Department of Education
Dennis M. Walcott, Chancellor

Public Comment Analysis[1]

Date: June 24, 2011

Topic: The Proposed Co-location of a New Public Charter School, Explore Excel Charter School (84K379), with Existing School P.S. 114 Ryder Elementary (18K114) in Building K114

Date of Panel Vote: June 27, 2011

Summary of Proposal

On May 23, 2011, the New York City Department of Education ("DOE") issued a second 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 it offers 1 section of full day pre-kindergarten program. Explore would be a new charter school that would serve kindergarten through fifth grade 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, housed in the K114 building, providing 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 K114.

In the second revised Educational Impact Statement ("EIS"), the DOE included Explore's District Borough Number and clarified the shared spaces in K114. The Building Utilization Plan ("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.

The details of this proposal have been released in a second revised EIS which can be accessed here along with the second revised BUP:

[1] This Analysis of Public Comments reflects those public comments received to date. The DOE will continue to accept public comments until Sunday, June 26, 2011 at 6:00 p.m. If any additional comments are received, they will be addressed in an amended analysis.

http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2010-2011/June2011Proposals. Copies of the second revised EIS and BUP are also available in the main office of 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 that 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 DOE then revised the phase-out EIS on January 12, 2011, to identify the charter school that would be co-located in K114 and to modify the proposed phase-out enrollment plan for P.S. 114. On January 14, 2011, the phase-out EIS was amended to correct one erroneous mention of the State Education Department ("SED") as the charter's authorizer and to clarify the charter application and lottery preferences for Explore. The phase-out proposal was initially scheduled to be voted upon by the Panel for Education Policy on February 3, 2011, but the vote was postponed until March 3, 2011. The DOE ultimately decided to withdraw its proposal to phase-out P.S. 114 and, therefore, P.S. 114 will not begin to phase-out in September 2011.

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 EIS was released on February 14, 2011, to correct typographical errors in the EIS, include information about the community-based organization in K114, and further clarify information related to P.S. 114.[2]

The amended proposal to co-locate P.S. 521 and Explore in K114 was scheduled to be voted upon by the Panel for Education Policy ("PEP") on March 1, 2011. Because the DOE ultimately decided to withdraw its proposal to phase out P.S. 114,[3] the DOE also postponed the vote on the proposal to co-locate P.S. 521 and Explore in K114. The DOE revised the co-location proposal on March 4, 2011, in the following manner:

- All references throughout the document related to the phase-out of P.S. 114 were removed because P.S. 114 is no longer proposed for phase-out;
- All references throughout the document related to the phase-in of a new DOE school (P.S. 521) were removed because P.S. 521 is no longer proposed to be sited at K114;
  - Grade levels served and enrollment projections for K114 were updated;
  - The enrollment projections for P.S. 114 show a decline in total enrollment because, in the future, the school will limit its out-of-zone enrollment;
  - Personnel Needs and Administrative positions at P.S. 114 will change as a result of a decrease in enrollment over time at P.S. 114;
  - The pre-kindergarten program at P.S. 114 will continue to be offered;
- If this proposal is approved, Explore will be the only school that is co-located in the building with P.S. 114;
- The lottery preferences for Explore have been updated;
- The EIS now reflects the 2010 audited register, instead of the unaudited register;
- Also, a revised Building Utilization Plan ("BUP") was issued to outline the number of rooms allocated to each school and the use of shared spaces.

[2] http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2010-2011/Mar12011Proposals.htm
[3] http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2010-2011/Mar12011Proposals.htm

On March 21, 2011, the DOE amended the revised co-location proposal to further clarify information in the EIS related to Explore's priority preferences and to correct typographical errors. The BUP for this proposal was also amended on March 21, 2011 to correct typographical errors in the shared space schedule related to the usage of gymnasium and outdoor play area. The proposed times that Explore and P.S. 114 would have access to the gymnasium were inadvertently flipped in the original posting, and the amended revised BUP reflects that P.S. 114 would have access to the outdoor play area until 2:55pm, not 1:55 pm as originally stated.

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.[4] If this second revised proposal is approved, in 2011-2012, Explore would open in K114 and would serve approximately 56 students per grade in kindergarten through third grade. These students will be admitted through the charter lottery application process 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 will be given first priority. Students at risk of academic failure are defined to be:

(1) students attending or zoned to attend a public school that 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.[5]

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 in the district. Therefore, if this proposal is approved, 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.

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.[6] The lottery preferences and admission process for Explore are described in more detail in the EIS.

The revised EIS and BUP were amended on March 21, 2011. The amended revised proposal was

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[4] Explore is currently authorized by its charter (SUNY) to serve kindergarten through sixth grade students, but the DOE anticipates that Explore will apply for a grade expansion to serve kindergarten through eighth grade in the future. In this proposal, Explore will reach full scale in the K114 building when it serves fifth grade in 2013-2014. If Explore's application to serve middle school grades is approved, the DOE will evaluate the space available in K114 and other District 18 locations and will issue a new Educational Impact Statement ("EIS") for siting the middle school grade levels, based on the most appropriate space available for the 2014-2015 school year and beyond. The DOE is considering all long-term options to accommodate the anticipated growth of Explore. This may include requesting Explore to revise its enrollment plan and/or leaving the elementary grade levels in K114 and placing other grades in a different location.

[5] Details on the application lottery process and how to obtain an application would be forthcoming pending the outcome of this proposal.

[6] In this proposal, the DOE projects that Explore would enroll 280 students at full scale in 2013-2014. However, Explore is only authorized by its charter authorizer, SUNY, to serve 250 students. Thus, the DOE's projection that Explore would serve 280 students is contingent upon Explore obtaining permission from its authorizer to increase enrollment above 250 students. If Explore's proposal to expand its enrollment is not approved by SUNY, the DOE will re-examine this co-location proposal and may revise as appropriate.

approved by the PEP on March 23, 2011. On May 23, 2011 the DOE issued a second revised EIS and BUP. The second revised EIS and BUP will be voted on by the PEP at its meeting on June 27, 2011.

