



Public Comment Analysis¹

Date: June 24, 2011

Topic: The Proposed Temporary Co-location of a New Public Charter School, East Harlem Scholars Academy Charter School (84MTBD), with Existing Schools Central Park East I (04M497), Central Park East High School (04M555), and J.H.S. 013 Jackie Robinson (04M013) in Building M013

Date of Panel Vote: June 27, 2011

Summary of Proposal

In an Educational Impact Statement (“EIS”) posted on February 5, 2011 and amended on February 17, 2011, the New York City Department of Education (“DOE”) proposed to open and temporarily site East Harlem Scholars Academy Charter School (84MTBD, “East Harlem Scholars”), a new public charter school that would serve students in kindergarten through fifth grade, in Building M013 (“M013”), located at 1573 Madison Avenue in Manhattan, in Community School District 4. East Harlem Scholars would be co-located in M013 with Central Park East I (04M497, “CPE I”), J.H.S. 013 Jackie Robinson (04M013, “J13”), and Central Park East High School (04M555, “CPEHS”). CPE I is an existing DOE choice elementary school that serves 189 students in kindergarten through fifth grades and also offers a pre-kindergarten program. J13 is an existing District 4 choice middle school that serves 265 students in grades six through eight. CPEHS is an existing DOE high school that serves 402 students in grades nine through twelve.

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. The proposal was approved by the Panel for Educational Policy (“PEP”) on March 23, 2011.

On May 13, 2011, the DOE issued a revised EIS concerning this proposal. The revised EIS included an adjusted projected enrollment for CPEHS that conformed with budget register projections for 2011-2012. As a result, it also changed the total number of students projected to be served by all four schools and the projected building utilization rate for the following school year. The revised EIS also included additional information on extracurricular activities at CPE I,

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 at 6 p.m. If any additional comments are received, they will be addressed in an amended analysis.

J13 and CPEHS and updated information related to the admissions process at the co-located schools.

The DOE also published a substantially revised Building Utilization Plan (“BUP”), which is annexed to the revised EIS.

The revised BUP made the following changes:

- the number of students that CPEHS is projected to serve in the coming years has been revised to reflect budget register projections for 2011-2012. The number of sections CPEHS will program to serve these students has also been revised, resulting in revisions to CPEHS’s baseline allocation of space in future years;
- the allocation of space between all four school organizations has been changed to reflect CPEHS’s reduced baseline allocation;
- the baseline allocation for CPE I has been adjusted to reflect the correct number of cluster rooms based on the school’s enrollment;
- the floors that each school will be located on have been noted; and
- the proposed shared space schedule on pages 14-15 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.

This is a proposal to incubate East Harlem Scholars in M013 for two years – the 2011-2012 and 2012-2013 school years. Incubation means the school will not serve its full grade span during the period of this proposal. The DOE will evaluate the space available in M013 and other District 4 locations and will issue a new EIS for the long-term siting of East Harlem Scholars based on the most appropriate space available for the 2013-2014 school year and beyond.

East Harlem Scholars will be managed by the East Harlem Tutorial Program (“East Harlem Tutorial”), a Community Based Organization (“CBO”). East Harlem Tutorial has been approved by its charter authorizer, the State University of New York (“SUNY”), to open a new public charter school in Community School District 4 in Manhattan. The school would open with kindergarten and first-grade classes in 2011-2012, and would add one grade each year until it serves 270-300 students in kindergarten through fifth grade. However, as noted above, this is a temporary proposal that only deals with the siting of East Harlem Scholars’ kindergarten and first grades in 2011-12, and its kindergarten through second grades in 2012-2013. East Harlem Scholars’ has admitted students via the charter school lottery application process, with preference for District 4 residents. East Harlem Tutorial is already active in the M013 building and provides after-school programming to J13, CPEHS, and CPE I students.

The details of this proposal have been released in a revised Educational Impact Statement which can be accessed here along with the revised Building Utilization Plan (“BUP”):

<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2010-2011/June2011Proposals>.

Copies of the revised EIS and BUP are also available in the main offices of Central Park East I, Central Park East High School, and J.H.S. 013 Jackie Robinson.

Summary of Comments Received at the Joint Public Hearings

A joint public hearing regarding the original proposal was held at Central Park East I / Central Park East High School / J.H.S. 013 Jackie Robinson on March 22, 2011. At that hearing, interested parties had an opportunity to provide input on the original proposal. Approximately 260 members of the public attended the hearing, and 37 people spoke. Present at the meeting were: Manhattan and Bronx High School Superintendent Geraldine Taylor Brown; Community School District 4 Superintendent Luz Cortazzo; Principal of Central Park East High School Bennett Lieberman; Principal of J.H.S. 013 Jacob Michelman; Principal of Central Park East I Julie Zuckerman; Community Education Council (“CEC”) District 4 representative Marie Hines; CEC 4 representative and J.H.S. 013 School Leadership Team representative Angela Smith; Executive Director of East Harlem Tutorial Jeffrey Ginsburg; Representatives from DOE Portfolio Planning Elizabeth Rose, Benjamin Taylor, and Anyeli Matos.

An additional joint public hearing regarding the revised proposal was held at Central Park East I / Central Park East High School / J.H.S. 013 Jackie Robinson on June 6, 2011. At the hearing, interested parties had an opportunity to provide input on the revised proposal. Approximately, 150 members of the public attended the hearing and about 35 people spoke. Present at the meeting were: Community District 4 Superintendent Luz Cortazzo; Central Park East I Principal Julie Zuckerman and School Leadership Team representative (“SLT”) Rebekah Myatt-Hammonds; Central Park East High School Principal Bennett Lieberman and SLT representative Victoria George; J.H.S. 013 Principal Jacob Michelman and SLT representative Angela Smith; Community Education Council (“CEC”) 4 representative Marie Hines and James Thomas; Cheyenne Batista Sao Roque, Proposed Principal from East Harlem Scholars; Cynthia Proctor, representative from SUNY and; Elizabeth Rose, a representative from DOE Portfolio Planning.

The following comments and remarks were made at the joint public hearing on March 22, 2011 on the **original** proposal:

1. A CEC 4 representative said parents have the right to choose the school for their child. There is no problem with the school coming in if there is room for the school and as long as the students in Building M013 will not lose anything. Hopefully, all four principals will work to make that happen.
2. Chairman of East Harlem Scholars board, Jeffrey Ginsburg, made several points:
 - a. He wants change, and the hearing is an example of change and advocacy.
 - b. The students at the hearing are a part of 15,000 people who have been a part of East Harlem Tutorial. The organization will be adding even more students.
 - c. Alumni and students are the proof of East Harlem Tutorial’s success, which is why East Harlem Scholars wants the opportunity to temporarily live in the building.
 - d. The large majority of those at the hearing in support East Harlem Scholars will not benefit from the school; rather, they attended the hearing because they care so deeply about East Harlem Tutorial.
 - e. East Harlem Scholars will be a great program for students regardless of where they come from, their language, or their income.

