Department of Education
Dennis M. Walcott
Chancellor

Second Revised Notice
May 23, 2011

The Second Revised Proposed Co-Location of a New Charter School, Explore Charter School, with an Existing DOE School, P.S. 114 Ryder Elementary (18K114), in Building K114

I. Description of the subject and purpose of the proposed item under consideration.

On March 4, 2011, the New York City Department of Education ("DOE") issued a revised proposal that seeks to "co-locate" Explore Excel Charter School (84K379, "Explore") with an existing DOE elementary school, P.S. 114 Ryder Elementary (18K114, "P.S. 114"), located at 1077 Remsen Avenue, Brooklyn, NY 11236, in Community School District 18, in Building K114 ("K114"). P.S. 114 is an existing zoned elementary school that currently serves kindergarten through fifth grade and offers one section of full day pre-kindergarten program. Explore would be a new charter school that would serve kindergarten through fifth grade students when it achieves "full-scale" in the K114 building. 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. There is also a community-based organization ("CBO"), the Kings County Mental Health Clinic ("mental health clinic"), housed in the K114 building that provides mental health clinic services to the community. There will be no impact on this CBO as a result of the proposed co-location of Explore in the K114 building.

Prior to posting the revised proposal, on January 14, 2011, the ("DOE") proposed to site a new zoned elementary school, P.S. 521 (18K521, "P.S. 521"), and Explore in K114. An amended Educational Impact Statement ("EIS") was released on February 14, 2011 to correct typographical errors, include information about the community-based organization in Building K114, and clarify further information in regards to P.S. 114.

In a separate EIS published on December 17, 2010, the DOE proposed to gradually phase out and eventually close P.S. 114. On December 29, 2010, the DOE amended the EIS to correct typographical errors and formatting, delete a redundant table and correct two erroneous references to the District 19 Middle School Choice process instead of the District 18 process. The EIS was revised on January 12, 2011, to modify the proposed phase-out enrollment plan for P.S. 114, which was initially described in the original EIS published on December 17, 2010. In addition, the revised EIS identified the charter school that will open in K114 in 2011-2012, clarified text and footnotes related to building capacity and utilization, included information related to charters occupying DOE space, included 2010-2011 unaudited register information, and included estimated 2010-2011 building utilization rates. The EIS was amended on January 14, 2011, to correct one erroneous mention of the State Education Department ("SED") as the charter authorizer and clarify that the lottery priority for Explore would give preference to students who currently attend a school that is phasing out or where phase-out has been proposed in an EIS issued by the DOE.

The amended proposal to co-locate a new school and Explore in K114 and the revised proposal to phase-out P.S. 114 were originally scheduled to be voted upon by the Panel for Education

Policy ("PEP") on March 1, 2011 and February 3, 2011 respectively. However, the vote for the phase-out proposal was postponed until March 1, 2011. On March 3, 2011, the DOE ultimately decided to withdraw its proposal to phase out P.S. 114. P.S. 114 will now remain open. As a result, the proposal to co-locate P.S. 521, Explore and P.S. 114 in K114 and the Building Utilization Plan ("BUP") for the proposal was revised on March 4, 2011. The revised EIS and BUP were also amended on March 21, 2011. This proposal was approved by the PEP on March 23, 2011.

The DOE has now published a revised Educational Impact Statement ("EIS") and revised Building Utilization Plan ("BUP"). The revisions made to the EIS and BUP are described in Section II below.

Explore was approved by its authorizer, the State University of New York Charter School Institute ("SUNY") to open a new public charter elementary school in District 18. In 2011-2012, Explore would open in K114 and would serve approximately 56 students per grade in kindergarten through third grade, admitted through the charter lottery application process with a preference for District 18 students. In 2012-2013, Explore will expand to serve approximately 56 additional students in fourth grade. In 2013-2014, Explore would be at full-scale in K114 and would serve approximately 336 students in kindergarten through fifth grades.

Thus, Explore will admit incoming kindergarten, first-grade, second-grade, and third-grade students through the charter lottery application process this spring, with a priority preference for students at-risk of academic failure, in particular those students at-risk of academic failure who reside in District 18. Students at-risk of academic failure are defined to be either: (1) students attending or zoned to attend a public school that has received a "D" or an "F" on the New York City Department of Education Progress Report in the school year prior to the lottery due to poor academic performance, (2) Schools Under Registration Review (SURR) by the State Education Department, or (3) schools subject to restructuring under the federal No Child Left Behind Act. This year, P.S. 114 is the only school that received a "D" in the District, and no other elementary school is designated as SURR or subject to restructuring. Therefore, students zoned to P.S. 114 would receive priority preference in the 2011-2012 charter lottery application process. However, in the future, all District 18 students who reside in a zone where a school receives a D or F grade on the Progress Report, or where a school is designated as SURR or restructuring, may receive priority preference as well. The lottery preferences and admission process for Explore is described in more detail in Section III A.