Summary of Comments Received at the Joint Public Hearings

A joint public hearing regarding the proposed phase-out and eventual closure of P.S. 114 was held on January 28, 2011 at K114. At that hearing, commenters also spoke in opposition to the proposal to co-locate P.S. 521 and Explore in K114. Comments made at that hearing related to the proposal to co-locate P.S. 521 and Explore in K114 are listed below and are included in the analysis of public comment.[7]

In addition, the DOE also held a joint public hearing regarding the proposal to co-locate P.S. 521 and Explore with P.S. 114 at K114 on February 16, 2011. An analysis of the public comments made at that hearing related to this proposal is included below. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 68 members of the public attended the hearing and 23 people spoke. Present at the meeting were: P.S. 114 School Leadership Team ("SLT") member Crystal King; Community Education Council ("CEC") 18 representative Eucebio Hooks; Deputy Chancellor Marc Sternberg, Melissa Harris of the Office for Family Information and Action; New York City Council Member Lewis Fidler; Lamont Carolina, a representative from New York City Council Member Charles Barron's office; and M. Pegye Johnson, a representative from New York City Council Member Jumaane Williams' office.

As discussed above, P.S. 521 is no longer proposed to be sited at K114. Rather, the DOE has only proposed to co-locate Explore with P.S. 114 in K114 beginning in September of 2011. The DOE held another joint public hearing at K114 regarding the revised amended proposal on March 22, 2011. At that hearing, approximately 50 members of the public attended the hearing and 14 people spoke. Present at the meeting were: P.S. 114 SLT members Crystal King and Jimmy Orr; CEC 18 Representative Rhonda Joseph, and Deputy Chancellor Marc Sternberg. This analysis of public comment includes comments received at that hearing as well.

A joint public hearing regarding the second revised proposal was held at K114 on June 10, 2011. At the hearing, interested parties had an opportunity to provide input on the second revised proposal. Approximately, 24 members of the public attended the hearing and about 5 people spoke. Present at the meeting were: Deputy Chancellor Marc Sternberg; District 18 Superintendent Beverly Wilkins; CEC 18 President James Dandridge; P.S. 114 Principal Darwin Smith; Explore Principal Ethan Mitnick; State University of New York representative Maureen Murphy; and P.S. 114 SLT member Darius Smith.

<u>The following comment about the proposal to co-locate P.S. 521 and Explore in K114 was made at the joint public hearing on January 28, 2011, to discuss the proposed phase-out and eventual closure of P.S. 114:</u>

[7] The full analysis of public comment related to the proposal to phase-out and eventually close P.S. 114 is available on the DOE's website at http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2010-2011/Mar12011Proposals.htm.

1. 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.

<u>The following comments and remarks were made at the joint public hearing on February 16, 2011, regarding the **original** co-location proposal:</u>

2. The 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 concerns 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.

3. Multiple commenters expressed their support for the 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.

4. 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 similar opportunities in the future.

5. Multiple commenters expressed their support for the 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, and 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.

6. 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.

7. A commenter expressed his support for the 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 have outperformed many district schools on state exams.

8. A commenter expressed his support for the proposal and recognized the hard work of the staff at P.S. 114, but he also expressed support for this proposal and noted that charter schools should be able to open to provide an additional option for parents.

9. A question was submitted regarding the qualifications or requirements for teachers employed by charter schools.

10. A question was submitted inquiring how special education needs would be served in the two new schools.

11. A question was submitted about why there were two joint public hearings at the school.

The DOE received the following comments and a question at the joint public hearing regarding the original co-location proposal on February 16, 2011, that did not directly relate to the proposal. These comments are listed below:

- Council Member 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, the meeting is not meaningful and the DOE has likely made their decision; and the DOE should work with the school instead of phasing 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 Marty and the Mayor are friends, this 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.

<u>The following comments and remarks were made at the joint public hearing on March 22, 2011, regarding the **first revised** co-location proposal:</u>

12. The representative from CEC 18 stated that she hopes the DOE will ensure that the process to co-locate Explore in K114 is transparent. She welcomed Explore Charter School into the district and expressed hope that P.S. 114 is not overwhelmed by the proposed co-location. She also stated that she hopes the DOE will be able to work to ensure that students of P.S. 114 are supported to reach their maximum potential.

13. Multiple commenters expressed concern that while the DOE has stated that P.S. 114 will remain open and will be supported to improve, the proposed co-location proposal would require P.S. 114 to downsize its student enrollment and share space and resources such as the library, gymnasium and cafeteria, which is contradictory to the DOE's commitment to help P.S. 114 improve.

14. One commenter compared the proposed co-location to a strained marriage and suggested that P.S. 114 is similar to a neglected wife, the DOE is the neglectful husband, and Explore is the mistress that is introduced into the home.

15. One commenter suggested that the P.S. 114 leadership should have the opportunity to succeed before a co-location is implemented.

16. One commenter stated that P.S. 114 will be downsized and that the school will lose students and teachers.

17. One commenter expressed concern that there will not be enough space in the building if P.S. 114 grows as a result of the school's improvement.

18. Multiple commenters stated that there is no space in the building for another school.

19. Multiple commenters expressed concern with the shared space schedule and argued that P.S. 114's resources are being taken away from them, that P.S. 114 would be "taken over" by the charter school, and that the proposal was unfair to P.S. 114 students.

20. One commenter suggested that the shared space schedule prioritizes Explore and that Explore is always listed "first" and questioned why the P.S. 114 should be last on the shared space schedule.

21. Multiple commenters stated that P.S. 114 should be allowed to grow and that the P.S. 114 community needs to fight for their school.

22. One commenter stated that P.S. 114 needs more guidance counselors, more Academic Intervention Services, more art instructors, and more gym teachers and coaches, and that the things that were taken away from P.S. 114 due to DOE's neglect should be restored.

23. One commenter suggested that P.S. 114 should offer a Gifted and Talented program.

24. Multiple commenters suggested that the Canarsie community "belongs" to the P.S. 114 community and that there are other places that Explore could be co-located. Specifically, a building located at 95th Street and Glenwood was suggested as a possible siting.

25. One commenter stated that the Mayor is giving more money to charter schools than DOE schools.

26. One commenter stated that charter schools discriminate and only admit certain students while district schools admit all students.