- f. East Harlem Tutorial wants to keep being successful, and the neighborhood needs East Harlem Scholars. Only 25% of district students have made it to college. Though there is improvement in other parts of the city, there is not improvement here. 98% of East Harlem students have made it to college.
 - g. East Harlem Scholars will measure itself by student success, not by its equipment or building.
 - h. To clarify, this is a temporary location. 105th Street and 2nd Avenue is where East Harlem Scholars plans to build a permanent location, near the East Harlem Tutorial headquarters.
 - i. East Harlem Scholars wants to work with the schools in building M013. The organization has a long history of working with others. The organization has worked to tutor students in the schools in M013.
 - j. East Harlem Tutorial also played a large part in bringing about the remodeling of the playground.
 - k. East Harlem Scholars will be an English Language Learners preference school, a school of the community for the community.
3. A J13 SLT representative said her three oldest children attended the East Harlem Tutorial program, and it was a successful program then, as it is now. There is space in the building, so East Harlem Scholars should use it. The community needs more education and college-ready programs in the district.
4. The Principal of CPE I, Julie Zuckerman, made several statements about the proposal:
- a. Nobody is disputing that there is space in the building, and her school does not have a problem with East Harlem Tutorial. The organization has provided after-school programs to the three schools in M013.
 - b. CPE I is impacted by the proposal because there is a strongly felt need for a middle school option consistent with the program at CPE I. CPE I has applied three times for the school to extend through eighth grade. The first time, the DOE said there was not a need. The second time, the DOE said that there is no space for expansion. The following year CPE I was encouraged to submit an application, and it put in a letter of intent but decided as a school community not to go forward, as it had seemed that she, the CPE I principal, would be transitioning out of her position. However, after that, the school sent a letter stating that it would intend to expand the school anyways. Now, the school is faced with situation where the timetable for the school to expand is in flux. The flux of the timetable for expansion is a result of failures of the Division of Portfolio Planning (“DPP”). With the proposal, an expansion of CPE I conflicts with the siting of East Harlem Scholars.
 - c. Having East Harlem Scholars in the building for the next two years would perhaps be okay with respect to CPE I’s expansion plans, but it does not really seem that East Harlem Scholars will be able to move into the proposed new building on time. If that is the case, where is DPP going to move that school after two years?
 - d. DPP said that schools would no longer be sited in buildings unless there is a definite permanent location for after the period of incubation.

- e. What is the DOE's exit plan? Does DPP have one? CPE I would have no problem welcoming East Harlem Scholars if there were an exit plan. It seems, by DPP's own admission and track record, that there is no exit strategy.
5. For the following reasons, multiple commenters expressed support for the proposal:
 - a. There are limited education options in the community, and there is difficulty in educating students in the community, and the proposed new school is needed now because of all of East Harlem Tutorial's proven success, its well designed programs, and the high demand for the organization's programs.
 - b. East Harlem Scholars will offer more needed extended day opportunities to East Harlem Scholars students.
 - c. East Harlem Scholars has already obtained land to develop a long term location, and the organization only needs time to develop the space.
 - d. East Harlem Tutorial is about teaching community members to be good citizens. There were parents, youth, volunteers, board members, alumni, staff and friends attending the hearing who, as Jeffrey Ginsburg stated earlier in the hearing, do not necessarily have children who will benefit from the proposed school, but were present in order to be civically engaged by interacting with the schools that already exist in M013.
 - e. The commenters either experienced or witnessed great success earned by students impacted by East Harlem Tutorial, and more students will benefit as a result of the proposal.
 - f. East Harlem Tutorial has been sharing the building with CPE I for years, and it is not a new situation. Since the proposal is temporary co-location, it will not be in the building forever.
 - g. The schools will be able to work together because they all have the same vision, which is a better education for all students.
 - h. Every school should have the blueprint of East Harlem Tutorial.
6. A commenter stated that, as a board member, she is confident in the organization's ability to build the new building.
7. A commenter said learning is not about the building that the school is in.
8. A commenter said, as a parent of four kids attending CPE 1 and on the school's PTA, everyone knows that East Harlem Tutorial is a great program, but the problem is the space. The principals of the schools in M013 work together well to negotiate the space available in the building, but as it is, CPE I students have no use of the gym. The playground is only available because the grant was written by CPE I parents. Fortunately, the CPE I students spend a lot of time outside because they cannot use the gym, which is an example of how strained space is in the building. The DOE has not provided an exit strategy for East Harlem Scholars, but CPE I needs to expand to serve more grades.
9. A commenter said she hopes the DOE will be true to their word that the East Harlem Scholars building will be finished in two years, and CPE I will be able to have room to expand.
10. A commenter said the DOE needs to be clearer about how resources will be divided in the building. East Harlem Tutorial needs to be transparent about how their fundraising program works, and it needs to provide a clear picture of how long the building will take to be built, so CPE I will know if it will be able to expand after two years.
11. Multiple commenters asserted that the proposal pits schools against each other.

12. Multiple commenters stated that CPE I children do not have access to the gym because middle school and high school students use it for mandatory classes.
13. Multiple commenters asserted that CPE I is running a successful program that provides a valuable service to the community
14. A commenter said the DOE is telling the community that it does not care about the amount of space available to students.
15. A commenter said the proposal is simply part of the DOE's plan to privatize education, and East Harlem Tutorial is being used for this purpose at the expense of students in DOE schools
16. A commenter said the co-location will only work if the leaders involved in the proposal who were present at the hearing work together.
17. A commenter asserted that there are crazy logistics of sharing a building with two other schools, so four schools would be crazier.
18. A commenter said there is a disturbing pattern of DOE pushing out district schools and replacing them with charter schools. Though East Harlem Scholars say the time to open the school is now, the same is true about the expansion of CPE I, a progressive school. There are 17 charter schools in Harlem and East Harlem. There are two progressive elementary schools in the area and none that are K-8 programs.

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

For the following reasons, approximately 51 commenters expressed their opposition to the proposal:

19. Commenters asserted that CPE I should be allowed to expand to serve students through grade eight in the building because of the unique, progressive, project-based model offered by CPE I, and because many parents want their students to continue being served by the school after they graduate elementary school. The commenters asserted that the co-location of East Harlem Scholars would make this expansion impossible, and expressed the opinion that it is unclear why the DOE would favor a program competing with CPE I. Previously, the DOE denied CPE I's expansion proposal citing a lack of space in the building for an expansion.
20. Commenters asserted that there is already strain on shared spaces in the building, and this strain will be made worse by adding students to the building, a result of poor planning by the DOE. CPE I students already have no access to the gymnasium. Their access to outdoor spaces and the cafeteria will be similarly shortened. East Harlem Scholars students will be similarly handicapped by limited access to these shared spaces, negatively impacting all involved. Students are already eating lunch at 10:30 am, and some of the lower grade classes have to have lunch in their classrooms because of current constraints. These strains will result in less educational opportunity for students at schools currently in the building. The increasingly limited access to shared space will prevent elementary students from socializing with their peers outside the classroom.
21. Commenters asserted that CPE I parents wrote a grant to have the outdoor areas re-constructed, and that parents will be discouraged from working to secure grants for facility improvements, like the playground, if the DOE does not ensure the children of those parents

- receive unimpeded access to those facilities. The commenters further asserted that the DOE is allowing access by CPE I students to that playground space to be limited by this proposal.
22. Commenters expressed the opinion that it seems unlikely the building being built for East Harlem Scholars will be ready in time for occupancy, especially considering they have not yet broken ground, their fundraising levels are unclear, and they have no structures yet in place as evidence it is a formal school. Moreover, a commenter noted that DOE has said it will not propose the placement of new schools without being certain it first has a plan in place for that school. The DOE has also not provided any information on what will happen if the new building is not ready in time.
 23. Commenters asserted that East Harlem Scholars should wait until their own building is built before opening. The commenters expressed the opinion that the district has enough elementary seats available to be able to handle such a delay. There is no rush to open the school especially considering the school does not have a principal lined up yet.
 24. A commenter asserted that the mixture of middle school and high school students with elementary students already creates stress for CPE I families. The problems from this mixture include exposure to foul language and fights in the cafeteria.
 25. A commenter noted that families had initially been told that East Harlem Scholars students would eat lunch in their classrooms, but this has now been changed to say they will share cafeteria space.
 26. A commenter asserted that CPE I families are opposed to the proposal.
 27. A commenter expressed the opinion that the proposal is not in the interest of students served in building M013.
 28. A commenter expressed the opinion that the DOE is sabotaging one of its very few successful schools with this proposal, a place where parents actually want their children to attend, and asserted that the media will be interested in the issue.
 29. A commenter expressed the opinion that in addition to negatively impacting the currently existing schools, the proposal dooms East Harlem Scholars to failure because of the limited space it will receive.
 30. A commenter asserted resources should be put into the schools already operating in the building. Money and resources given to new charter schools should be used to support existing staffs. Programs at the existing schools should expand instead of starting an entirely different school. The commenter also expressed the opinion that opening a whole new school is a waste of resources. Whatever staff is needed to complete such an expansion should be hired to fund the expanded programs.
 31. Commenters expressed the opinion that the proposal is a terrible idea, without specifying why.
 32. Commenters expressed the opinion that the CPE I community can interpret the proposal only as a hostile attack on them by the DOE.
 33. A commenter asked what the data is for how often school construction is completed within the estimated time schedule.
 34. A commenter asserted that CPE I is a good school despite the faulty DOE grading system.
 35. A commenter asserted that this proposal is racist, and these types of co-locations take place only in Black and Latino communities.
 36. A commenter asserted that the DOE has pitted two quality educational organizations (CPE I and Harlem East Scholars) against each other with this proposal, making them fight each other for space.