P.S. 114 is a DOE elementary school that serves 733 kindergarten through fifth grade students and 18 students in one section of pre-kindergarten for a total of 751 students. The DOE does not anticipate that this proposal would impact the admissions process or instructional programming at P.S. 114.

The building in which P.S. 114 is located, K114, has the capacity to serve 986 students. In 2009-2010, the building only served 844 students, yielding a utilization rate of just 86%. In 2010-2011, the building only served 751 students, yielding a utilization rate of just 76%. In 2013-2014, once Explore is at scale there will be approximately 884-929 total students served in the building, yielding a target building utilization of 94%. Therefore, there is space in the building to accommodate the full scale expansion of Explore (K-5) and P.S. 114.

II. Identification of all revisions, including substantial revisions to the item.

This second revised EIS includes Explore's District Borough Number and clarifies the shared

spaces in K114. The BUP for this proposal, which is annexed, has also been revised in the following manner: the proposed shared space schedule has been adjusted and the DOE has clarified the rationale for the amount of time that each co-located school is allocated in the shared spaces under this proposal.

III. Summary of all public comment received to date.

Comments were received through the DOE's dedicated written and oral comment mechanisms.

1. Comments submitted on behalf of P.S. 114's United Federation of Teachers membership stated that the decision to phase out P.S. 114 seems driven by a desire to push the public school out of prime real estate to fit in a new charter school.

2. For the following reasons, multiple commenters opposed the proposal:
   a. P.S. 114 would have to share the shared spaces in K114 with Explore.
   b. P.S. 114's enrollment has been projected to decrease while Explore's enrollment increases.
   c. The proposal impacts the fate of P.S. 114, even though the school does not have a permanent principal to speak on its behalf. Consequently, students' voices are not being heard.
   d. The decision to co-locate the new school in K114 was made before the public had an opportunity to give input.
   e. Problems will arise from the placement of two schools in the building, which will divert energy from being applied to the betterment of P.S. 114.

3. In a letter to the Chancellor, Public Advocate Bill de Blasio commented that:
   a. The proposed shared space plan in the Building Utilization Plan ("BUP") attached to the EIS does not adequately reflect the differences in student populations between Explore and P.S. 114. Specifically, the letter stated that Explore was allocated 1 hour and 45 minutes of playground time, while P.S. 114 was only allocated 1 hour and 30 minutes of playground time. In addition, the Public Advocate noted that P.S. 114 did not receive more library time than Explore even though its enrollment is projected to be greater than Explore's.
   b. If P.S. 114's enrollment increases beyond the DOE's projections, the building may be over-utilized.
   c. Moreover, the building may be over-utilized if Explore expands from serving kindergarten through fifth grade to serving kindergarten through eighth grade. The letter states that P.S. 114 parents are concerned that they may be unable to enroll their students at P.S. 114 if the building is over-utilized.
   d. The Public Advocate encouraged the DOE to name a permanent principal for P.S. 114 and noted that the DOE should refrain from implementing any shared space arrangements until a permanent principal is selected.
   e. Co-location will cause upheaval and in P.S. 114, and comments addressing these concerns have gone ignored by the DOE.
   f. The DOE needs to acknowledge why they have not provided P.S. 114 with proper support before they move forward with a co-location.
4. A commenter expressed support for the proposal because it would provide them with a high-quality option for their children's education.

