher or lower than the authorized enrollment in a charter school's charter agreement. Enrollment increases or decreases in excess of 15% of the projected enrollment in the charter must be approved by the NYCDOE via a charter revision.

Comment 12d concerns the impact of this proposal on Innovation’s class size.

For the purposes of projecting class sections at Innovation, the DOE assumed 25-28 students per class section, consistent with the previously posted BUP for M099 and the Footprint’s assumption of an average of 27 students for each high school class.

Comment 26b concerns the sufficiency of furniture at Innovation.

Most funding in schools’ budgets is allocated on a per pupil basis, based on the Fair Student Funding (“FSF”) formula. Schools receive additional funds for students with disabilities, English Language Learner students, and those with other supplemental academic needs. Furniture for the projected enrollment of a school would also be included in start-up funding as a portion of the school’s budget. Additional furniture can be purchased at the discretion of the school. All classrooms should have adequate furniture. If there are issues either acquiring or fitting additional necessary furniture into a classroom or other instructional space, teachers and school leadership teams should consult their school’s operations team and/or escalate needs to the school’s liaison at the DOE’s Division of School Facilities.

Comment 28 asserts that the DOE does not fund students equitably.

The proposal to extend Harlem Prep’s co-location at M099 for one year is not related to student funding. The DOE has proposed this extension in order to preserve the stability and educational experience of all children impacted by DREAM’s facility construction delay.

With respect to student funding in district schools, the DOE funds schools according to Fair Student Funding (FSF) dollars – approximately \$5.0 billion in the 2012-2013 school year based on projected registers. FSF are used by all district schools to cover basic instructional needs and are allocated to each school based on the number and need-level of students enrolled at that school. With regard to funding in charter schools, charter schools receive public funding pursuant to a formula created by the state legislature, and overseen by the New York State Education Department. The DOE does not control this formula. The funding formula for the charter schools in M099 and charter schools involved in the two related proposals for buildings M050 and M121 is not related to this proposal.

Comments 6g and 30 concern the process for revising the existing BUP under recent amendments to the Education Law.

The DOE is in the process of reviewing the new amendments. In the meantime, the DOE has been working, and will continue to work with all impacted M099 schools to ensure that the proposal meets their respective students’ needs.

Comments 14c, 22e and 29a concern the proposal’s impact on Manhattan East’s allocation of space.

The DOE does not anticipate that this proposal will affect student enrollment, the admissions process, or instructional programming at Manhattan East. This is a proposal for a one-year extension of Harlem Prep's co-location, and Manhattan East's available instructional space in M099 remains the same. The DOE's proposal allocates Manhattan East the total number of full-size, half-size, and quarter-size or administrative spaces on the fifth floor.

Comments 4b, 8d, 9a, and 11b suggest that the DOE withdraw or revise the proposal.

The DOE acknowledges there is community opposition to this proposal. There are times when the DOE and certain members of the community differ in their opinions about specific projects. This proposal is one of three related proposals intended to maintain a stable school environment for the students impacted by the delay in the construction of DREAM's non-DOE-operated facility. This proposal maintains District 4 school options for students through the 2014-2015 school year. It is apparent that a number of M099 community members support the extension of the temporary co-location of Harlem Prep in M099 as evidenced by the many comments supporting this proposal made by parents of students enrolled at Harlem Prep, Harlem Prep's feeder elementary school, or at affiliated Democracy Prep high schools in New York City. The PEP will determine whether to approve the proposal after reviewing all public comments received.

Comments 8b, 13d, 18f and 21 express general opposition to the proposal.

The DOE attempts to use all of its school buildings as efficiently as possible. In planning where Harlem Prep could be sited, multiple factors were considered during the proposal process including location, utilization and other co-located organizations. As evidenced by comments 16, 19a-d, and 25, the extension of the co-location of Harlem Prep is supported by many families in the community.