37. A commenter asserted that the joint public hearing on March 22, 2011 at M013 was a stage-managed affair which did not provide enough information on what the DOE's plan is if the East Harlem Scholars building is not ready in two years.
38. A commenter asserted that it is already hard enough to have elementary students in such close quarters with much older students, and the compression caused by the proposal will only make this worse.

For the following reasons, approximately 16 commenters expressed their support for the proposal:

39. Commenters asserted that East Harlem Tutorial has been a part of the community for many years, and has demonstrated extraordinary success during that time.
40. Commenters asserted that East Harlem Tutorial was the community sponsor for the remodeled playground.
41. Commenters asserted that there is space in building M013.
42. Commenters asserted that East Harlem Tutorial works with many students currently enrolled in schools in M013 through after-school programs.
43. Commenters asserted that there is an urgent need for new elementary seats in the neighborhood.
44. A commenter expressed support for the proposal if the new building will be ready for East Harlem Scholars in two years.

The following comments and remarks were made at the joint public hearing on June 6, 2011 on the revised proposal:

45. Marie Hines, a CEC 4 representative, said we are all here to support our District 4 schools.
46. James Thomas, a CEC 4 representative, stated that having East Harlem Scholars students share the fourth floor bathroom with J13 students is not a good idea. He also asked why the DOE is bringing another school into the M013 building.
47. Victoria George, a CPEHS SLT member, stated her concern that the breakfast time for CPEHS in the revised proposal is too early (7 AM) and the cafeteria is too small to fit more than 375 students.
48. Rebekah Myatt-Hammonds, a CPE I SLT member, stated that CPE I would like to expand to eighth grade in M013 and asked why the DOE denied that application but proposed to co-locate East Harlem Scholars.
49. Angela Smith, a J13 SLT member, asserted that there is not enough space in the building as it is and the schools are over-crowded. She also expressed concern about safety with elementary, middle and high-school students all in one building.
50. The CPE I principal, Julie Zuckerman, stated that East Harlem Tutorial has a long history of service to the community, but asserted that what is really needed is Middle School and High School choices. She noted that CPE1 has one of the most diverse communities in NYC and is looking to expand to 6-8, and asserted that Portfolio is choosing to prioritize the work of a Community Based Organization ("CBO") over already existing schools. Why can't East Harlem Scholars lease space?
51. The J13 principal, Jacob Michelman, asserted that he does not have enough office space for each of his counselors to have separate space. He expressed the opinion that the DOE

“shoves” new schools into buildings without a plan or support. He asserted that the building was meant for one school, not four. Principals need support, and they need a plan, but he feels like he is being set up to fail.

52. Jeffrey Ginsburg of East Harlem Tutorial stated that 100% of East Harlem Tutorial seniors are going on to college whereas statistics in the neighborhood are closer to 25%. East Harlem Tutorial has served thousands of students since 1958. Students in M013 attend East Harlem Tutorial’s after school programs, including model UN and robotics class. East Harlem Scholars is building its own site, so this only a temporary siting. The new school got thousands of applicants; and 64,000 parents think their school is not good enough and they want more choices; there are clearly not enough quality options for students and families.
53. East Harlem Scholars principal Cheyenne Batistia Sao Roque expressed the opinion that the school has an awesome SLT on board, and is hiring extremely talented teachers. There are 300 families on the wait list. She is committed to setting an example about how charter operators can be good neighbors.
54. CPE I parent and lawyer who wrote the petition opposing the co-location stated that East Harlem Tutorial did not write the playground grant; we all collaborated. She also read a letter from DOE attorneys.
55. A commenter asked when CPE I could expand, and stated that CPE I families are not against East Harlem Scholars.
56. A CPE I parent explained that CPE I encourages kids to discover, to investigate and be excited about learning. Kids learn self awareness and the role of individuals in communities. Parents are so thrilled with the quality of a CPE I education that they applied for a grade expansion—but that application was denied because of the charter school co-location.
57. A commenter stated that this is about space. CPE I parents applied for an expansion and the DOE said no 3 times. Then suddenly the DOE created space for a Charter school. Why?
58. A commenter stated that he loves East Harlem Tutorial but he wants his kids to be able to continue at CPE I through eighth grade. He asserted that there is no “exit plan” from the DOE, and that is irresponsible.
59. A commenter stated that CPE I has a huge waiting list. The expansion discussion has been going on for years and the DOE should find East Harlem Tutorial private space and support CPE I’s application for expansion.
60. A commenter stated that if it is not East Harlem Scholars, it will be someone else coming into the space.
61. A CPE I student stated that he wants to go to middle school at CPE I and he wants his brother to go to the school too.
62. A commenter stated that the new EIS/BUP still do not include “exit plans.”
63. A commenter stated that she has taught across NYC schools for years, and the DOE should not create situations that pit people against each other.
64. A commenter stated that the DOE should analyze whether CPE I can have a middle school and East Harlem Scholars can also fit. If not, the DOE should find East Harlem Scholars a new site. Charter schools are not public schools, they just receive public money.
65. A commenter stated that her daughter would be attending East Harlem Scholars next year, and the community needs this school.
66. An East Harlem Tutorial senior stated that she got into ten 4-year colleges, including her top choice. She has been a part of the program for 7 years and was lucky to have a good education because of East Harlem Tutorial.

67. A commenter stated this is not about space, it is about more public school opportunities. East Harlem Tutorial is a public non-profit trying to open a school for its students. Public schools are charter schools.
68. A commenter stated that he has volunteered with East Harlem Tutorial for the past 12 years; East Harlem Tutorial is a success story and he is confident that East Harlem Scholars Academy will be a success as well.
69. A commenter stated that he has a son who will attend East Harlem Scholars Academy. The bottom line is this is about our kids' education. Hopefully this will be a temporary site and everyone can work together.
70. A commenter stated that he has had had the privilege of working with the schools in this building, and East Harlem Scholars only wants space for a couple of years. The commented expressed the opinion that the schools would make it work.
71. A commenter stated that CPE I is a school with a history. Even children understand that there isn't enough room. It is not fair that the schools are being set up to struggle, and the DOE is not providing resources. The schools will make it work if they have to, but it will hurt the children.
72. A commenter stated that kids who are not being served should be given a chance to succeed.
73. A commenter stated that East Harlem Scholars is doing everything it can to compromise and give things up to make this move work.
74. A commenter stated that we need to broaden the competition a bit by constructing new schools. There will be enough space to make everything work out.
75. A commenter asked who would be provided with the comments made at the joint public hearing.
76. A commenter asked if the DOE has considered in the EIS the impact of applications to two schools in the same building, because charter schools can do privately funded outreach/marketing that public schools cannot.
77. A commenter asserted that CPE I got the same grade on the progress report as the other charters in D4, without teaching to the test, and without expulsions. CPE I is doing something special but it cannot expand. The commented asserted that there has to be some way in which East Harlem Scholars can get its own school without doing it to the detriment of other children.
78. A commenter expressed his concern with another school "squeezing" into the building. The commented asserted that there is already limited access to the gym and are not enough facilities. The commenter also asserted that the revised EIS has no written exit plan. He actually moved back to the city to send his kids to CPE I and hopes it can be allowed to expand.
79. A commenter asserted that the people on the board of directors of East Harlem Tutorial are the same people who paid the DOE \$1 to move in here.
80. A commenter stated that she personally worked for East Harlem Tutorial and thinks it is a great program, expressed the opinion that it is not fair to burden her child at CPE I so other kids can have opportunity. She asserted that kids already do not have access to space. The commented also asserted that the DOE is cutting our budgets and claiming a need for charter schools so they can completely destroy public education, because charter schools are a cheaper option.
81. A commenter asserted that DOE procedurally made a lot of mistakes, citing what the commenter characterized as a DOE memo stating that Principals should meet. The

commenter asserted that this memo was in violation of a legal memo stating that the co-location was not moving forward.