5. A commenter asked why P.S. 114's enrollment is expected to decline, who made the decisions regarding the shared space plan, would the DOE allow P.S. 114 a year to see how it will perform without the pressure of another school in the building, is the mayor friends with Mr. Ballen from Explore, and did that relationship have any bearing on this decision.
6. Multiple commenters asked why P.S. 114 has been targeted by this proposal when there are many more under-utilized buildings available and at least 23 schools are performing worse than P.S. 114.
7. A commenter asked whether charter schools are allowed to remove students from enrollment at their school for behavior problems, low performance, or low parent involvement, something which traditional public schools are not allowed to do. The commenter also asked if there is a guarantee that their child would be able to stay in the charter school if that child is accepted.
8. A commenter asked if the DOE would remove the charter school from K114 if the P.S. 114 community does not want it there and why or why not the DOE would take this course of action.
9. A commenter asked why the DOE is providing options like Explore, which provides less compared to P.S. 114, considering that its teachers are not required to be certified or to have their masters degrees as P.S. 114 teachers are required to do.
10. A commenter asked why Sections III and IV were missing from the amended revised notice published on March 21, 2011.
11. A commenter said that the public comments listed in the Public Comment Analysis published on March 22, 2011 were all either misinterpreted, ignored, or responded to with "boiler-plate language" taken from the EIS.
12. A commenter asks what the DOE plans to do to ensure competent and stable leadership are provided to P.S. 114 going forward as a new school is put into the building and how long the school community will have to wait for help from the DOE if problems arise from the co-location. The commenter also asked how parent involvement will be handled during the co-location.
13. A commenter asserted that the release of a new version of the proposal on March 21, 2011 did not allow the public enough time to comment on the changes to the proposal, and that there was not enough notice provided to the community during the proposal process.
14. A commenter asserted that the DOE has failed to address the rationale of co-location.
15. A commenter said the DOE has not substantiated its claims regarding the assessment it did of P.S. 114 and who was consulted in this assessment, factors which were the basis of the decision on the co-location.
16. A commenter said the DOE has not addressed concerns over whether the charter lottery will provide equal eligibility to all District 18 students.
17. A commenter said the DOE has not explained why new teachers went unsupported, which led to under-utilization, which has led to the co-location proposal.
18. A commenter asked why a new school should be co-located in K114 when an equally effective solution to the lack of high-quality options would be provided by a change in leadership at P.S. 114.
19. A commenter said the DOE has not properly addressed the fact that the co-location proposal is part of a Citywide agenda driven by the Mayor's effort to secure federal funding through opening new charter schools.
20. A commenter asked for the DOE to explain why it has gone through with all proposals to co-locate charter schools although there has been community resistance each time.

The following comment about the co-location proposal was made
at a joint public hearing on January 28, 2011, to discuss the proposed phase-out and eventual closure of P.S. 114:

21. New York City Council Member Charles Barron stated that resources that would be used to open charter schools should be allocated to P.S. 114 instead.

The following comments and remarks were made at the joint public hearing on February 16, 2011, regarding the co-location proposal:

22. A representative from Council Member Charles Barron's office expressed his opposition for the proposal to co-locate P.S. 521 and Explore with P.S. 114, and stated that a charter school should not be sited in a public school building. He expressed concern that current students at P.S. 114 will not be able to get in to the charter school, and that it is unfair that the DOE is supporting the charter school instead of offering these supports to current students. He questioned whether the new school would offer sports and noted that current students at P.S. 114 felt that the DOE had failed by not providing sports in the past.
23. Multiple commenters expressed their support for this proposal and noted that the other schools in the Explore Charter Schools Network currently offer successful special education models. A commenter stated that teachers would want their own children in a similar program. The commenters noted that parents deserve access to outstanding educational options for their children.
24. Multiple students currently enrolled at other schools in the Explore Charter Schools Network expressed their support for this proposal and noted that at Explore they have had positive experiences and enjoyed academic and personal success. They also expressed their hope that other students might enjoy these similar opportunities in the future.
25. Multiple commenters expressed their support for this proposal and noted that their children attended the other schools in the Explore Charter Schools Network. They expressed support for the Explore Charter Schools Network and noted that those schools teach students to respect one another, collaborate together, strive for academic achievement, which had resulted in their children's eagerness to learn. They expressed hope that other parents would understand that Explore would provide a good option for parents and their children to receive a better education.
26. Multiple staff members at the Explore Charter Schools Network expressed their support for this proposal and noted that although they understood the opposition to the proposal to phase out P.S. 114, Explore would provide an excellent education for future students, and would also provide extracurricular activities based on student interest. They asked parents to consider Explore as an option for their children.
27. A commenter expressed his support for this proposal and noted that charter schools are public schools that provide options for families and students; he also stated that the other schools in the Explore Charter Schools Network has outperformed many district schools on state exams.
28. A commenter expressed his support for the proposal and recognized the hard work of the staff at P.S. 114, but she also expressed support for this proposal and noted that charter schools should be able to open to provide an additional option for parents.
29. A question was submitted regarding the qualifications or requirements for teachers employed by charter schools.
30. A question was submitted inquiring how special education needs would be served in the two new schools.
31. A question was submitted about why there were two joint public hearings at the school.