27. One commenter suggested that before enrolling their kids in a charter school, parents should check to ensure that teachers have a Masters Degree.

28. Multiple commenters expressed support for charter schools and parent choice.

29. One commenter re-stated the priority preferences for Explore Excel Charter school and the charter law governing admissions practices for all charter schools and stated that families deserve more school options now.

30. One commenter from the Explore Charter Schools Network stated that Explore is excited to work together with the District 18 and P.S. 114 community and recognized the commitment and dedication expressed by the community. He expressed optimism that both organizations will be able to manage the co-location successfully and ensure that all students in the building will be comfortable and positively impacted. An existing co-location of another school in the charter organization (Explore Empower) was cited as an example of a successful and thriving co-location with a district school.

31. One commenter stated that she has two children currently attending school in one building where there is a charter co-location. One child is enrolled in the charter school (Explore Empower) and the other child is enrolled in the district school that is co-located in the building. The commenter stated support for increased options and parent choice, stressing that more parents should have similar options that she did. She stated that everyone's first priority should be the students and encouraged the P.S. 114 community to be more accepting of the proposal.

32. One commenter noted that he is on the building council where Explore Empower is co-located with a district school and acknowledged that sharing space can be a challenge, but he noted that schools can work together to exchange ideas and collaborate on shared events. He also stressed that it is important to work together.

33. One commenter supported the co-location and stated that all parents have shared goals for their students and should work toward those goals together.

34. A speaker asked how the DOE would incorporate the comments received at the Joint Public Hearing on March 22, 2011 to inform the PEP's decision and vote on March 23, 2011.

35. A speaker questioned the status of the Interim Acting Principal of P.S. 114 and how that would impact the shared space.

36. A speaker questioned the rationale behind moving forward with the proposed co-location of Explore Charter school and asked how the DOE would support PS 114.

37. A commenter questioned the DOE's engagement process regarding this proposal:
    a. Why was the amended revised joint public hearing notice missing sections III and IV of the EIS?
    b. Why does the analysis of public comment published on March 22, 2011 reuse language from the EIS?
    c. Why did the DOE publish the amended revised EIS and BUP on March 21, 2011, less than 24 hours before the joint public hearing? This did not give the public sufficient time to review the amended revised EIS and BUP.
    d. No copies of the EIS and BUP were available in the main office of P.S. 114.
    e. Who was consulted on the decision to co-locate Explore with P.S. 114 in K114?

The following comments and remarks were made at the joint public hearing on June 10, 2011, on the **second revised** proposal:

38. The principal of Explore stated that the school's staff is excited to serve the families of Canarsie and that Explore is looking forward to sharing the building's space and resources with P.S. 114.
39. CEC 18 President James Dandridge stated that the CEC will work to ensure that the rights of all students will be respected and that the building's space will be equitably shared. He also noted that the CEC does not agree with the numbers cited and the methodology used to calculate buildings' capacity and utilization rate as expressed in the Blue Book.
40. A commenter asked how co-locating Explore in building K114 would benefit P.S. 114 and its students. The commenter also stated that co-locating Explore with P.S. 114 would negatively affect P.S. 114's enrollment and it fails to ensure that P.S. 114 will get more resources.
41. A commenter stated that P.S. 114 should receive the G&T program that it once had. The commenter also stated that while Explore can draw students from throughout District 18, P.S. 114 serves zoned students, and it enrolls large numbers of English Language Learner and special education students. Because P.S. 114 will have approximately three times the number of students as Explore next year, it should be allocated proportionately more space and time in shared spaces than in Explore.
42. A commenter stated that the DOE should ensure that P.S. 114 has the tools and resources to continue to grow.
43. A commenter asked why P.S. 114's breakfast period is scheduled to take place between 7:45 and 8:20 a.m. when P.S. 114 begins its school day at 8:00 a.m. The commenter also stated that it's unfair that P.S. 114 is allocated time between 11:15 a.m. to 2:00 p.m. in the cafeteria for lunch when P.S. 114's dismissal takes place at 2:20 p.m.
44. A commenter stated that parents' feedback should be considered after the many hearings that have been held about this proposal because P.S. 114 is a community school, and it's supported by parents.

Summary of Issues Raised in Written and/or Oral Comments Submitted to the DOE regarding the Original Co-Location Proposal

No written or oral comments had been submitted to the DOE regarding the original co-location proposal.

Summary of Issues Raised in Written and/or Oral Comments Submitted to the DOE regarding the First Revised Co-Location Proposal

45. 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.

49. Multiple commenters opposed the proposal because P.S. 114 would have to share the shared spaces in K114 with Explore and P.S. 114's enrollment has been projected to decrease while Explore's enrollment increases.

50. In a letter to the Chancellor, Public Advocate Bill de Blasio and other commenters also noted that:
    a. The proposed shared space plan in the BUP attached to the EIS does not adequately reflect the differences in student populations between Explore and P.S. 114. Specifically, the Public Advocate's 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.

Summary of Issues Raised in Written and/or Oral Comments Submitted to the DOE regarding the Second Revised Co-Location Proposal

No oral or written comments were received by the DOE regarding the Second Revised Co-location Proposal.

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

- Comments 2 and 26 opposed the co-location proposal and stated that current students at P.S. 114 will not be able to get in to the charter school. This statement is inaccurate. The DOE notes that public charter schools may not select their own students, but rather they must admit students through the charter lottery application process. Through the lottery, students are selected randomly from among the applicant pool. If the proposal is approved, Explore would open in the K114 building and would serve kindergarten through third grade students in 2011-2012 and kindergarten through fifth grade students when it achieves "full scale" in 2013-2014. Explore was approved by its authorizer, the State University of New York State Charter School Institute, to admit first, second, and third grade students through the charter lottery application process and provide 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 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.

As described above and in both the first revised amended EIS and second revised amended EIS, P.S. 114 is the only school that received a "D" this year in District 18, and no other elementary school is designated as SURR or subject to restructuring in the district. Therefore, if this proposal is approved, 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.

As described above, the DOE is no longer proposing to site and co-locate P.S. 521 in K114. Therefore, the comment regarding whether the new school would offer sports will not be responded to here.