82. A commenter stated that East Harlem Scholars is a community school with 95% of the students coming from the community. There are not enough options for kids in East Harlem.
83. A commenter stated that a community is about sharing.
84. A commenter asserted that if parents want East Harlem Scholars to put it in writing that it will only be here for 2 years, it will put it in writing.
85. A commenter thanked the staff at East Harlem Tutorial, who helped him get into college. East Harlem Scholars will be a great opportunity for students in this community.
86. A commenter asked why any parent should be willing to give up their child's use of the cafeteria and the gym, or confidential mental health counseling. Every child deserves to come to school and have a space for mental health service and support.
87. A former CPE student stated that charters were designed to create innovative strategies, not to compete with public schools. It is not the DOE's job to choose one school over another. Children need space and time to learn; further crowding this building will stifle kids.
88. A commenter stated that we need to share, we need to take turns; the East Harlem community has always been about sharing.
89. A student stated that sharing is a harsh reality of education in NYC; and this proposal should happen with faith and cooperation.
90. A commenter asserted that the DOE decision makers were not at the joint public hearing, and expressed the opinion that East Harlem Tutorial should use its power to tell the DOE to develop a solution that allows CPE to expand.
91. A commenter stated that she chose Harlem for her kids to study in a place that creates leaders and a place that creates citizens.
92. A commenter stated we should be impugning budget shortfalls. He asked whether East Harlem Scholars had to submit a plan to the DOE to leave the M013 building. If there is such a plan, could the DOE link to that so others can view?
93. A commenter stated that Barack Obama said that each child deserves a good education, so East Harlem Scholars should get the space.
94. A commenter stated that East Harlem Tutorial provided him with a great tutor.
95. A commenter asserted that the DOE is the problem, and that only black and latino people get damaged by co-locations. The commenter expressed the opinion that the DOE wants to downsize public schools to make room for charters.
96. An East Harlem Tutorial student stated the tutoring has been helping a lot of her school work and her weakest subjects. East Harlem Scholars will help other students just like they have helped me.
97. A commenter stated that people have allowed the DOE to pit parents and families against each other. This is not about who is providing the better program, it is about creating the programs our children need. It is possible if you are innovative and creative—it is easy if you think about the kids needs and not the adult needs.
98. A commenter stated that if this is just about space, he can't believe this is such a contentious issue. Great teachers can teach anywhere—East Harlem Tutorial is a testament to that. In a tiny room it teaches robotics, broadcasting, and creative writing.
99. A commenter stated that middle school kids need space to grow and to program classes efficiently. J13 is a public school, there's no application, all students are accepted. East Harlem Scholars parents should be worried about their kids walking up so many stairs.

100. A commenter stated that structure and reliability are important to the positive development of children with IEPs. The EIS is incorrect when stating that the co-location will not impact the education of special needs students. The children need more space than they already have.
101. A commenter stated that her IEP student needs space to study. Why not place East Harlem Scholars at P.S. 146?

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

102. Manhattan Community Board 11 submitted a letter in support of the proposed co-location. The letter discussed East Harlem Tutorial Program's 53-year history in the community creating programs that promote academic growth and achievement, confidence and imagination, cultural history, community building, and public service. The letter explained that with 95% of East Harlem Scholars' expected incoming student body coming from East Harlem, 47% of whom are self-reported English Language Learners, the school will truly be serving the needs of the community.

For the following reasons, approximately 8 commenters expressed their opposition to the revised proposal:

103. Commenters asserted that CPE I should be allowed to expand to serve students through grade eight in the building because of the unique, progressive model offered by CPE I, and because there is a demand for new middle school seats in District 4. The commenters asserted that the co-location of East Harlem Scholars would postpone this expansion indefinitely because there is no exit strategy for East Harlem Scholars. They also asserted that CPE I's grade expansion application was denied because of East Harlem Scholars needing the space. Finally, commenters asked that the DOE commit now to allowing CPE I to expand when East Harlem Scholars vacates the building.
104. Commenters asserted that there is already strain on shared spaces in the building, including the bathroom, cafeteria, auditorium, track, playground, and gymnasium.
105. Commenters expressed the opinion that it seems unlikely the building being built for East Harlem Scholars will be ready in two years, and the DOE has not provided any information on what will happen if the new building is not ready in time. They asserted that East Harlem Scholars should wait until their own building is built before opening.
106. A commenter asserted that:
 - a. the DOE's capacity for the M013 building is flawed;
 - b. CPE I currently has pre-kindergartners, kindergartners, and first graders eat in their classrooms because there is not sufficient space in the cafeteria;
 - c. she is concerned about East Harlem Scholars students sharing bathrooms with J13 students;
 - d. the proposal has the projected enrollment at J13 shrinking, and wonders if J13 will be phased out;
 - e. the DOE's grading system is flawed and asks the DOE to suspend the grading system for one year; and

- f. there is a newly remodeled part of a hall that has a new room for a library on a floor that does not belong to CPE, but the new room is empty. She objects to the fact that the other school had money for remodeling but not for books to fill the library.
107. A petition signed by 51 people objects to siting East Harlem Scholars in M013 for the asserted reasons that the proposal would:
- a. Limit use of the gym, cafeteria, auditorium, and playground
 - b. Limit access to space for students with IEPs;
 - c. Limit the ability of J13, CPE I, and CPEHS to expand their programs;
 - d. Limit CPE I's use of the gym during bad weather days require 407 elementary school children to share the gym at one time;
 - e. Limit the use of the cafeteria for CPEHS students and require their students to go off campus for lunch
 - f. Limit access to necessary funding that all three schools need to successfully manage their programs.
108. The Chair of the CPE I SLT expressed his opposition the proposal because:
- a. CPE I wishes to expand to K-8 and its application was accepted last year by the DOE. However, this year the DOE has rejected the expansion request because the space was already promised to East Harlem Scholars. This constitutes acting pursuant to the March 23, 2011 PEP vote in violation of the DOE's assurances to the New York State Education Commissioner.
 - b. East Harlem Scholars' charter application states it could raise the funds necessary to convert existing East Harlem Tutorial space for use by the school
 - c. The DOE's substantial revision of the proposal begins the process anew, and because the substantial revision was not posted six months before the first day of school for the 2011-2012 school year, the co-location cannot legally occur.
 - d. MAK Mitchell, Executive Director of School Governance for the DOE, sent an email to the current M013 principals that violates the DOE's promise not to act pursuant to the March 23, 2011 PEP vote.
 - e. The DOE implies that the East Harlem Scholars co-location will be permanent.
 - f. Finally, the letter requests written assurance that East Harlem Scholars will exit M013 after two years and CPE I will be permitted to expand at that time.
109. A commenter cited that there should be a plan to site East Harlem Scholars in its own building and allow CPE I to expand to 8th grade in the current building. He also stated that there should be a better plan to ensure that EHS will move after its two-year incubation and that the DOE should take responsibility to make sure that EHS finds its own private building.