The DOE received several comments and a question at the joint public hearing regarding the co-location proposal on February 16, 2011, that did not directly relate to the proposal:

- Councilman Lew Fidler stated that he hopes that the proposed phase-out of P.S. 114 would be reconsidered based on the feedback the DOE received at the joint public hearing. He further asked that the DOE recognize the hard work of the staff and the existing partnerships in the building. He noted that he had brought in over $1 million in capital funding for P.S. 114 in the past, and that he would double the support for the school if it is allowed to remain open. He requested that the DOE allow the school to remain open and that the funds that would have been provided to the charter school be provided to P.S. 114. He also requested that P.S. 114 be allowed the opportunity to turn around.
- The representative from Councilman Charles Barron's office stated that their office had worked with parents on the phase-out of P.S. 114 and that parent leaders had submitted a proposal on how to better support P.S. 114. He stated that P.S. 114 is a good school and that the school's alumni had gone on to achieve great things. He stated that P.S. 114's failure was due to the lack of resources the DOE provided the school; that the meeting is not meaningful and the DOE has likely made their decision; and the DOE should work with the school instead of phasing it out.
- A commenter stated that P.S. 114 is not failing and that the DOE cannot provide the data to support the phase-out proposal. The commenter stated that the reason for the proposal is that Explore Charter School Network's chief executive officer and the Mayor are friends and that this proposal is about politics, money and the Principals Academy. The school has been around for 100 years without a problem.
- A commenter stated that P.S. 114 was never given the chance to succeed. The Chancellor acknowledged that the DOE made a lot of mistakes, but there is not enough action in response. The commenter hopes the DOE is listening, that Cathie Black and Shael Suransky are aware of the problems and that the March 1 vote is not a joke.
- A commenter stated that the phase-out proposal should be fought because of mismanagement by the previous principal.
- A commenter wondered why there is a proposal to close the school when there is a three-year lease on the building.
- Multiple commenters stated that P.S. 114's struggles in recent years were not the school's fault, and that the DOE has failed to support the school.
- A commenter stated that she has friends at P.S. 114 but that there is difficulty in feeding them all because the DOE is taking away their jobs.
- A commenter voiced opposition for the phase-out of P.S. 114. She stated that she has multiple children at P.S. 114 and she has been satisfied with their education and the hard work of the teachers; she expressed concern that her children would be split up if the school phases out.
- A commenter voiced opposition for the phase out P.S. 114. She noted that many parents work multiple jobs and do not speak English, and therefore these parents did not understand the notices provided by the DOE. She further stated that the DOE should support existing schools.
- A commenter stated that P.S. 114 doesn't have good programs because it was treated unfairly. The commenter stated that the statistics provided by the DOE are not accurate and that the children/staff at P.S. 114 are not failing.

- A commenter expressed concern for existing fourth and fifth graders who would remain at P.S. 114 during the phase-out. The commenter noted that these students that would be displaced, and stated that P.S. 114 needs the DOE's support and resources that Explore would receive.

IV. Information regarding where the full text of the proposed item may be obtained.

The second revised Educational Impact Statement and second revised Building Utilization Plan can be found on the Department of Education's website:
http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2010-2011/June2011Proposals.htm

Copies of the second revised EIS and second revised BUP are also available in the main office of P.S. 114 Ryder Elementary School.

V. Submission of public comment.

Written comments can be sent to D18Proposals@schools.nyc.gov.
Oral comments can be left at 212-374-0208.

VI. The name, office, address, email and telephone number of the city district representative, knowledgeable on the item under consideration, from whom information may be obtained concerning the item.

Name: Benjamin Taylor
Office: Division of Portfolio Planning
Address: 52 Chambers St
Email: D18Proposals@schools.nyc.gov
Phone: 212-374-0208

VII. Date, time and place of joint public hearing for this proposal.

June 10, 2011 at 6:00 p.m.
P.S. 114 Ryder Elementary School
1077 Remsen Avenue
Brooklyn, NY 11236

Questions about the proposal can be directed as indicated in section VI above.

Speaker sign-up will begin 30 minutes before the hearing and will close 15 minutes after the start. Interpretation services will be provided in Arabic, Haitian Creole, and Spanish. To request additional interpretation services, please contact Mr. Taylor at the e-mail address or telephone number above.

VIII. Date, time and place of the Panel for Educational Policy meeting at which the Panel will vote on the proposed item.

June 27, 2011 at 6:00 p.m.
High School of Fashion Industries
225 West 24th Street
New York, NY 10011