- Comments 2, 13, 25, and 40 suggest that the charter school receives support that DOE schools do not. Comment 1 also stated that resources that would be used to open Explore should be allocated to P.S. 114. Comments 22 and 36 urge the DOE to provide additional support to P.S. 114 that may include additional instructional staff, sports coaches and gym teachers. Comments 15, 21, and 42 suggest that the school should have an opportunity to grow or succeed before implementing the proposal. Comment 12 expressed hope that the DOE would work to ensure that P.S. 114 students are supported.

  In general, all schools receive support and assistance from their superintendent and Children First Network team, a group of educators who work directly with schools. This team helps schools to identify best practices, target strategies for specific students in need of extra help, and prioritize competing demands on resources and time. Each school community chooses the network whose support best meets its needs, and each network works to improve student achievement in all of its schools.

  To help the school's efforts to improve, the DOE has offered numerous supports to P.S. 114, including:

  Leadership Support:
  - Extensive coaching for the principal on how to supervise and evaluate assistant principals and teachers, to promote a safe school environment, and to implement discipline and intervention policies.
  - Offering to help the school develop P.S. 114's Comprehensive Education Plan and set school-wide goals.
  - Connecting administrators with other schools to learn best practices that can be replicated at P.S. 114.

  Instructional Support:
  - Offering training to the principal and assistant principal on the new state curriculum, curriculum planning, and developing rigorous lessons.

- Working with the principal on a year-long study that looked at the rigor of instruction for English Language Learners and students with disabilities.
- Teacher training in the use of data to drive instruction and the Common Core State Standards, curriculum planning, and administering periodic assessments.
- Helping teacher teams promote collaboration and align P.S. 114's curriculum across grade levels and content areas.

Operational Support:
- Coaching for school staff on budgeting, human resources, recruiting and retaining talented teachers, building management, and operational compliance issues.

Student Support:
- Working with the school to identify strategies to improve school safety.
- Helping the school contract with Educators for Social Responsibility to improve student discipline practices.
- Holding training sessions on how to deal with student suspensions and re-entry of suspended students.

Safety Support: The DOE makes available the following supports to schools around safety and security:
- Best Practices Standards for Creating and Sustaining a Safe and Supportive School resource guide.
- Review and monitoring of school occurrence data and crime data in conjunction with the Criminal Justice Coordinator and the NYPD.
- Technical assistance when incidents occur via the Borough Safety Directors.
- Professional development and support to CFN Safety Liaisons.
- Professional development and kits for Building Response Teams.
- Monitoring and certification of School Safety Plans annually.

The DOE will continue to offer these supports to P.S. 114 in the future.

As stated in the EIS, the costs of instruction or operating budgets for P.S. 114 would not be impacted by the co-location of Explore in K114. The basic operating budget for P.S. 114 is determined by the same Fair Student Funding formula used at all other New York City district public schools. Schools receive City tax levy funding on a per pupil basis, and each student receives a per pupil allocation based on the grade level of the student. Fair Student Funding allocations are subject to annual variation. In addition, Fair Student Funding awards supplemental allocations on a per pupil basis for students who have additional needs and, therefore, cost more to educate. Decisions on how to allocate funds are made at the school's discretion, and funds may be used to hire additional staff, purchase supplies and materials or implement instructional programs or extracurricular activities. 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. Thus, the funding for P.S. 114 and Explore are distinct and independent of each other.

In response to the assertion in comments 22 and 36 that P.S. 114 should offer sports, the DOE acknowledges that P.S. 114 does not currently offer student athletics or other extracurricular program options. P.S. 114 may, in the future, offer extracurricular programs based on student interests, available resources, and staff support for those programs.

In response to the comments 15, 21, and 42 that stated that P.S. 114 should be allowed to grow, the DOE reiterates that it will continue to offer its support to P.S. 114 and will work to develop a comprehensive plan for the school.

Moreover, as described in the EIS, in the future, if there is an increase in student enrollment resulting from demand greater than current projections for P.S. 114 or an increase in the number of families residing in the zoned area, the Chancellor reserves the right to relocate Explore to an alternate location geographically proximate to K114. In that event, the Chancellor shall certify in writing that in his judgment, the need of the school system requires the re-acquisition of the charter school space for DOE use. Thus, if the demand for P.S. 114 increases within the zone, the DOE could elect to re-site Explore in the future.

- Comments 3 through 8, comments 28 through 33, and comment 38 were in support of the Explore organization, and, therefore, the DOE will not respond to these comments.

- Comment 9 and 27 questioned what qualifications or requirements teachers must have to be employed by charter schools. To clarify, charter schools are free public schools. According to New York State Charter Law, charters may employ up to 30% of teachers who are technically uncertified if they have at least three years of teaching experience in the elementary, middle or secondary level. Teachers may also teach at charter schools if they are tenured or on tenure track at college or university, if they've had at least two years of teaching experience through Teach for America, or if they are individuals with exceptional experience in the military, business or professional arena. At all time, charter schools are required to employ not less than 70% certified teachers.

- Comment 10 questioned how students with special education needs would be served in the two new schools. As discussed, P.S. 521 will no longer be sited in K114; only Explore will be co-located with P.S. 114. The DOE notes that public charter schools may not select their own students, but rather, they must admit students through the charter lottery application process. Through the lottery, students are selected randomly from among the applicant pool. Students with disabilities and English Language Learner students may apply through the lottery process as well and will not be treated differently in the lottery process. Explore will provide all current and future students who are English Language Learners (“ELL”) or who have Individual Education Plans (“IEP”) with mandated services.

The DOE also notes that Explore Charter Schools Network currently manages two charter schools in Brooklyn: Explore Charter School (84K704, 15 Snyder Avenue in District 17), which was opened in 2002 and currently serves approximately 476 kindergarten through eighth grade students[8], and Empower Charter School (84K742, 801 Park Place in District 17), which was opened in 2009 and currently serves approximately 223 kindergarten through third grade students[9]. This year, 14% of Explore Charter School's students have IEPs, and 2% of Explore Charter School's students were classified to be ELL. This year, 10% of Empower Charter School's students have IEPs, and 1% of its students are ELL. Thus, students with disabilities and ELL students are in fact served by charter schools and will be served by Explore if this proposal is approved.