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

Comments 2, 3, 5(a)-(h), 6, 7, 13, 36, 37, 38, 39, 40, 41, 42, 44, 52, 53, 60, 65, 66, 67, 68, 69, 70, 73, 74, 82, 83, 84, 85, 86, 88, 89, 91, 93, 94, 96, 97, 98, and 102 are all in favor of the co-location and do not require a response.

Comments 4(a), 45 and 106(e) are not related to this proposal and do not require a response.

Comments 4(b), 8, 9, 10, 18, 19, 48, 50, 55, 56, 57, 58, 59, 61, 64, 77, 78, 90, 103, 108(a), 108(f) and 109 all assert that CPE I should be allowed to expand to serve grades K-8, and this proposal will make that expansion impossible for at least two years. Some of the comments assert that the DOE denied CPE I's application to expand because East Harlem Scholars will be in the building; others assert that the DOE granted CPE I's application last year but then denied it this year. Some of the comments also ask the DOE to commit to allowing CPE I to expand in 2013-2014. CPE I applied to expand to serve middle school grades for the 2009-2010 school year, the 2010-2011 school year, the 2011-2012 school year, and the 2012-2013 school year.

The application for the 2009-2010 school year was rejected because of a lack of demand for middle school seats in District 4 and because the proposal was for a middle school of only one section per grade, which is not financially sustainable. The application for the 2010-2011 school year was rejected because of a lack of demand for middle school seats in District 4 and because of then-current enrollment and space in the M013 building. The application for the 2011-2012 school year was approved to move to the second round of the process, but CPE I did not submit a complete proposal. The application for 2012-2013 was rejected because of the anticipated change of leadership at CPE I next year, the proposed incubation of East Harlem Scholars, and the fact that CPE I mainly serve students from across the city, and not students who reside in District 4, and an expansion would thus not meet the needs of the District 4 community. The DOE is prioritizing the use of District 4 capacity to improve the quality of elementary school options that primarily serve the District 4 community.

Only 17% of students attending CPE I reside in District 4. This means that 83% of CPE I students reside outside of the district. In addition, District 4 currently has excess middle school capacity. In 2010-2011, there are 3,398 students enrolled in grades 6-8 in District 4. According to the 2009-2010 Bluebook, District 4 schools have 4,575 seats available in grades 6-8. Although the 2009-2010 Bluebook does not account for capacity changes that have been made in the past year, once these changes are taken into account at least some excess capacity would almost certainly remain. Finally, the current principal of CPE I, plans to leave the school in December 2011 to prepare to open the Castle Bridge School in 2012-2013. Therefore, there will be a new principal at CPE I in 2012-2013. Should the new Principal and School Leadership wish to apply for a grade expansion request for the 2013-2014 school year, the DOE would consider that application at that time.

Comments 4(c), 4(e), 8, 9, 10, 22, 23, 58, 62, 78, 92, 105 and 109 all express doubt that East Harlem Scholars' new building will actually be completed in two years and object to the fact that the DOE has not provided an "exit plan."

East Harlem Scholars is working with the New York City Economic Development Corporation to develop property in District 4 and provide additional school seats for the District 4 community. The building will be located at 105th street and 2nd avenue, and will be 65,000 square feet with a projected enrollment capacity of approximately 450 students. At the present time, we do not have a projected completion date. However, the DOE supports providing additional options for District 4 elementary families, particularly given the performance level at

many D4 zoned schools, and thus supports siting East Harlem Scholars in M013 beginning with next school year.

There are currently twenty district elementary schools in District 4. Of these, nineteen serve testing grades and received a progress report in 2009-2010. Eight received an A grade; four received a B grade; four received a C grade; two received a D grade; and one received an F grade. Of those nineteen schools, 13 schools have fewer than 50% of students testing at or above grade level on the ELA and 8 schools have fewer than 50% of students testing at or above grade level in math.

This revised proposal would only authorize the co-location of East Harlem Scholars in M013 through the end of the 2012-13 school year. If the East Harlem Scholars building is not ready for the 2013-2014 school year, the DOE would examine all possible options for the school's location, including the M013 building and other District 4 buildings, and issue a new proposal and Educational Impact Statement for that siting. The Panel for Education Policy ("PEP") would have to separately approve any such additional proposal.

Comment 4(d) asserts that the DOE previously stated it would no longer incubate schools unless there was a definite site for the school during post-incubation years.

As discussed above, East Harlem Scholars is working with the New York City Economic Development Corporation to develop property in District 4 and provide additional school seats for the District 4 community. If the East Harlem Scholars building is not ready by the 2013-14 school year, the DOE would need to issue a new Educational Impact Statement and get additional Panel for Education Policy ("PEP") approval before co-locating the school in any DOE building, including M013.

Comments 8, 12, 14, 20, 25, 46, 78, 86, 104, 106(b)-(c), and 107(a) all assert that the co-location will put additional strain on the shared spaces in the building including the gymnasium, cafeteria, the playground, the auditorium, and the bathrooms. Commenters assert that CPE I already has no use of the gym and students eat lunch at 10:30 am and in their classrooms.

In terms of CPE I's current use of the gymnasium, the M013 Building Council, which is made up of Julie Zuckerman, the principal of CPE I, Jacob Michelman, the principal of J13, and Bennett Lieberman, the principal of CPEHS, chose to allocate time in the gymnasium to only J13 and CPEHS during the 2010-2011 school year. In the DOE's revised proposed shared space plan for 2011-2012, CPE I is allocated time in one half of the gymnasium between 12:30-1pm and 2-2:30pm. CPE I has a dance room, goes on weekly ice skating excursions in the winter, and uses the playground. These resources and choices address physical education needs for CPE I students. The revised proposed share space schedule would allocate CPEHS 22.5 hours per week (5 of those hours are shared) because it will serve the largest number of students and because its students must meet certain graduation requirements for physical education. J13 is allocated 10 hours per week which is roughly proportional to its enrollment. As discussed above, CPE I is allocated five hours per week, and East Harlem Scholars is allocated 5 hours per week in the gymnasium which is approximately proportional to its enrollment.

In terms of the playground, with only 9 class sections at CPE I, and only 6 sections proposed for East Harlem Scholars, there is ample time during the week for all students in all four school organizations to have time in the playground. In the revised proposed shared space schedule for 2011-2012, CPE I is scheduled to use the playground for more time than it currently uses it in the 2010-2011 school year. The proposed schedule would allocate 16.25 hours per week to CPE I, 7.5 hours per week to East Harlem Scholars, 5 hours per week to CPEHS, and 10 hours per week to J13. The elementary schools receive more time on the playground relative to their respective enrollments because they receive less time in the gymnasium.

In terms of the cafeteria, the cafeteria has capacity for 375 students. As discussed below, East Harlem Scholars plans to have their students eat lunch in their classrooms. Even if East Harlem Scholars decided to eat lunch in the cafeteria, CPE I and East Harlem Scholars would be able to serve all students in one period together because combined both schools will only serve a maximum of 315 students next year, and the cafeteria capacity is 375 students. As for CPE I's current use of the cafeteria, CPE I is currently the only school in the cafeteria between 12-12:45pm. The capacity of the cafeteria is 375 students and CPE I currently enrolls 206 students, so all of the students should fit comfortably into the cafeteria. The proposed revised lunch schedule is consistent with the current lunch schedule for the 2010-2011 school year, except that East Harlem Scholars has been added to the lunch period that CPE I currently uses on its own, and CPEHS has been added to the lunch period that J13 currently uses on its own.