Comments 4c-e, 9b, and 22b-c propose that DREAM be accommodated elsewhere than M121. DREAM's non-DOE-operated facility was reasonably expected to be completed in time for the 2015-2016 school year. The DOE operated under that timeline when planning for the re-siting of Harlem Prep from M099 to M121. That siting plan has not changed, but has been delayed for one year. As indicated above, DREAM attempted to locate alternative space, for the 2014-2015 school year, but was unable to do so. Harlem RBI's executive director has stated that DREAM's search for space included the following:

- Communication with the landlords of Harlem RBI's various private office spaces regarding the possibility of leasing additional space to DREAM.
- Notification to our East Harlem community contacts that we are seeking viable space in the area for DREAM.
- Consultation with Manhattan Commercial Realty Corp. regarding commercial space for rent in the East Harlem area along with website searches of available commercial space.

Comment 18a proposes that DREAM's developer should be accountable for the delay in construction.

The executive director of Harlem RBI reported to the DOE that construction of DREAM's permanent facility is behind schedule due to an unanticipated delay in site acquisition, and delays attributed to weather and subsurface conditions. These reasons do not fall within the purview of the developer for DREAM's facility.

Comments 10b-c concern the impact of potential further construction delays.

This proposal is to extend Harlem Prep's co-location in M099 for one year only. Civic Builders, Inc., which is constructing DREAM's permanent facility, has advised the DOE that the facility will be completed for student occupancy by August 2015. The SCA also visited the construction site in late April, and did not observe conditions that would preclude August 2015 occupancy. The SCA will continue to visit the construction site periodically to observe and confirm the progress on the facility's construction.

Comments 2d, 6b, 13b-c, 22a, and 29b state that the DOE did not adequately engage with the community.

Prior to the posting of the proposal described above, members of the DOE's Office of District Planning contacted M099 school leadership to discuss the potential proposal on February 24<sup>th</sup>.

The DOE filed and distributed copies of the EIS and BUP to M099 school leaders, M099 SLTs, and CEC 4 members on February 28, 2014. The EIS and BUP were also made available to the staff, faculty and parents at AES, Manhattan East, Harlem Prep, HSA 3, and Innovation, on the DOE's website, and in each school's respective main office. In addition, the DOE dedicates a proposal-specific e-mail address and voicemail to collect feedback on this proposal.

Furthermore, all schools' staff, faculty and parent communities were invited to the community meeting conducted by the Deputy Chancellor of Operations, and joint public hearing to provide further feedback on the proposal. Approximately 116 people attended the joint public hearing which demonstrates that the M099 community had notice of the hearing, and engaged in a robust discussion of the proposal. The DOE representatives at each of those meetings either responded in person or via email to questions and concerns from school leaders and community members.

The DOE strives to continually improve our engagement process, working with stakeholders to create new protocols for opening and co-locating schools.

For example, all proposals for significant changes in school utilization (including the proposal to extend Harlem Prep's co-location in M099) now involve a walkthrough and visit from a member of DOE's senior leadership. Thus, in addition to the joint public hearing, M099 stakeholders had the opportunity to discuss their concerns and questions about the proposal during the March 31, 2014 community meeting.

With respect to comment 29b, the community meeting was rescheduled so that all school leaders in M099 would be able to participate fully. The original date for the community meeting conflicted with multiple school leaders' availabilities.

Comment 1a-b describes planned facilities upgrades in M099 and do not require a response.

Comments 3, 10a, 13a, 14a-b, and 14d, f-g are not directly related to the proposal and thus do not require a response.

Comments 4a, 5a-b, 6a, 7a-b, 10a, 12b, 15a, 18b, and 18e describe the positive educational impact of individual schools at M099 on their respective students, and/or the positive relationships between the schools at M099.

The DOE commends each school in M099 for their efforts on behalf of their students and their positive collaboration with fellow colleagues.

### **Changes Made to the Proposal**

No changes have been made to this proposal.