- Comment 11 questioned why there were separate joint public hearings regarding the proposal to phase out and eventually close P.S. 114 and the proposal to co-locate P.S. 521 and Explore with P.S. 114 in K114. There were separate joint public hearings because those proposals were separate, and each required an individual EIS. One of the proposals proposed the phase out of P.S. 114. The DOE ultimately withdrew that proposal. In the other proposal, the DOE proposed to co-locate P.S. 521 and Explore with P.S. 114 in K114. This proposal was revised on March 4, 2011, in the manner noted above. On March 22, 2011, the revised proposal was amended to further clarify information in the EIS related to Explore's priority preferences and to correct typographical errors. A joint public hearing regarding the first revised amended proposal took place on March 22, 2011. A second revised proposal was issued on May 23, 2011. A joint public hearing regarding the second revised amended proposal took place on June 10, 2011.

- Comments 14 and 45 suggested that the DOE has prioritized serving charter schools ahead of district schools and that the decision to place Explore in K114 is driven by the desire to push P.S. 114 or public schools out of prime real estate. At the outset, the DOE notes that P.S. 114 will remain open and that it is not being "driven" out of prime real estate. Rather, the DOE supports parent choice and strives to ensure that all families have access to diverse schools that meet their children's needs. To support parent choice, the DOE proposes to open and co-locate new charter schools in existing buildings to expand the range of options for students. The DOE has replaced 91 of the City's lowest-performing schools and opened 474 new schools to increase the school options available to parents and students. Of the 474, 365 are traditional public schools and 109 are public charter schools. As a result, the DOE has created more choices for families.

- Comment 16 states that P.S. 114's enrollment would be reduced and that the school will lose students and teachers as a result of this proposal. As described above and in the second revised amended EIS, P.S. 114 currently enrolls 733 kindergarten through fifth grade students[10] in 2010-2011, of which 97 students are in kindergarten. Of the 97 kindergarten students, 78 students are zoned to P.S. 114, meaning that the remaining 19 students are not zoned to the school or are out of zone students. Over the past two years, the average number of zoned kindergarten students has been approximately 74-75

[8] Source: 2010 audited register
[9] Source: 2010 audited register
[10] Source: 2010 audited register, excludes pre-kindergarten.

students. The DOE's enrollment projections for future kindergarten classes are based on historical zoned enrollment trends, and, therefore, reflect a smaller number of kindergarten students than the current number of kindergarten students enrolled at P.S. 114. As stated, P.S. 114 will need to monitor its out of zone student enrollment in the future. Since the incoming kindergarten classes will be restricted to students who live within the zone and will be smaller beginning in 2011-2012, the total enrollment for P.S. 114 is also projected to decrease over time.

P.S. 114's total enrollment is projected to decline as a result of this change. In 2010-2011, P.S. 114 enrolled a total of 733 students in kindergarten through fifth grade. In 2013-2014, the DOE has projected a total enrollment of 530-575 students in kindergarten through fifth grade, representing an approximately 22% decline in numbers. Despite the fact that P.S. 114 may admit fewer out of zone students than in the past, P.S. 114 will continue to serve all students located in the zone who choose to attend P.S. 114.

Moreover, the commenter is correct that some supervisor and/or administrator positions assigned to P.S. 114 may be excessed once the school's registers have been reduced in all grades as a result of the fact that the school will reduce its enrollment to enroll in zone students. Some positions may be excessed as enrollment at the school gradually decreases, as administrative needs will decrease as the school serves an increasingly smaller student population. All excessing will take place in accordance with applicable law and labor contracts.

- Comment 18 states that there is no space for another school in the K114 building. Comment 36 questions the rationale for proposing to co-locate Explore in the K114 building. The DOE notes in 2010-2011, the K114 building enrolled 751 students in pre-kindergarten through fifth grade, yielding a target utilization rate of 76%. Explore would open in K114 in the 2011-2012 school year and would serve kindergarten through third grade students with an enrollment of approximately 224 students. In 2013-2014, P.S. 114 is projected to serve approximately 530-575 students. Once Explore is at scale and serves kindergarten through fifth grade, it will serve approximately 336 students. In total, there will be approximately 884-929 total students served in the building, yielding a building utilization rate of 94%. Thus, if this proposal is approved, there would be sufficient space to serve P.S. 114 and Explore. Additionally, as described in the revised amended BUP and the second revised BUP, P.S. 114 is currently using a large number of excess rooms in the building, or room not included within its footprint allocation. P.S. 114 would have to operate more closely to its baseline if this proposal is approved. Nonetheless, the DOE believes that there is room for both schools in the building. But, as noted in the revised EIS, P.S. 114 would have to reduce its out of zone enrollment in the future.

- Comments 23 and 41 suggest that a Gifted and Talented program should be offered at P.S. 114. P.S. 114 currently offers the Astral program for gifted and talented students in the fourth and fifth grade, which provides an enriched curriculum expanding the learning experience in the form of challenging activities designed for critical and creative thought. The Astral program is not part of the Citywide Gifted and Talented program or testing process, no longer enrolls students into its entry grade, and is in the process of phasing

out and will continue to do so independent of this proposal. The DOE notes that Citywide Gifted and Talented programs are sited or opened based on demand from students who qualify by scoring in the 90th percentile or above on the Citywide Gifted and Talented tests. In District 18, there is limited demand for Citywide Gifted and Talented programs. In 2008, there were only 15 applicants; in 2009, 27; in 2010, 32; and in 2011, only 20. The possibility of siting new Gifted and Talented programs in District 18 or P.S. 114 may be determined at a later time if demand increases.

- Comment 24 opposes the proposal, suggests that there are alternate locations that could accommodate the charter school, and specifically identifies a building located at 95th Street and Glenwood. The DOE is not aware of a school facility at this specific intersection. However, the DOE notes that this intersection is close to a DOE building located at 1106-1122 East 95th Street, south of Glenwood Road. This building currently houses the District 18 administrative offices, and it is currently configured and utilized as DOE administrative offices. The DOE considered all options prior to proposing this co-location. As described above, there is sufficient space to serve P.S. 114 and Explore in the K114 building.