In terms of the bathrooms, the DOE expects that East Harlem Scholars students will use the bathrooms located on the 4th floor, which will also be shared with the J13 students on the floor. East Harlem Scholars is aware that its students will share bathrooms with J13 students, and East Harlem Scholars' teachers will monitor bathroom use. The DOE believes that the 4th floor facilities can adequately serve both schools.

In terms of the auditorium, only J13 is allocated regular time in the auditorium currently. The Building Council manages auditorium scheduling on a first come first served basis. However, the proposed shared space schedule for 2011-2012 allocates time to each school in the auditorium based on their proportional enrollment.

Comments 11, 17, 36, 51, 63, 71, and 87 assert that this proposal pits schools against each other and that four schools sharing a building is unworkable, as M013 was designed for one school, not four.

Given the finite number of buildings available in New York City, the DOE attempts to use all of its school buildings as efficiently as possible. Co-location is therefore very common in New York City schools – with 33% of all DOE buildings housing more than one school organization - - as there are not sufficient school buildings to allow each school organization to operate its own building. A co-location means that two or more school organizations are located in the same building. While they share common spaces like auditoriums, gymnasiums, and cafeterias, each school is allocated particular classrooms and spaces for its own students' use. This proposal is not intended to pit the schools in the M013 building against each other. Indeed, East Harlem Tutorial has been successfully working in M013 for many years. The revised EIS and BUP demonstrate how the proposed co-location could be accommodated within Building M013.

Comments 15, 80, and 95 assert that this proposal is part of the DOE's plans to privatize or "destroy" public education.

Charter schools are public schools. The DOE uses the same space guidelines for charter schools and DOE schools, and makes every effort to apply its guidelines equally to all schools. Moreover, the DOE seeks to provide space to high quality education options for all students, regardless of whether they are served in DOE or public charter schools.

Comment 16 assert that the co-location will only work if the leaders involved in the proposal who were present at the hearing work together.

The DOE expects all schools in the Building to work collaboratively to build a strong work relationship through the Building Council and Shared Space Committee.

Comments 18 and 30 assert that the DOE favors charter schools over district schools.

As discussed above, the DOE uses the same space guidelines for charter schools and DOE schools, and makes every effort to apply its guidelines equally to all schools.

Comment 18 asserts that that there are 17 charter schools in Harlem and East Harlem, but only two progressive elementary schools in the area and none that are K-8 programs, and asserts that CPE I should expand as a result.

CPE I's decision to withdraw its 2011-2012 application to expand to serve grades K-8 was noted above. The DOE supports parent choice and strives to provide District 4 parents with high quality options for their children. There are currently only 5 charter schools located in District 4 that serve elementary school grades. The District 4 community has demonstrated support for East Harlem Tutorial, and the DOE believes that siting East Harlem Scholars in M013 will provide another high-quality, high-demand option for District 4 families.

Comment 20 asserts that elementary school students are no longer able to socialize outside the classroom because there is not sufficient space.

The proposed Shared Space Plan contained in the BUP schedules CPE I and East Harlem Scholars students time in the playground and cafeteria each day.

Comment 21 asserts that CPE I parents applied for a grant to have the playground redone and will not apply for grants in the future if their children cannot benefit from the results; Comment 54 asserts that East Harlem Tutorial did not write the playground grant.

CPE I students do not currently use the playground during all periods of the school day. There is no reason these physical plant resources should not be made available to other public school students when not in use by CPE I. The revised proposed shared space schedule allocates 16.25 hours per week to CPE I, 7.5 hours per week to East Harlem Scholars, 5 hours per week to CPEHS, and 10 hours per week to J13. In addition, the community partner that supported the creation of the playground was East Harlem Tutorial Program, the same organization that is creating East Harlem Scholars Charter School.

Comments 23, 43 and 105 assert that East Harlem Scholars should not open until its building is complete because there is no rush to open a new elementary school and East Harlem Scholars has not even named a principal.

While there are enough elementary seats in D4, the performance level of schools in the District is a concern. Of the nineteen elementary schools in D4 that serve testing grades and received a progress report in 2009-2010, eight received an A grade; four received a B grade; four received a C grade; two received a D grade; and one received an F grade. Of those same nineteen schools, 13 schools have fewer than 50% of students testing at or above grade level on the ELA and 8 schools have fewer than 50% of students testing at or above grade level in math. Moreover, East Harlem Scholars has now announced the name of its founding principal, Cheyenne Batista Sao Roque. She made a statement at the Joint Public Hearing held on June 6, 2011.

Comments 24, 38, 49 state that co-locating elementary school students with middle and high school students leads to problems and this co-location will add to the problems by making the building more crowded.

Adding additional elementary grade students to M013 would have no impact on the exposure of CPE I students to high school and middle school age students. As for the asserted problems with elementary school students, middle school students, and high school students being served in the same building, CPE I and East Harlem Scholars families may choose to attend these schools with the knowledge that their children will be in a building with middle and high school students. Multiple DOE campuses operate safely with students across grades K-12.

Comment 25 states that the proposal originally contemplated East Harlem Scholars students would not use the cafeteria at all.

The revised proposed shared space schedule contemplates that East Harlem Scholars students will eat lunch in their classrooms. However, since the cafeteria has the capacity to accommodate 375 students, should the Building Council decide to depart from the proposed share space schedule and have East Harlem Scholars eat lunch in the cafeteria, CPE I and East Harlem Scholars would be able to serve all students in one period together because combined both schools will only serve a maximum of 315 students next year, and the capacity of the cafeteria is 375 students.

Comment 26 and 31 states that CPE I families are opposed to the proposal.

The DOE understands that some CPE I families are opposed to the proposal. However, the DOE continues to believe that the needs of all families in District 4 are best served by providing additional high-quality options. As discussed in the EIS, the DOE believes that East Harlem Scholars will provide such an option, and further believes that CPE I's programming will not be negatively affected by the proposal.

Comment 27 and 72 states that the proposal is not in the interests of students currently attending school in the M013 building.

The DOE must take into consideration not only the needs of students already in the building, but the needs of students throughout the District. The M013 building is under-utilized. The limited

building space available in New York City requires that the DOE use all available space to serve students.

Comments 28 and 32 assert that this proposal is an attack on CPE I.

The proposal does not take space away from CPE I. In fact, the proposal anticipates that CPE I will gain space in future years as measured against its current allocation. The DOE intends to support CPE I in its educational mission, and does not intend for this proposal to be interpreted in any way as an attack on the school.

Comment 29 asserts that East Harlem Scholars will fail because of the limited space it is being allocated.

Many new schools open successfully with a limited amount of space. The proposal provides East Harlem Scholars with the baseline footprint allocation it requires for the grades and number of students served.

Comment 30 asserts that instead of opening a new school, the DOE should expand the schools in the building.

Schools are funded based on their student enrollment. To the extent student enrollment increases, schools will receive additional funds. Central Park East High School has indicated it does not wish to expand beyond the size in this proposal. J13 enrollment projections are consistent with the overall capacity and demand for middle school seats in District 4.

Comment 33 asks for statistics on how often school construction is completed on time.

As noted above, East Harlem Scholars is building its new facility in conjunction with the New York City Economic Development Corporation, not the DOE or the School Construction Authority. As a result, the DOE does not have data responsive to this request. However, per the EIS, the DOE will evaluate potential space in District 4 for the 2013-2014 school year should East Harlem Scholars still require incubation space. Any co-location beyond 2012-2013 would require a new EIS and a new vote by the Panel.

Comments 34, and 106(e) assert that CPE I is a good school and the DOE has a faulty grading system.

The proposal to site East Harlem Scholars in M013 is based on the availability of space in the building, not on the performance of CPE I.

Comments 35, and 95 assert that proposals similar to this one target African-American or Latino communities.

The DOE strives to provide strong educational opportunities for students of all races and backgrounds. The DOE has proposed to site East Harlem Scholars in M013 because of the demand for additional high quality elementary seats in District 4, and because of the excess space available in the M013 building. Currently, 33% of all DOE buildings house more than one school organization. Co-locations occur throughout the City.

Comment 37 asserts that the Joint Public Hearing held on March 22, 2011 was stage managed and not enough information was shared regarding what would happen if East Harlem Scholars' building was not completed on time.

The Joint Public Hearing process follows requirements set out in Chancellor's Regulation A-190. Joint Public Hearings are not question and answer sessions. All comments are incorporated and addressed in this analysis of public comment. Information regarding an "exit strategy" if East Harlem Scholars' building is not completed in two years is discussed above.

Comment 47 states that breakfast at CPEHS is too early and the cafeteria capacity cannot fit all of the students.

With regards to the cafeteria capacity, East Harlem Scholars plans that its students will eat lunch in their classrooms. However, even if the school decided to eat lunch in the cafeteria, CPE I and East Harlem Scholars would be able to serve all students in one period together because combined both schools will only serve a maximum of 315 students next year, and the cafeteria capacity is 375 students.

In terms of breakfast, the Building Council is free to change the proposed time for CPEHS breakfast, as no school is proposed to use the cafeteria for breakfast between 7:50-8:30am, the forty minutes before CPEHS starts its day.

Comment 49 asserts that the M013 building is already overcrowded.

M013 has the capacity to serve 1,291 students. In 2010-2011, the building served only 873 students, yielding a utilization rate of just 68%. The calculation of building capacity is discussed below.

Comments 50, 59, 77 and 109 states that East Harlem Scholars should just lease private space or get its on building.

The DOE seeks to provide space to high quality education options for all students, regardless of whether they are served in DOE or public charter schools. We welcome public charter schools to lease or provide their own space, but will offer space where there is space available to do so.

Comment 51 suggests that the principals in the M013 building are being set up by the DOE to fail.

The DOE intends to support all of the principals in the M013 building, and does not intend for this proposal to be interpreted in any way as an attack on the schools in the M013 building or on the principals of those schools.

Comment 51, 86 state that because of this proposal, counselors at J13 will not be able to each have separate space. In 2011-2012, J13 would be allocated 3 full-size classrooms and 1 half-size classroom above its baseline allocation. This space should be more than sufficient to provide all programs and services to students, and Principals are expected to program their spaces for maximum efficiency. In planning for 2012-2013, the Principal should work with its network

facilities support to identify programming approaches that will enable it provide all services within its space allocation.

Comment 59 states that CPE I has a huge waiting list.

As of April 25, 2011, CPE I had 23 students on a waiting list for Kindergarten. As a choice school, CPE I is planned as a certain size and it limits its enrollment to that size.

Comment 71, 80, and 87 state that there is not sufficient space in M013 currently to house an additional school.

Space in DOE school buildings is allocated pursuant to the Citywide Instructional Footprint. The Footprint sets forth the baseline number of rooms that should be allocated to a school based on the grade levels served by the school, the school's enrollment, and the number of classes per grade. In 2010-2011, J13 and CPEHS are currently using several classrooms and spaces in excess of their baseline Footprint allocations. CPEHS uses 3 full size rooms above its baseline allocation and J13 uses 15 full size rooms above its baseline allocation. The DOE believes that if this proposal is approved, J13 and CPEHS will be able to combine, repurpose, or more efficiently use allocated space in M013, and that the proposal should not affect the programmatic offerings at either school. There are many schools in District 4 and in J13 and CPEHS's support networks which can be models to help the schools adjust scheduling to deliver programming in fewer class spaces.

Comment 75 asks who the speakers at the hearing are talking to, who is listening to them, and where their comments are going.

As discussed above, the Joint Public Hearing process follows requirements set out in Chancellor's Regulation A-190. All comments from the Joint Public Hearing are incorporated and addressed in this analysis of public comment, which is made available to the members of the PEP and the general public. In addition to recording the hearing, several representatives from the DOE were in attendance.

Comment 76 states that charter schools can do privately funded outreach and marketing that public schools cannot and asks if this will have an impact on enrollment at CPE I.

CPE I has traditionally not had a problem with reaching out to interested families, and families who are interested in the CPE I model have found the school without relying on privately funded marketing for 37 years. The DOE does not anticipate that interest in CPE I will decline because of the incubation of East Harlem Scholars in M013.

Comment 77 states that CPE I is as successful as charter schools in District 4 without teaching to the test and without expelling students.

The DOE commends CPE I on its success. However, the proposal to site East Harlem Scholars in M013 is based on the availability of space in the building, not on the performance of CPE I.

Comment 79 states that the people on the board of directors of East Harlem Tutorial are the same people who paid the DOE \$1 to move in to M013

The relationship between East Harlem Tutorial and East Harlem Scholars is well known and is not problematic. As discussed above, the DOE seeks to provide space to high quality education options for all students, regardless of whether they are served in DOE or public charter schools. We welcome public charter schools to lease or provide their own space, but will offer space where there is space available to do so.

Comment 81 and 108(d) argue that an email sent by a DOE official, violated the DOE's promise not to take action pursuant to the March 23, 2011 PEP vote.

In a letter dated May 2, 2011, attorneys for the DOE represented to Commissioner Steiner that the DOE would not take any action at any time pursuant to the March 23, 2011 Panel for Education Policy resolution. In a later email to principals Zuckerman, Lieberman and Michelman, a DOE official stated that the revised proposal to site East Harlem Scholars in M013 is scheduled for PEP action on June 27th and, if the proposal passes, the principals will need to add the principal of East Harlem Scholars' name to the M013 campus folder permissions. This email thus related to the current revised co-location proposal, not the March 23, 2011 vote. Therefore, the email did not implicate the representations made in the May 2, 2011 letter.

Comment 99 states that J13 has no application and accepts all students.

J13 is a District 4 choice middle school that enrolls students in sixth through eighth grade through the District 4 middle school admissions process. The school exercises a screened selection method. Screened programs evaluate applicants based on their academic grades, standardized test scores, attendance and punctuality, in addition to other assessments. J13 does admit students through an application and does not admit all students who apply. For 2011-2012, 364 students applied to J13, and 74 enrolled as of June 13, 2011.

Comment 99 states that East Harlem Scholars parents should worry about their children walking up so many stairs.

Parents and students have chosen to apply to East Harlem Scholars despite its proposed location on the fourth floor of M013.

Comments 100, 101, 107(b) state that there is not enough room in M013 for students with special needs and that the co-location will impact the education of special education students.

The DOE does not believe that the proposal will negatively impact the education of students with IEPs. As stated in the EIS, therapy for students with IEPs may in some cases need to be provided in a different part of the building than where it is currently offered. Specifically, occupational therapy will need to be provided in a resource room or administrative space rather than in the gym. This is the way the DOE expects schools to provide occupational therapy pursuant to the Citywide Instructional Footprint (the "Footprint").

Comment 103 asserts that there is a need for new Middle School seats in District 4.

District 4 currently has excess middle school capacity. As discussed above, in 2010-2011, there are 3,398 students enrolled in grades 6-8 in District 4. According to the 2009-2010 Bluebook, District 4 schools have 4,575 seats available in grades 6-8.

Comment 106(a) asserts that the DOE's target capacity for building M013 is flawed.

Building capacity is calculated based upon the scheduled use of individual rooms as reported by principals during an annual facilities survey, the DOE's standards for maximum classroom capacities (which are lower than the UFT contractual class sizes and differ depending on grade level), and the efficiency with which classrooms are programmed (i.e., the frequency with which classes are scheduled in a given classroom). Pursuant to this formula, the M013 building has the capacity to serve 1291 students. Moreover, in determining the space allocation for co-located schools, the Office of Space Planning conducts a detailed site survey and space analysis of the building to assess the amount of space available in the building.

Comment 106(b) asserts that CPE I currently has pre-kindergartners, kindergartners, and first graders eat in their classrooms because there is not sufficient space in the cafeteria.