- Comment 34 questioned how the comments from the Joint Public Hearing on March 22, 2011 would be taken into consideration given that the PEP vote is scheduled for March 23, 2011. The analysis of public comment in response to this proposal was posted on March 22, 2011. An amended analysis of public comment was issued to capture the additional comments received at the Joint Public Hearing on March 22, 2011. The amended analysis of public comment was provided to Panel members and re-posted online prior to the Panel vote on March 23, 2011. A transcript of the Joint Public Hearing is available at http://schools.nyc.gov/community/planning/changes/brooklyn/Ps114Explore.

- Comments 35 and 50(d) relate to the selection of a principal at P.S. 114. Comment 15 suggests that the leadership of P.S. 114 should be provided with an opportunity to succeed. The DOE is committed to supporting P.S. 114 and decided to withdraw its proposal to phase out P.S. 114. Currently, P.S. 114 has an Interim Acting Principal who was recently assigned to P.S. 114. Any decisions related to the selections, assignment and appointment of Principals are carried out in accordance to Chancellor's Regulations C-30, which can be viewed on the DOE's website at: http://schools.nyc.gov/RulesPolicies/ChancellorsRegulations. The current Interim Acting Principal is a veteran educator, licensed as a special education and general education teacher and reading specialist, has served as a principal, assistant principal, deputy cluster leader and most recently a doctoral student. The DOE is confident that he has the capacity to significantly improve student achievement at P.S. 114.

  The Public Advocate also commented that the DOE should refrain from implementing any shared space arrangements until a principal for P.S. 114 is selected. The DOE notes that the selection of a principal does not directly relate to the proposal to co-locate Explore with P.S. 114 in K114 or the shared space plan for this proposal. The DOE further states that the shared space agreement is a preliminary proposal, and that final

decisions regarding the shared space plan must be agreed upon by the Building Council, which is comprised of the principals of both co-located schools, and the Shared Space Committee.

- Comment 37 questioned the DOE's engagement process regarding this proposal:

  In response to comment 37(a), since the DOE merely amended the EIS on March 21, 2011, the amended notices did not include a summary of the public comments received on the proposal to date. But, the DOE notes that when the EIS was revised on March 4, 2011, the revised notices did include a summary of the public comments received to date. In any regard, all public comments received on this proposal have been included in the public comment analysis.

  In response to comment 37(b), the DOE may respond to public comments received using existing text from the EIS. Often, it makes sense to quote or summarize information from the EIS in question when responding to questions or concerns about the proposal.

  Moreover, in response to comment 37(c), the DOE amended the EIS and did not revise the EIS on March 21, 2011. Amendments to the EIS may be posted in advance of the Joint Public Hearing. In this case, the DOE published the amended EIS one day prior to the Joint Public Hearing. In any regard, copies of the amended EIS and BUP were made available at the Joint Public Hearing on March 22, 2011. Additionally, the amendments to the EIS merely clarified Explore's priority preferences on page 3, 8, and 11 and corrected typographical errors as described in the summary for the amended EIS.

  In response to comment 37(d), the DOE instructs all Principals to make copies of the EIS and BUP available in the main office. The EIS and the BUP are also made available online.

  In response to comment 37(e), the proposed co-location was approved by the PEP on March 23, 2011. As outlined in Chancellor's Regulation A-190, a joint public hearing regarding the proposed phase-out and eventual closure of P.S. 114 was held on January 28, 2011. In addition, the DOE also held a joint public hearing regarding the proposal to co-locate P.S. 521 and Explore with P.S. 114 at K114 on February 16, 2011. An analysis of the public comments made at that hearing related to this proposal is included in this document. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 68 members of the public attended the hearing and 23 people spoke. Present at the meeting were: P.S. 114 School Leadership Team ("SLT") member Crystal King; Community Education Council ("CEC") 18 representative Eucebio Hooks; Deputy Chancellor Marc Sternberg, Melissa Harris of the Office for Family Information and Action; New York City Council Member Lewis Fidler; Lamont Carolina, a representative from New York City Council Member Charles Barron's office; and M. Pegye Johnson, a representative from New York City Council Member Jumaane Williams' office.

As discussed above, P.S. 521 is no longer proposed to be sited at K114. Rather, the DOE has only proposed to co-locate Explore with P.S. 114 in K114 beginning in September of 2011. The original analysis of public comment concerning the amended revised proposal was published on March 22, 2011.[11] The DOE also held another joint public hearing at K114 regarding the revised amended proposal on March 22, 2011. At that hearing, approximately 50 members of the public attended the hearing and 14 people spoke. Present at the meeting were: P.S. 114 SLT members Crystal King and Jimmy Orr; CEC 18 Representative Rhonda Joseph, and Deputy Chancellor Marc Sternberg. The amended analysis of public comment included comments received at that hearing as well.

The DOE held a joint public hearing at K114 regarding the second revised proposal on June 10, 2011. Approximately, 24 members of the public attended this hearing and 5 people spoke. Present at the meeting were: Deputy Chancellor Marc Sternberg; District 18 Superintendent Beverly Wilkins; CEC 18 President James Dandridge; P.S. 114 Interim Acting Principal Darwin Smith; Explore Principal Ethan Mitnick; State University of New York representative Maureen Murphy; and P.S. 114 SLT member Darius Smith. The comments received at this meeting are included in this public comment analysis.

- Comment 40 asked how co-locating Explore with P.S. 114 in building K114 would benefit P.S. 114. In creating collaborative relationships, co-located schools can share resources such as professional development opportunities. Furthermore, the co-location of Explore in K114 will provide District 18 elementary students with an additional elementary school option.

  In addition, if this co-location proposal is approved, P.S. 114 would get the benefit of a capital upgrade to the building in the event that Explore requires a capital upgrade. In accordance with New York State Charter Schools Act of 1998 (as amended), the Chancellor or his/her designee must first authorize in writing any proposed capital improvement or facility upgrade in excess of five thousand dollars, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the Chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter school within the public school building. For any capital improvements or facility upgrades in excess of five thousand dollars that have been approved by the Chancellor, regardless of the source of funding, made in a charter school that is already co-located within a public school building, matching capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of such improvements or upgrades.