CPE I is currently the only school in the cafeteria between 12-12:45pm. The capacity of the cafeteria is 375 students and CPE I currently enrolls 206 students, so the cafeteria should be able to accommodate all of the CPE I.

Comment 106(d) notes that the proposal has projected enrollment at J13 decreasing and asks if J13 will be phased out.

Projected enrollment declines at J13 are due to a small current 6th grade class articulating through each year, and potential reduction of demand as a result of additional District 4 middle school capacity. For 2011-2012, the proposal projects that J13 will enroll 75-85 sixth graders. As of June 13, 2011, 74 sixth graders were offered spots at J13 for the 2011-2012 school year. In terms of additional D4 capacity, P.S. 206 will open a sixth grade next year, and will expand to serve grades three to eight at full scale. Despite the decreased enrollment, the DOE currently has no plans to phase out J13.

Comment 107(f) notes the new library in M013 and questions why there is not enough money for books.

A new middle school/high school library was recently constructed in M013 using Resolution A ("RESO A") funding provided by the New York City Council. RESO A is a capital funding allocation made to support a construction or renovation project. It must be used on the specific project earmarked for funds. The purchase of books is not a capital project, and therefore RESO A funding could not be used for the purchase of books.

Comment 107(d) asserts that the proposal will limit CPE I's use of the gym during bad weather days and require 407 elementary school children to share the gym at one time.

In 2010-2011, CPE I is allocated no time in the gymnasium at all. In the DOE's revised proposed shared space plan for 2011-2012, CPE I is allocated time in one half of the gymnasium between 12:30-1pm and 2-2:30pm. CPE I is projected to enroll 185-215 students in 2011-2012, and none of CPE's gym time is shared with East Harlem Scholars, therefore there is no time when 407 elementary school children would share the gym. Even if CPE I and East Harlem Scholars did share the gym, both schools are projected to enroll a maximum of 315 elementary students next year.

Comment 107(e) asserts that the proposal will limit use of the cafeteria for CPEHS students and require their students to go off campus for lunch.

The revised proposed share space schedule for 2011-2012 will actually give CPEHS an additional lunch period as compared to what they use this year. Although CPEHS students are permitted to eat lunch outside of the M013 building, approximately 250 CPEHS students eat lunch in the cafeteria currently, and those students will be scheduled in two lunch periods in 2011-2012, as opposed to the one lunch period they are currently scheduled to use.

Comment 107(f) asserts that the proposal would limit access to funding for J13, CPEHS, and CPE I. Comment 79, 92 also concern school budgets.

The basic operating budget for CPE I, CPEHS, and J13 is determined by the same Fair Student Funding ("FSF") formula used at all other New York City District public schools. Under FSF, schools receive City tax levy funding on a per pupil basis. Each student receives a per-pupil allocation based on the grade level of the student. FSF allocations are subject to annual variation, but for 2010-2011, the base per-pupil allocation for elementary schools was \$4,059.71, for middle school students was \$4384.81, and for high school students was \$4181.11. In addition, FSF awards supplemental allocations on a per-pupil basis for students who have additional needs and therefore cost more to educate. For example, during the 2010-2011 school year, elementary schools received an additional \$1623.00 per pupil for each English Language Learner they enrolled, whereas middle and high schools received an additional \$2031.00 per pupil. At the elementary level, supplemental funds are awarded for each student who is an English Language Learner, who requires special education services, or who is eligible for free or reduced-price lunch. For middle and high schools, supplemental funds are awarded to each student who is an English Language Learner, who requires special education services, or who is performing below grade level upon enrollment. In the case of students who fall into more than one of these categories, schools are awarded supplemental funding to meet all of those needs.

FSF covers basic instructional expenses and FSF funds may, at the school's discretion, be used to hire staff, purchase supplies and materials, or implement instructional programs. As the total number of students enrolled grows, the overall budget will increase accordingly, allowing the school to meet the instructional needs of its larger student population. Similarly, if the total number of students enrolled falls, the budget shrinks accordingly, as the school will need fewer supplies and potentially a smaller staff.

CPE I, J13 and CPEHS also receive federal Title I funding based on the proportion of low-income students they enroll. All three schools are also budgeted to meet the needs of their special education students as defined by their Individualized Education Plans ("IEPs").

None of these funds will be affected by this proposal. Moreover, CPE I, J13 and CPEHS's ability to obtain additional funds from the sources explained above would not be impacted; neither would its ability to obtain funds from private sources.

Comment 108(a) asserts that the DOE rejected CPE I's expansion request because the space was already promised to East Harlem Scholars, and this constitutes acting pursuant to the March 23, 2011 PEP vote in violation of the DOE's assurances to the New York State Education Commissioner.

As discussed above, in a letter dated May 2, 2011, attorneys for the DOE represented to Commissioner Steiner that the DOE would not take any action at any time pursuant to the March 23, 2011 Panel for Education Policy resolution. The letter rejecting CPE I's expansion request for 2012-2013 listed, as one of three reasons for the rejection, the proposed incubation of East Harlem Scholars in 2011-2012 and 2012-2013. The other two reasons were the anticipated change of leadership at CPE I next year (Principal Zuckerman plans to resign in December 2011 to focus on preparations for the Castle Bridge School), and the fact that CPE I mainly serves students from across the city, and not students who reside in District 4, and an expansion would thus not meet the needs of the District 4 community. Rejecting the expansion requested based in part on the current revised proposal to incubate East Harlem Scholars in M103 does not violate the May 2nd representation.

Comment 108(b) asserts that East Harlem Scholars' charter application states it could raise the funds necessary to convert existing East Harlem Tutorial space for use by the school.

As discussed above, the DOE seeks to provide space to high quality education options for all students, regardless of whether they are served in DOE or public charter schools. We welcome public charter schools to lease or provide their own space, but will offer space where there is space available to do so.

Comment 108(c) argues that the DOE cannot legally co-locate East Harlem Scholars in M013 for the 2011-2012 school year because the substantial revision was not posted six months before the first day of school for the 2011-2012 school year.

New York State law requires that a proposal for a significant change in school utilization be posted at least six months prior to the start of the school year in which the change is to take effect. The law also permits proposals to be substantially revised. Nothing in the law requires that the revision occur more than six months prior to the start of the forthcoming school year, and the Commissioner of the New York State Education Department has previously upheld a challenge to a proposal which was revised less than six months prior to the start of the forthcoming school year.

Comment 108(e) asserts that the DOE implies that the East Harlem Scholars co-location will be permanent.

As the EIS makes clear, the proposal to site East Harlem Scholars in M013 is for 2011-2012 and 2012-2013 only. Any proposal to site East Harlem Scholars in M013 after 2012-2013 would require new approval by the PEP.

Changes Made to the Proposal

On May 13, 2011, the DOE issued a revised EIS concerning this proposal. The revised EIS included an adjusted projected enrollment for CPEHS that conformed with budget register projections for 2011-2012. As a result, it also changed the total number of students projected to be served by all four schools and the projected building utilization rate for the following school year. The revised EIS also included additional information on extracurricular activities at CPE I, J13 and CPEHS and updated information related to the admissions process at the co-located schools.

The DOE also published a substantially revised Building Utilization Plan (“BUP”), which is annexed to the revised EIS.

The revised BUP made the following changes:

- the number of students that CPEHS is projected to serve in the coming years has been revised to reflect budget register projections for 2011-2012. The number of sections CPEHS will program to serve these students has also been revised, resulting in revisions to CPEHS’s baseline allocation of space in future years;
- the allocation of space between all four school organizations has been changed to reflect CPEHS’s reduced baseline allocation;
- the baseline allocation for CPE I has been adjusted to reflect the correct number of cluster rooms based on the school’s enrollment;
- the floors that each school will be located on have been noted; and
- the proposed shared space schedule on pages 14-15 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.