  While P.S. 114 will need to limit the number of out-of-zone students that are admitted in the future, the DOE believes that this will allow P.S. 114 to focus on improving and serve its zoned students. Please note that P.S. 114 will continue to admit all students residing in the P.S. 114 zone, which includes students who enroll through an over-the-counter

[11] http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2010-2011/Mar232011Proposals.htm

placement.

- Comment 43 asked why P.S. 114's breakfast period is scheduled to take place between 7:45 and 8:20 a.m. when P.S. 114 begins its school day at 8:00 a.m. The commenter also stated that it's unfair that P.S. 114 is allocated time between 11:15 a.m. to 2:00 p.m. in the cafeteria for lunch when P.S. 114's dismissal takes place at 2:20 p.m.

  With regard to breakfast, the DOE notes that P.S. 114 currently offers breakfast in the cafeteria from 7:45 a.m. to 8:20 a.m. Consistent with its current practice, P.S. 114 is allocated the same time and duration in the cafeteria for breakfast.

  Currently, P.S. 114 offers lunch from approximately 10:30 a.m. to 1:15 p.m., for a total of 2 hours 45 minutes daily, or 13 hours 45 minutes weekly. In the proposed schedule below, P.S. 114 will continue to have the same amount of total time allocated in the cafeteria, but the DOE proposes that P.S. 114 begin lunch at a later time (11:15 a.m. to 2:00 p.m.).

  The DOE believes that this schedule is equitable and comparable based on the fact that all students should be able to eat lunch during customary lunchtimes.

- Comment 44 stated that parents' feedback should be considered.

  The DOE appreciates all feedback from the community regarding this proposal. When the second revised Educational Impact Statement and the revised Building Utilization Plan were issued, they was made available to the staff, faculty, and parent communities at P.S. 114, on the DOE's Web site, and in P.S. 114's main office. In addition, the DOE set up a dedicated website and voicemail to collect feedback on this proposal. All schools' staff, faculty, and parent communities were invited to the joint public hearing to solicit further feedback.

  The joint public hearing regarding this second revised proposal was held on June 10, 2011, and all comments made at the joint public hearing were included in this analysis of public comment. The Panel for Educational Policy will vote on various proposals, including this proposal, on June 27, 2011, and there will a period designated for public comment at that hearing when the vote is scheduled.

- Comment 49 questioned why P.S. 114's enrollment would decline while Explore's enrollment increases. Comments 17 and 50(b) state that building K114 could become over-utilized if P.S. 114's enrollment increases beyond the DOE's projections. Comment 50(c) states that building K114 could also become over-utilized if Explore expands to serve kindergarten through eighth grade students.

  P.S. 114 currently enrolls 733 kindergarten through fifth grade students[12] in 2010-2011, of which 97 students are in kindergarten. Of the 97 kindergarten students, 78 students are zoned to P.S. 114, meaning that the remaining 19 students are not zoned to the school.

[12] Source: 2010 audited register, excludes pre-kindergarten.

The DOE's enrollment projections for future kindergarten classes are based on historical zone enrollment trends and will reflect a smaller number than the current number of kindergarteners enrolled because in the future P.S. 114 will need to reduce its out of zone student enrollment. Since the incoming kindergarten classes will be restricted to students who live within the zone and will be smaller beginning in 2011-2012, the total enrollment for P.S. 114 is also projected to decrease over time.

The DOE also notes that, over the past 2 years, the zoned kindergarten enrollment at P.S. 114 has been on average around 74-75 students. In 2010-2011, 43% of kindergarten through fifth grade students zoned to P.S. 114 attended the school, which comprised 78% of the total enrollment at P.S. 114. Additionally, in 2009-2010, 46% of kindergarten through fifth grade students zoned to P.S. 114 attended the school, which comprised 76% of the total enrollment at P.S. 114. Thus, the DOE assures all parents in the P.S. 114 zone that all students residing in the P.S. 114 zone will continue to be entitled to a seat at their zone school.

Additionally, the DOE also noted in the EIS that, in the future, if there is an increase in student enrollment resulting from demand greater than current projections for P.S. 114 or an increase in the number of families residing in the zoned area, the Chancellor reserves the right to relocate Explore to an alternate location geographically proximate to K114. The Chancellor shall certify in writing that in her judgment, the need of the school system requires the re-acquisition of the charter school space for DOE use. Thus, if the demand for P.S. 114 increases within the zone, the DOE could elect to re-site Explore in the future.

Finally, as stated in the EIS, Explore is authorized by its charter to serve kindergarten through sixth grades, and the DOE anticipates that Explore will apply for a grade expansion to serve kindergarten through eighth grades in the future. However, in this proposal, Explore will reach full scale in the K114 when it serves fifth grade. The DOE will evaluate the space available in K114 and other District 18 locations and will issue a new EIS for the long term siting the middle school grade levels, based on the most appropriate space available for the 2014-2015 school year and beyond.

- Comment 49 and comment 50(a) by the Public Advocate state that the proposed shared space plan outlined in the BUP does not adequately reflect the differences in student populations between Explore and P.S. 114, and comments 17, 19 and 20 suggest that the shared space schedule is unfair to P.S. 114 and prioritizes the charter school. Comment 39 is related to the Enrollment, Capacity, and Utilization Report (the "Blue Book").

  The Enrollment, Capacity, and Utilization Report is published annually by the Department of Education. The capacity calculation is based on information provided by principals in the Annual Facilities Survey conducted by the School Construction Authority. Though the DOE appreciates that not all stakeholders will agree with the methodologies used to calculate building capacity and building utilization as outlined in the Enrollment, Capacity, and Utilization Report, nonetheless, it is the standard framework with which the DOE assess the utilization of its buildings.

In allocating classroom spaces and administrative spaces, the DOE applied the DOE Instructional Footprint to P.S. 114 and Explore, which allocates space based on the proportion of the total students in the building enrolled by each school, the instructional and programmatic needs of the co-located schools, and the physical location of the excess space within the building.

As stated in the revised BUP, the proposed shared space plan is based upon the population size and other relevant factors further described below for each co-located school. Although the DOE has proposed how the shared spaces in the building may be utilized, Building Councils are free to deviate from the proposed Shared Space Plan to accommodate specific programmatic needs of all special populations or groups within each school as is feasible and equitable, provided that the Building Council comes to an agreement of the final Shared Space Plan collaboratively. (NOTE: The Building Council will revisit the shared space plan and its schedules on an annual basis to account for any changes in enrollment or programmatic needs. If conflicts emerge and progress is impaired, the Building Council shall follow the dispute resolution procedures outlined in the Campus Policy Memo available at the following link: http://schools.nyc.gov/community/campusgov).

The proposed shared space schedule in the BUP is based on projected enrollments for each co-located school, current space allocation plans, current lunch schedules for the existing schools in the building as described on the DOE School Food website, the total capacity of each shared space, the grades served by each of the co-located schools, the start of the school day based on the Office of Pupil Transportation's bus schedule for a regular school day.19 Where possible, the proposed schedule maintains schools' current allocation of time for each shared space and re-distributes remaining time for additional organizations. Because Explore would be co-located in the building for the first time if this proposal is approved, it may be necessary to shorten or change some of the current times that are currently allocated to P.S. 114 so that all students in the building can be accommodated in the shared spaces in the following school year.

The Public Advocate correctly pointed out that the first revised BUP that was issued on March 4, 2011, did not properly allocate time to P.S. 114 in the gymnasium. As described above, the first revised BUP was amended on March 21, 2011, to correct typographical errors in the shared space schedule related to the usage of gymnasium and outdoor play area. The DOE inadvertently flipped the amount of time that Explore and P.S. 114 were allocated in the gymnasium. The schedule from the first revised BUP is pasted below:

Space	Monday	Tuesday	Wednesday	Thursday	Friday
Gymnasium (Capacity: 285)	**Explore Excel** 8:30-11:20am **P.S. 114** 11:25-2:55 pm	**Explore Excel** 8:30-11:20am **P.S. 114** 11:25-2:55 pm	**Explore Excel** 8:30-11:20am **P.S. 114** 11:25-2:55 pm	**Explore Excel** 8:30-11:20am **P.S. 114** 11:25-2:55 pm	**Explore Excel** 8:30-11:20am **P.S. 114** 11:25-2:55 pm

In the second revised BUP, which will be presented to the PEP at its meeting on June 27, 2011, for its vote, the schedule for the gymnasium has been revised as follows:

Space	Monday	Tuesday	Wednesday	Thursday	Friday
Gymnasium (Capacity: 285)	**Explore Excel** 7:50-9:35am **P.S. 114** 9:35am-2:20 pm	**Explore Excel** 7:50-9:35am **P.S. 114** 9:35am-2:20 pm	**Explore Excel** 7:50-9:35am **P.S. 114** 9:35am-2:20 pm	**Explore Excel** 7:50-9:35am **P.S. 114** 9:35am-2:20 pm	**Explore Excel** 7:50-9:35am **P.S. 114** 9:35am-2:20 pm

Moreover, the first revised BUP fixed another typographical error that stated that P.S. 114's time on outdoor play area would end at 1:55 p.m. The outdoor play area times for P.S. 114 listed in the first revised BUP are pasted below:

Space	Monday	Tuesday	Wednesday	Thursday	Friday
Other: Outside playground with equipment	**Explore Excel** 10:30am-12:15pm **P.S. 114** 12:20-1:05pm **P.S. 114** 1:10-2:55pm	**Explore Excel** 10:30am-12:15pm **P.S. 114** 12:20-1:05pm **P.S. 114** 1:10-2:55pm	**Explore Excel** 10:30am-12:15pm **P.S. 114** 12:20-1:05pm **P.S. 114** 1:10-2:55pm	**Explore Excel** 10:30am-12:15pm **P.S. 114** 12:20-1:05pm **P.S. 114** 1:10-2:55pm	**Explore Excel** 10:30am-12:15pm **P.S. 114** 12:20-1:05pm **P.S. 114** 1:10-2:55pm

In the second revised BUP, the schedule for the outside playground has also been revised as follows:

Space	Monday	Tuesday	Wednesday	Thursday	Friday
Other: Outside playground with equipment	**Explore Excel** 8:50-10:20am **P.S. 114** 10:20am-2:20pm	**Explore Excel** 8:50-10:20am **P.S. 114** 10:20am-2:20pm	**Explore Excel** 8:50-10:20am **P.S. 114** 10:20am-2:20pm	**Explore Excel** 8:50-10:20am **P.S. 114** 10:20am-2:20pm	**Explore Excel** 8:50-10:20am **P.S. 114** 10:20am-2:20pm

As stated above, the allocations in the proposed shared space schedule for Explore and P.S. 114 have been adjusted in the second revised BUP to provide a more equitable and proportional distribution of time in K114's shared spaces.

For example, according to the proposed shared space in the first revised BUP, Explore was allocated 50 minutes per day in the cafeteria for lunch, while P.S. 114 was allocated 1 hour 30 minutes. In the second revised BUP, Explore is allocated 45 minutes per day in the cafeteria for lunch, while P.S. 114 is allocated 2 hours 45 minutes.

Also, in the first revised BUP, Explore was allocated 13 hours 45 minutes weekly in the library, while P.S. 114 was allocated 17 hours 55 minutes weekly. In the second revised BUP, Explore is allocated 8 hours 45 minutes weekly in the library, while P.S. 114 is allotted 23 hours 45 minutes.

It should be noted again that this is merely a proposal and that the final shared space schedule will be collaboratively drafted by the Building Council after the proposed co-

location proposal has been approved by the PEP. At that time, if P.S. 114's principal desires to have more time in the library or the cafeteria, that request should be made in the Building Council to achieve the best possible result for all students. Moreover, listing Explore first on the shared space schedule does not signal that the DOE prefers the charter school. In fact, P.S. 114 receives more time in all of the shared spaces and Explore was listed first because the times listed on the shared space schedule are organized chronologically.

Changes Made to the Proposal

On May 23, 2011, the DOE revised this proposal in response to public comments to this and other proposals. The DOE has published a revised EIS and BUP. In the second revised Educational Impact Statement ("EIS"), the DOE included Explore's District Borough Number and clarified the shared spaces in K114. The Building Utilization Plan ("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.